



# Magistrates' Courts Act 1980

## 1980 CHAPTER 43

### PART I

#### CRIMINAL JURISDICTION AND PROCEDURE

##### *Offences triable on indictment or summarily*

#### **17 Certain offences triable either way.**

- (1) The offences listed in Schedule 1 to this Act shall be triable either way.
- (2) Subsection (1) above is without prejudice to any other enactment by virtue of which any offence is triable either way.

#### <sup>F1</sup>**[17A Initial procedure: accused to indicate intention as to plea.**

- (1) This section shall have effect where a person who has attained the age of 18 years appears or is brought before a magistrates' court on an information charging him with an offence triable either way.
- (2) Everything that the court is required to do under the following provisions of this section must be done with the accused present in court.
- (3) The court shall cause the charge to be written down, if this has not already been done, and to be read to the accused.
- (4) The court shall then explain to the accused in ordinary language that he may indicate whether (if the offence were to proceed to trial) he would plead guilty or not guilty, and that if he indicates that he would plead guilty—
  - (a) the court must proceed as mentioned in subsection (6) below; and
  - <sup>F2</sup>(b) he may (unless section 17D(2) below were to apply) be committed [for sentence] to the Crown Court under section 3 or (if applicable) 3A of the Powers of Criminal Courts (Sentencing) Act 2000 if the court is of such opinion as is mentioned in subsection (2) of the applicable section.]

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- (5) The court shall then ask the accused whether (if the offence were to proceed to trial) he would plead guilty or not guilty.
- (6) If the accused indicates that he would plead guilty the court shall proceed as if—
  - (a) the proceedings constituted from the beginning the summary trial of the information; and
  - (b) section 9(1) above was complied with and he pleaded guilty under it.
- (7) If the accused indicates that he would plead not guilty section 18(1) below shall apply.
- (8) If the accused in fact fails to indicate how he would plead, for the purposes of this section and section 18(1) below he shall be taken to indicate that he would plead not guilty.
- (9) Subject to subsection (6) above, the following shall not for any purpose be taken to constitute the taking of a plea—
  - (a) asking the accused under this section whether (if the offence were to proceed to trial) he would plead guilty or not guilty;
  - (b) an indication by the accused under this section of how he would plead.]
- [<sup>F3</sup>(10) If in respect of the offence the court receives a notice under section 51B or 51C of the Crime and Disorder Act 1998 (which relate to serious or complex fraud cases and to certain cases involving children respectively), the preceding provisions of this section and the provisions of section 17B below shall not apply, and the court shall proceed in relation to the offence in accordance with section 51 or, as the case may be, section 51A of that Act.]

#### Textual Amendments

- F1** Ss. 17A-17C inserted (4.7.1996 with application where a person appears or is brought before a magistrates' court on or after 1.10.1997) by 1996 c. 25, s. 49(2)(6) (with s. 78(1)); S.I. 1997/2199, art. 2
- F2** S. 17A(4)(b) substituted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 2(2); S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 34)
- F3** S. 17A(10) inserted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 2(3); S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 34)

#### <sup>F4</sup>17B Intention as to plea: absence of accused.

- (1) This section shall have effect where—
  - (a) a person who has attained the age of 18 years appears or is brought before a magistrates' court on an information charging him with an offence triable either way,
  - (b) the accused is represented by a legal representative,

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- (c) the court considers that by reason of the accused's disorderly conduct before the court it is not practicable for proceedings under section 17A above to be conducted in his presence, and
  - (d) the court considers that it should proceed in the absence of the accused.
- (2) In such a case—
  - (a) the court shall cause the charge to be written down, if this has not already been done, and to be read to the representative;
  - (b) the court shall ask the representative whether (if the offence were to proceed to trial) the accused would plead guilty or not guilty;
  - (c) if the representative indicates that the accused would plead guilty the court shall proceed as if the proceedings constituted from the beginning the summary trial of the information, and as if section 9(1) above was complied with and the accused pleaded guilty under it;
  - (d) if the representative indicates that the accused would plead not guilty section 18(1) below shall apply.
- (3) If the representative in fact fails to indicate how the accused would plead, for the purposes of this section and section 18(1) below he shall be taken to indicate that the accused would plead not guilty.
- (4) Subject to subsection (2)(c) above, the following shall not for any purpose be taken to constitute the taking of a plea—
  - (a) asking the representative under this section whether (if the offence were to proceed to trial) the accused would plead guilty or not guilty;
  - (b) an indication by the representative under this section of how the accused would plead.

#### Textual Amendments

- F4** Ss. 17A-17C inserted (4.7.1996 with application where a person appears or is brought before a magistrates' court on or after 1.10.1997) by 1996 c. 25, s. 49(2)(6) (with s. 78(1)); S.I. 1997/2199, art.2

#### <sup>F5</sup>17C Intention as to plea: adjournment.

A magistrates' court proceeding under section 17A or 17B above may adjourn the proceedings at any time, and on doing so on any occasion when the accused is present may remand the accused, and shall remand him if—

- (a) on the occasion on which he first appeared, or was brought, before the court to answer to the information he was in custody or, having been released on bail, surrendered to the custody of the court; or
- (b) he has been remanded at any time in the course of proceedings on the information;

and where the court remands the accused, the time fixed for the resumption of proceedings shall be that at which he is required to appear or be brought before the court in pursuance of the remand or would be required to be brought before the court but for section 128(3A) below.

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#### Textual Amendments

- F5** Ss. 17A-17C inserted (4.7.1996 with application where a person appears or is brought before a magistrates' court on or after 1.10.1997) by 1996 c. 25, s. 49(2)(6) (with s. 78(1)); S.I. 1997/2199, art.2

### [<sup>F6</sup>17D Maximum penalty under section 17A(6) or 17B(2)(c) for certain offences

- (1) If—
- (a) the offence is a scheduled offence (as defined in section 22(1) below);
  - (b) the court proceeds in relation to the offence in accordance with section 17A(6) or 17B(2)(c) above; and
  - (c) the court convicts the accused of the offence,
- the court shall consider whether, having regard to any representations made by him or by the prosecutor, the value involved (as defined in section 22(10) below) appears to the court to exceed the relevant sum (as specified for the purposes of section 22 below).
- (2) If it appears to the court clear that the value involved does not exceed the relevant sum, or it appears to the court for any reason not clear whether the value involved does or does not exceed the relevant sum—
- (a) subject to subsection (4) below, the court shall not have power to impose on the accused in respect of the offence a sentence in excess of the limits mentioned in section 33(1)(a) below; and
  - (b) sections 3 and 4 of the Powers of Criminal Courts (Sentencing) Act 2000 shall not apply as regards that offence.
- (3) Subsections (9) to (12) of section 22 below shall apply for the purposes of this section as they apply for the purposes of that section (reading the reference to subsection (1) in section 22(9) as a reference to subsection (1) of this section).
- (4) Subsection (2)(a) above does not apply to an offence under section 12A of the Theft Act 1968 (aggravated vehicle-taking).

#### Textual Amendments

- F6** Ss. 17D, 17E inserted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 3; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

### 17E Functions under sections 17A to 17D capable of exercise by single justice

- (1) The functions of a magistrates' court under sections 17A to 17D above may be discharged by a single justice.
- (2) Subsection (1) above shall not be taken as authorising—
- (a) the summary trial of an information (otherwise than in accordance with section 17A(6) or 17B(2)(c) above); or
  - (b) the imposition of a sentence,

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by a magistrates' court composed of fewer than two justices.]

#### Textual Amendments

**F6** Ss. 17D, 17E inserted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 3](#); S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

### 18 Initial procedure on information against adult for offence triable either way.

- (1) Sections 19 to 23 below shall have effect where a person who has attained [<sup>F7</sup>the age of 18 years] appears or is brought before a magistrates' court on an information charging him with an offence triable either way [<sup>F8</sup>and—
  - (a) he indicates under section 17A above that (if the offence were to proceed to trial) he would plead not guilty, or
  - (b) his representative indicates under section 17B above that (if the offence were to proceed to trial) he would plead not guilty]
- (2) Without prejudice to section 11(1) above, everything that the court is required to do under sections 19 to 22 below must be done before any evidence is called and, subject to subsection (3) below and section 23 below, with the accused present in court.
- (3) The court may proceed in the absence of the accused in accordance with such of the provisions of sections 19 to 22 below as are applicable in the circumstances if the court considers that by reason of his disorderly conduct before the court it is not practicable for the proceedings to be conducted in his presence; and the subsections (3) to (5) of section 23 below, so far as applicable, shall have effect in relation to proceedings conducted in the absence of the accused by virtue of this subsection (references in those subsections to the person representing the accused being for this purpose read as references to the person, if any, representing him).
- (4) A magistrates' court proceeding under sections 19 to 23 below may adjourn the proceedings at any time, and on doing so on any occasion when the accused is present may remand the accused, and shall remand him if—
  - (a) on the occasion on which he first appeared, or was brought, before the court to answer to the information he was in custody or, having been released on bail, surrendered to the custody of the court; or
  - (b) he has been remanded at any time in the course of proceedings on the information;

and where the court remands the accused, the time fixed for the resumption of the proceedings shall be that at which he is required to appear or be brought before the court in pursuance of the remand [<sup>F9</sup>or would be required to be brought before the court but for section 128(3A) below].

- [<sup>F10</sup>(5) The functions of a magistrates' court under sections 19 to 23 below may be discharged by a single justice, but this subsection shall not be taken as authorising—
- (a) the summary trial of an information (otherwise than in accordance with section 20(7) below); or
  - (b) the imposition of a sentence,

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by a magistrates' court composed of fewer than two justices.]

#### Textual Amendments

- F7** Words in s. 18(1) substituted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), ss. 68(d), 101(1), [Sch. 8 para. 6\(1\)\(a\)](#), [Sch. 12 para. 22\(1\)](#); [S.I. 1992/333](#), art. 2(2), [Sch. 2](#)
- F8** S. 18(1)(a)(b) and the word “and” immediately preceding inserted (4.7.1996 with application as mentioned in s. 49(6) of the inserting Act and [S.I. 1997/2199](#)) by [1996 c. 25](#), [s. 49\(3\)\(6\)](#) (with [s. 78\(1\)](#)); [S.I. 1997/2199](#), [art.2](#)
- F9** Words added by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 59(1), [Sch. 9 para. 1\(c\)](#)
- F10** S. 18(5) substituted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 4](#); [S.I. 2012/1320](#), art. 4(1)(c)(2)(3) (with [art. 5](#)) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4); [S.I. 2012/2574](#), art. 2(2)(3)(c), [Sch.](#) (with [arts. 3, 4](#)) (as amended (4.11.2012) by [S.I. 2012/2761](#), art. 2) (with [S.I. 2013/1103](#), art. 4); [S.I. 2013/1103](#), art. 2(1)(c)(2)(3) (with [arts. 3 4](#))

#### [<sup>F11</sup>19 Decision as to allocation

- (1) The court shall decide whether the offence appears to it more suitable for summary trial or for trial on indictment.
- (2) Before making a decision under this section, the court—
  - (a) shall give the prosecution an opportunity to inform the court of the accused's previous convictions (if any); and
  - (b) shall give the prosecution and the accused an opportunity to make representations as to whether summary trial or trial on indictment would be more suitable.
- (3) In making a decision under this section, the court shall consider—
  - (a) whether the sentence which a magistrates' court would have power to impose for the offence would be adequate; and
  - (b) any representations made by the prosecution or the accused under subsection (2)(b) above,
 and shall have regard to any allocation guidelines (or revised allocation guidelines) issued as definitive guidelines under section 170 of the Criminal Justice Act 2003.
- (4) Where—
  - (a) the accused is charged with two or more offences; and
  - (b) it appears to the court that the charges for the offences could be joined in the same indictment or that the offences arise out of the same or connected circumstances,
 subsection (3)(a) above shall have effect as if references to the sentence which a magistrates' court would have power to impose for the offence were a reference to the maximum aggregate sentence which a magistrates' court would have power to impose for all of the offences taken together.
- (5) In this section any reference to a previous conviction is a reference to—
  - (a) a previous conviction by a court in the United Kingdom; <sup>F12</sup>...
  - [<sup>F13</sup>(aa) a previous conviction by a court in another member State of a relevant offence under the law of that State; or]
  - (b) a previous finding of guilt in—

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- (i) any proceedings under the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957 (whether before a court-martial or any other court or person authorised under any of those Acts to award a punishment in respect of any offence); or
- (ii) any proceedings before a Standing Civilian Court.

[<sup>F14</sup>(5A) For the purposes of subsection (5)(aa) an offence is “relevant” if the offence would constitute an offence under the law of any part of the United Kingdom if it were done in that part at the time when the allocation decision is made.]

- (6) If, in respect of the offence, the court receives a notice under section 51B or 51C of the Crime and Disorder Act 1998 (which relate to serious or complex fraud cases and to certain cases involving children respectively), the preceding provisions of this section and sections 20, 20A and 21 below shall not apply, and the court shall proceed in relation to the offence in accordance with section 51(1) of that Act.]

#### Textual Amendments

- F11** S. 19 substituted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 5](#); S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); ; [S.I. 2013/1103](#), art. 2(1)(c)(2)(3) (with arts. 3 4)
- F12** Word in s. 19(5)(a) repealed (28.5.2013) by [Coroners and Justice Act 2009 \(c. 25\)](#), s. 182(5), [Sch. 17 para. 4\(2\)](#), [Sch. 23 Pt. 5](#) (with s. 180); S.I. 2013/1104, art. 2(b)
- F13** S. 19(5)(aa) inserted (28.5.2013) by [Coroners and Justice Act 2009 \(c. 25\)](#), s. 182(5), [Sch. 17 para. 4\(2\)](#) (with s. 180); S.I. 2013/1104, art. 2(b)
- F14** S. 19(5A) inserted (28.5.2013) by [Coroners and Justice Act 2009 \(c. 25\)](#), s. 182(5), [Sch. 17 para. 4\(3\)](#) (with s. 180); S.I. 2013/1104, art. 2(b)

#### Modifications etc. (not altering text)

- C1** S. 19(5) modified (24.4.2009 for certain purposes and 31.10.2009 otherwise) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), art. 205, [Sch. 1 para. 18\(1\)](#)

#### [<sup>F15</sup>20 Procedure where summary trial appears more suitable

- (1) If the court decides under section 19 above that the offence appears to it more suitable for summary trial, the following provisions of this section shall apply (unless they are excluded by section 23 below).
- (2) The court shall explain to the accused in ordinary language—
  - (a) that it appears to the court more suitable for him to be tried summarily for the offence;
  - (b) that he can either consent to be so tried or, if he wishes, be tried on indictment; and
  - [(c) that if he is tried summarily and is convicted by the court, he may be committed for sentence to the Crown Court under section 3 or (if applicable) section 3A of the Powers of Criminal Courts (Sentencing) Act 2000 if the court is of such opinion as is mentioned in subsection (2) of the applicable section.]

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- (3) The accused may then request an indication (“an indication of sentence”) of whether a custodial sentence or non-custodial sentence would be more likely to be imposed if he were to be tried summarily for the offence and to plead guilty.
- (4) If the accused requests an indication of sentence, the court may, but need not, give such an indication.
- (5) If the accused requests and the court gives an indication of sentence, the court shall ask the accused whether he wishes, on the basis of the indication, to reconsider the indication of plea which was given, or is taken to have been given, under section 17A or 17B above.
- (6) If the accused indicates that he wishes to reconsider the indication under section 17A or 17B above, the court shall ask the accused whether (if the offence were to proceed to trial) he would plead guilty or not guilty.
- (7) If the accused indicates that he would plead guilty the court shall proceed as if—
  - (a) the proceedings constituted from that time the summary trial of the information; and
  - (b) section 9(1) above were complied with and he pleaded guilty under it.
- (8) Subsection (9) below applies where—
  - (a) the court does not give an indication of sentence (whether because the accused does not request one or because the court does not agree to give one);
  - (b) the accused either—
    - (i) does not indicate, in accordance with subsection (5) above, that he wishes; or
    - (ii) indicates, in accordance with subsection (5) above, that he does not wish,
 to reconsider the indication of plea under section 17A or 17B above; or
  - (c) the accused does not indicate, in accordance with subsection (6) above, that he would plead guilty.
- (9) The court shall ask the accused whether he consents to be tried summarily or wishes to be tried on indictment and—
  - (a) if he consents to be tried summarily, shall proceed to the summary trial of the information; and
  - (b) if he does not so consent, shall proceed in relation to the offence in accordance with section 51(1) of the Crime and Disorder Act 1998.

#### Textual Amendments

**F15** Ss. 20, 20A substituted for s. 20 (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 6](#); [S.I. 2012/1320](#), art. 4(1)(c)(2)(3) (with art. 5) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4); [S.I. 2012/2574](#), art. 2(2)(3)(c), [Sch.](#) (with arts. 3, 4) (as amended (4.11.2012) by [S.I. 2012/2761](#), art. 2) (with [S.I. 2013/1103](#), art. 4); [S.I. 2013/1103](#), art. 2(1)(c)(2)(3) (with arts. 3, 4)

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## **20A Procedure where summary trial appears more suitable: supplementary**

- (1) Where the case is dealt with in accordance with section 20(7) above, no court (whether a magistrates' court or not) may impose a custodial sentence for the offence unless such a sentence was indicated in the indication of sentence referred to in section 20 above.
- (2) Subsection (1) above is subject to sections 3A(4), 4(8) and 5(3) of the Powers of Criminal Courts (Sentencing) Act 2000.
- (3) Except as provided in subsection (1) above—
  - (a) an indication of sentence shall not be binding on any court (whether a magistrates' court or not); and
  - (b) no sentence may be challenged or be the subject of appeal in any court on the ground that it is not consistent with an indication of sentence.
- (4) Subject to section 20(7) above, the following shall not for any purpose be taken to constitute the taking of a plea—
  - (a) asking the accused under section 20 above whether (if the offence were to proceed to trial) he would plead guilty or not guilty; or
  - (b) an indication by the accused under that section of how he would plead.
- (5) Where the court gives an indication of sentence under section 20 above, it shall cause each such indication to be entered in the register.
- (6) In this section and in section 20 above, references to a custodial sentence are to a custodial sentence within the meaning of section 76 of the Powers of Criminal Courts (Sentencing) Act 2000, and references to a non-custodial sentence shall be construed accordingly.]

### **Textual Amendments**

- F15** Ss. 20, 20A substituted for s. 20 (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 6](#); [S.I. 2012/1320](#), art. 4(1)(c)(2)(3) (with art. 5) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4); [S.I. 2012/2574](#), art. 2(2)(3)(c), [Sch.](#) (with arts. 3, 4) (as amended (4.11.2012) by [S.I. 2012/2761](#), art. 2) (with [S.I. 2013/1103](#), art. 4); [S.I. 2013/1103](#), art. 2(1)(c)(2)(3) (with arts. 3, 4)

### **Modifications etc. (not altering text)**

- C2** S. 20A(1) excluded by 2006 c. 6, s. 5(3) (as substituted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 26](#); [S.I. 2012/1320](#), art. 4(1)(c)(2)(3) (with art. 5) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4); [S.I. 2012/2574](#), art. 2(2)(3)(c), [Sch.](#) (with arts. 3, 4) (as amended (4.11.2012) by [S.I. 2012/2761](#), art. 2) (with [S.I. 2013/1103](#), art. 4); [S.I. 2013/1103](#), art. 2(1)(c)(2)(3) (with arts. 3, 4)

## **[<sup>F16</sup>21 Procedure where trial on indictment appears more suitable**

If the court decides under section 19 above that the offence appears to it more suitable for trial on indictment, the court shall tell the accused that the court has decided that it is more suitable for him to be tried on indictment, and shall proceed in relation to the offence in accordance with section 51(1) of the Crime and Disorder Act 1998.]

*Status: Point in time view as at 28/05/2013.*  
**Changes to legislation:** *Magistrates' Courts Act 1980, Cross Heading: Offences triable on indictment or summarily is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Textual Amendments**

**F16** S. 21 substituted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 3 para. 7; S.I. 2012/1320, art. 4\(1\)\(c\)\(2\)\(3\) \(with art. 5\) \(see S.I. 2012/2574, art. 4\(2\) and S.I. 2013/1103, art. 4\); S.I. 2012/2574, art. 2\(2\)\(3\)\(c\), Sch. \(with arts. 3, 4\) \(as amended \(4.11.2012\) by S.I. 2012/2761, art. 2\) \(with S.I. 2013/1103, art. 4\); S.I. 2013/1103, art. 2\(1\)\(c\)\(2\)\(3\) \(with arts. 3, 4\)](#)

**22 Certain offences triable either way to be tried summarily if value involved is small.**

(1) If the offence charged by the information is one of those mentioned in the first column of Schedule 2 to this Act (in this section referred to as “scheduled offences”) then,  
<sup>F17</sup> . . . the court shall, before proceeding in accordance with section 19 above, consider whether, having regard to any representations made by the prosecutor or the accused, the value involved (as defined in subsection (10) below) appears to the court to exceed the relevant sum.

For the purposes of this section the relevant sum is [<sup>F18</sup>£5,000].

- (2) If, where subsection (1) above applies, it appears to the court clear that, for the offence charged, the value involved does not exceed the relevant sum, the court shall proceed as if the offence were triable only summarily, and sections 19 to 21 above shall not apply.
- (3) If, where subsection (1) above applies, it appears to the court clear that, for the offence charged, the value involved exceeds that relevant sum, the court shall thereupon proceed in accordance with section 19 above in the ordinary way without further regard to the provisions of this section.
- (4) If, where subsection (1) above applies, it appears to the court for any reason not clear whether, for the offence charged, the value involved does or does not exceed the relevant sum, the provisions of subsections (5) and (6) below shall apply.
- (5) The court shall cause the charge to be written down, if this has not already been done, and read to the accused, and shall explain to him in ordinary language—
- (a) that he can, if he wishes, consent to be tried summarily for the offence and that if he consents to be so tried, he will definitely be tried in that way; and
  - (b) that if he is tried summarily and is convicted by the court, his liability to imprisonment or a fine will be limited as provided in section 33 below.
- (6) After explaining to the accused as provided by subsection (5) above the court shall ask him whether he consents to be tried summarily and—
- (a) if he so consents, shall proceed in accordance with subsection (2) above as if that subsection applied;
  - (b) if he does not so consent, shall proceed in accordance with subsection (3) above as if that subsection applied.

(7) . . . . .<sup>F19</sup>

(8) Where a person is convicted by a magistrates’ court of a scheduled offence, it shall not be open to him to appeal to the Crown Court against the conviction on the ground that the convicting court’s decision as to the value involved was mistaken.

*Status: Point in time view as at 28/05/2013.*

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- (9) If, where subsection (1) above applies, the offence charged is one with which the accused is charged jointly with a person who has not attained [<sup>F20</sup>the age of 18 years], the reference in that subsection to any representations made by the accused shall be read as including any representations made by the person [<sup>F21</sup>under 18].
- (10) In this section “the value involved”, in relation to any scheduled offence, means the value indicated in the second column of Schedule 2 to this Act, measured as indicated in the third column of that Schedule; and in that Schedule “the material time” means the time of the alleged offence.

[<sup>F22</sup>(11) Where—

- (a) the accused is charged on the same occasion with two or more scheduled offences and it appears to the court that they constitute or form part of a series of two or more offences of the same or a similar character; or
- (b) the offence charged consists in incitement to commit two or more scheduled offences,

this section shall have effect as if any reference in it to the value involved were a reference to the aggregate of the values involved.]

[<sup>F23</sup>(12) Subsection (8) of section 12A of the Theft Act 1968 (which determines when a vehicle is recovered) shall apply for the purposes of paragraph 3 of Schedule 2 to this Act as it applies for the purposes of that section.]

#### Textual Amendments

- F17** Words in s. 22(1) repealed (3.2.1995) by 1994 c. 33, s. 168(3), **Sch.11**; S.I. 1995/127, art. 2(1), **Sch. 1** Appendix C
- F18** Sum in s. 22(1) substituted (3.2.1995) by virtue of 1994 c. 33, s.46; S.I. 1995/127, art. 2(1), **Sch.1**
- F19** S. 22(7) repealed by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 123(6), 170(2), Sch. 8 para. 16, **Sch. 16**
- F20** Words in s. 22(9) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 68(d), 101(1), Sch. 8 para. 6(1)(a), **Sch. 12 para. 22(1)**; S.I. 1992/333, art.2(2), **Sch. 2**
- F21** Words in s. 22(9) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 68, 101(1), Sch. 8 para.6(1)(b), **Sch. 12**, para. 22(1); S.I. 1992/333, art. 2(2), **Sch. 2**
- F22** S. 22(11) inserted by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 38(3)(4), 123(6), **Sch. 8 para. 16**
- F23** S. 22(12) added (1.4.1992) by Aggravated Vehicle-Taking Act 1992 (c. 11), s. 2(2); S.I. 1992/764, art. 2

#### Modifications etc. (not altering text)

- C3** S. 22(11)(b) modified (1.10.2008) by Serious Crime Act 2007 (c. 27), ss. 63(1), 94, **Sch. 6 para. 5(a)** (with Sch. 13 para. 5); S.I. 2008/2504, art. 2(a)(g)

## 23 Power of court, with consent of legally represented accused, to proceed in his absence.

(1) Where—

- (a) the accused is represented by [<sup>F24</sup>a legal representative]who in his absence signifies to the court the accused's consent to the proceedings for determining how he is to be tried for the offence being conducted in his absence; and
- (b) the court is satisfied that there is good reason for proceeding in the absence of the accused,

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the following provisions of this section shall apply.

- (2) Subject to the following provisions of this section, the court may proceed in the absence of the accused in accordance with such of the provisions of sections 19 to 22 above as are applicable in the circumstances.
- (3) If, in a case where subsection (1) of section 22 above applies, it appears to the court as mentioned in subsection (4) of that section, subsections (5) and (6) of that section shall not apply and the court—
  - (a) if the accused's consent to be tried summarily has been or is signified by the person representing him, shall proceed in accordance with subsection (2) of that section as if that subsection applied; or
  - (b) if that consent has not been and is not so signified, shall proceed in accordance with subsection (3) of that section as if that subsection applied.
- (4) <sup>[F25]</sup>If the court decides under section 19 above that the offence appears to it more suitable for for summary trial then— ]
  - (a) if the accused's consent to be tried summarily has been or is signified by the person representing him, section 20 above shall not apply, and the court shall proceed to the summary trial of the information; or
  - (b) if that consent has not been and is not so signified, section 20 above shall not apply and the court shall proceed <sup>[F26]</sup>in relation to the offence in accordance with section 51(1) of the Crime and Disorder Act 1998.]
- <sup>[F27]</sup>(5) If the court decides under section 19 above that the offence appears to it more suitable for trial on indictment, section 21 above shall not apply and the court shall proceed in relation to the offence in accordance with section 51(1) of the Crime and Disorder Act 1998.]

#### Textual Amendments

**F24** Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37, 82\), s. 125\(3\), Sch. 18 para. 25\(3\)\(a\)](#)

**F25** Words in s. 23(4) substituted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 3 para. 8\(2\)\(a\)](#); [S.I. 2012/1320, art. 4\(1\)\(c\)\(2\)\(3\) \(with art. 5\)](#) (see [S.I. 2012/2574, art. 4\(2\)](#) and [S.I. 2013/1103, art. 4](#)); [S.I. 2012/2574, art. 2\(2\)\(3\)\(c\), Sch. \(with arts. 3, 4\)](#) (as amended (4.11.2012) by [S.I. 2012/2761, art. 2](#)) (with [S.I. 2013/1103, art. 4](#)); [S.I. 2013/1103, art. 2\(1\)\(c\)\(2\)\(3\) \(with arts. 3, 4\)](#)

**F26** Words in s. 23(4)(b) substituted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 3 para. 8\(2\)\(b\)](#); [S.I. 2012/1320, art. 4\(1\)\(c\)\(2\)\(3\) \(with art. 5\)](#) (see [S.I. 2012/2574, art. 4\(2\)](#) and [S.I. 2013/1103, art. 4](#)); [S.I. 2012/2574, art. 2\(2\)\(3\)\(c\), Sch. \(with arts. 3, 4\)](#) (as amended (4.11.2012) by [S.I. 2012/2761, art. 2](#)) (with [S.I. 2013/1103, art. 4](#)); [S.I. 2013/1103, art. 2\(1\)\(c\)\(2\)\(3\) \(with arts. 3, 4\)](#)

**F27** S. 23(5) substituted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 3 para. 8\(3\)](#); [S.I. 2012/1320, art. 4\(1\)\(c\)\(2\)\(3\) \(with art. 5\)](#) (see [S.I. 2012/2574, art. 4\(2\)](#) and [S.I. 2013/1103, art. 4](#)); [S.I. 2012/2574, art. 2\(2\)\(3\)\(c\), Sch. \(with arts. 3, 4\)](#) (as amended (4.11.2012) by [S.I. 2012/2761, art. 2](#)) (with [S.I. 2013/1103, art. 4](#)); [S.I. 2013/1103, art. 2\(1\)\(c\)\(2\)\(3\) \(with arts. 3, 4\)](#)

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## 24 Summary trial of information against child or young person for indictable offence.

[<sup>F28</sup>(1) Where a person under the age of 18 years appears or is brought before a magistrates' court on an information charging him with an indictable offence he shall, subject to sections 51 and 51A of the Crime and Disorder Act 1998 and to sections 24A and 24B below, be tried summarily.]

[<sup>F29</sup>(1A) [<sup>F30</sup>Where a magistrates' court—

- (a) commits a person under the age of 18 for trial for an offence [<sup>F31</sup>falling within subsection (1B) below] ; or
- (b) in a case falling within subsection (1)(a) above, commits such a person for trial for an offence,

the court may also commit him for trial for any other indictable offence with which he is charged at the same time if the charges for both offences could be joined in the same indictment.]]

[<sup>F32</sup>(1B) An offence falls within this subsection if—

- (a) it is an offence of homicide; <sup>F33</sup> . . .
- (b) each of the requirements of section 51A(1) of the Firearms Act 1968 would be satisfied with respect to—
  - (i) the offence; and
  - (ii) the person charged with it,if he were convicted of the offence.]]<sup>F34</sup> or
- (c) section 29(3) of the Violent Crime Reduction Act 2006 (minimum sentences in certain cases of using someone to mind a weapon) would apply if he were convicted of the offence.]

(2) [<sup>F30</sup>Where, in a case falling within subsection (1)(b) above, a magistrates' court commits a person under [<sup>F35</sup>the age of 18 years] for trial for an offence with which he is charged jointly with a person who has attained that age, the court may also commit him for trial for any other indictable offence with which he is charged at the same time (whether jointly with the person who has attained that age or not) if [<sup>F36</sup>the charges for both offences could be joined in the same indictment].]

(3) If on trying a person summarily in pursuance of subsection (1) above the court finds him guilty, it may impose a fine of an amount not exceeding [<sup>F37</sup>£1000] or may exercise the same powers as it could have exercised if he had been found guilty of an offence for which, but for [<sup>F38</sup>section 89(1) of the said Act of 2000]]<sup>F39</sup>, it could have sentenced him to imprisonment for a term not exceeding—

- (a) the maximum term of imprisonment for the offence on conviction on indictment; or
  - (b) six months,
- whichever is the less.]

(4) In relation to a person under the age of 14 subsection (3) above shall have effect as if for the words “ [<sup>F40</sup>£1000]” there were substituted the words “ [<sup>F41</sup>£250]”; <sup>F42</sup> . . .

### Textual Amendments

**F28** S. 24(1) substituted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 9\(2\)](#); [S.I.](#)

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- 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)
- F29** S. 24(1A) inserted (30.9.1998) by 1998 c. 37, s. 47(6); S.I. 1998/2327, art. 2(1)(k)
- F30** S. 24(1A)(2) omitted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by virtue of Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 9(3); S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)
- F31** Words in s. 24(1A)(a) substituted (22.1.2004) by Criminal Justice Act 2003 (c. 44), ss. 42(2)(b), 336; S.I. 2004/81, art. 3(2)(a)
- F32** S. 24(1B) inserted (22.1.2004) by Criminal Justice Act 2003 (c. 44), ss. 42(2)(c), 336; S.I. 2004/81, art. 3(2)(a)
- F33** Word in s. 24(1B)(a) repealed (6.4.2007) by Violent Crime Reduction Act 2006 (c. 38), ss. 49, 65, 66(2), Sch. 1 para. 1, Sch. 5; S.I. 2007/858, art. 2(g)(n)(ii)
- F34** S. 24(1B)(c) and word inserted (6.4.2007) by Violent Crime Reduction Act 2006 (c. 2006 c. 38), ss. 49, 66(2), Sch. 1 para. 1; S.I. 2007/858, art. 2(g)(n)(ii)
- F35** Words in s. 24 substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 68(d), 101(1), Sch. 8 para. 6(1)(a), Sch. 12 para. 22(1); S.I. 1992/333, art. 2(2), Sch. 2
- F36** Words in s. 24(2) substituted (4.1.1999 for the purpose of sending any person for trial under s. 51 of the substituting Act from any area specified in S.I. 1998/2327, Sch. 2 (as amended by S.I. 1998/2412 and S.I. 2000/924) otherwise 15.1.2001) by 1998 c. 37, ss. 119, 121(2), Sch. 8 para. 40(2); S.I. 1998/2327, art. 4(2)(c), Sch. 2; S.I. 2000/3283, art. 2(c) (subject to art. 3)
- F37** Word in s. 24(3) substituted (1.10.1992) by virtue of Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 17(2)(a), 101(1), Sch. 12 para. 6 (with s. 28); S.I. 1992/333, art. 2(2), Sch. 2
- F38** Words in s. 24(3) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 9 para. 64(1)(3)
- F39** Words substituted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 77, Sch. 14 para. 47
- F40** Word in s. 24(4) substituted (1.10.1992) by virtue of Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 17(2)(a), 101(1), Sch. 12 para. 6 (with s. 28); S.I. 1992/333, art. 2(2), Sch. 2
- F41** Word in s. 24(4) substituted (1.10.1992) by virtue of Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 17(2)(b), 101(1), Sch. 12 para. 6 (with s. 28); S.I. 1992/333, art. 2(2), Sch. 2
- F42** Words in s. 24(4) repealed (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 101(2), Sch. 13; S.I. 1992/333, art. 2(2), Sch. 2

## [<sup>F43</sup>24A Child or young person to indicate intention as to plea in certain cases

(1) This section applies where—

- (a) a person under the age of 18 years appears or is brought before a magistrates' court on an information charging him with an offence other than one falling within section 51A(12) of the Crime and Disorder Act 1998 (“the 1998 Act”); and
- (b) but for the application of the following provisions of this section, the court would be required at that stage, by virtue of section 51(7) or (8) or 51A(3) (b), (4) or (5) of the 1998 Act to determine, in relation to the offence, whether to send the person to the Crown Court for trial (or to determine any matter, the effect of which would be to determine whether he is sent to the Crown Court for trial).

(2) Where this section applies, the court shall, before proceeding to make any such determination as is referred to in subsection (1)(b) above (the “relevant determination”), follow the procedure set out in this section.

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- (3) Everything that the court is required to do under the following provisions of this section must be done with the accused person in court.
- (4) The court shall cause the charge to be written down, if this has not already been done, and to be read to the accused.
- (5) The court shall then explain to the accused in ordinary language that he may indicate whether (if the offence were to proceed to trial) he would plead guilty or not guilty, and that if he indicates that he would plead guilty—
  - (a) the court must proceed as mentioned in subsection (7) below; and
  - (b) (in cases where the offence is one mentioned in section 91(1) of the Powers of Criminal Courts (Sentencing) Act 2000) he may be sent to the Crown Court for sentencing under section 3B or (if applicable) 3C of that Act if the court is of such opinion as is mentioned in subsection (2) of the applicable section.
- (6) The court shall then ask the accused whether (if the offence were to proceed to trial) he would plead guilty or not guilty.
- (7) If the accused indicates that he would plead guilty, the court shall proceed as if—
  - (a) the proceedings constituted from the beginning the summary trial of the information; and
  - (b) section 9(1) above was complied with and he pleaded guilty under it, and, accordingly, the court shall not (and shall not be required to) proceed to make the relevant determination or to proceed further under section 51 or (as the case may be) section 51A of the 1998 Act in relation to the offence.
- (8) If the accused indicates that he would plead not guilty, the court shall proceed to make the relevant determination and this section shall cease to apply.
- (9) If the accused in fact fails to indicate how he would plead, for the purposes of this section he shall be taken to indicate that he would plead not guilty.
- (10) Subject to subsection (7) above, the following shall not for any purpose be taken to constitute the taking of a plea—
  - (a) asking the accused under this section whether (if the offence were to proceed to trial) he would plead guilty or not guilty;
  - (b) an indication by the accused under this section of how he would plead.

#### Textual Amendments

**F43** Ss. 24A-24D inserted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 10](#); [S.I. 2012/1320](#), art. 4(1)(c)(2)(3) (with art. 5) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4); [S.I. 2012/2574](#), art. 2(2)(3)(c), [Sch.](#) (with arts. 3, 4) (as amended (4.11.2012) by [S.I. 2012/2761](#), art. 2) (with [S.I. 2013/1103](#), art. 4); [S.I. 2013/1103](#), art. 2(1)(c)(2)(3) (with arts. 3, 4)

## 24B Intention as to plea by child or young person: absence of accused

- (1) This section shall have effect where—
  - (a) a person under the age of 18 years appears or is brought before a magistrates' court on an information charging him with an offence other than one falling within section 51A(12) of the Crime and Disorder Act 1998;

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- (b) but for the application of the following provisions of this section, the court would be required at that stage to make one of the determinations referred to in paragraph (b) of section 24A(1) above (“the relevant determination”);
  - (c) the accused is represented by a legal representative;
  - (d) the court considers that by reason of the accused’s disorderly conduct before the court it is not practicable for proceedings under section 24A above to be conducted in his presence; and
  - (e) the court considers that it should proceed in the absence of the accused.
- (2) In such a case—
- (a) the court shall cause the charge to be written down, if this has not already been done, and to be read to the representative;
  - (b) the court shall ask the representative whether (if the offence were to proceed to trial) the accused would plead guilty or not guilty;
  - (c) if the representative indicates that the accused would plead guilty the court shall proceed as if the proceedings constituted from the beginning the summary trial of the information, and as if section 9(1) above was complied with and the accused pleaded guilty under it;
  - (d) if the representative indicates that the accused would plead not guilty the court shall proceed to make the relevant determination and this section shall cease to apply.
- (3) If the representative in fact fails to indicate how the accused would plead, for the purposes of this section he shall be taken to indicate that the accused would plead not guilty.
- (4) Subject to subsection (2)(c) above, the following shall not for any purpose be taken to constitute the taking of a plea—
- (a) asking the representative under this section whether (if the offence were to proceed to trial) the accused would plead guilty or not guilty;
  - (b) an indication by the representative under this section of how the accused would plead.

#### Textual Amendments

**F43** Ss. 24A-24D inserted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 10](#); [S.I. 2012/1320](#), art. 4(1)(c)(2)(3) (with art. 5) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4); [S.I. 2012/2574](#), art. 2(2)(3)(c), [Sch.](#) (with arts. 3, 4) (as amended (4.11.2012) by [S.I. 2012/2761](#), art. 2) (with [S.I. 2013/1103](#), art. 4); [S.I. 2013/1103](#), art. 2(1)(c)(2)(3) (with arts. 3, 4)

## 24C Intention as to plea by child or young person: adjournment

- (1) A magistrates' court proceeding under section 24A or 24B above may adjourn the proceedings at any time, and on doing so on any occasion when the accused is present may remand the accused.
- (2) Where the court remands the accused, the time fixed for the resumption of proceedings shall be that at which he is required to appear or be brought before the court in pursuance of the remand or would be required to be brought before the court but for section 128(3A) below.

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#### Textual Amendments

**F43** Ss. 24A-24D inserted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 10](#); [S.I. 2012/1320](#), art. 4(1)(c)(2)(3) (with [art. 5](#)) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4); [S.I. 2012/2574](#), art. 2(2)(3)(c), [Sch.](#) (with [arts. 3, 4](#)) (as amended (4.11.2012) by [S.I. 2012/2761](#), art. 2) (with [S.I. 2013/1103](#), art. 4); [S.I. 2013/1103](#), art. 2(1)(c)(2)(3) (with [arts. 3, 4](#))

### 24D Functions under sections 24A to 24C capable of exercise by single justice

- (1) The functions of a magistrates' court under sections 24A to 24C above may be discharged by a single justice.
- (2) Subsection (1) above shall not be taken as authorising—
  - (a) the summary trial of an information (other than a summary trial by virtue of section 24A(7) or 24B(2)(c) above); or
  - (b) the imposition of a sentence,by a magistrates' court composed of fewer than two justices.]

#### Textual Amendments

**F43** Ss. 24A-24D inserted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 10](#); [S.I. 2012/1320](#), art. 4(1)(c)(2)(3) (with [art. 5](#)) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4); [S.I. 2012/2574](#), art. 2(2)(3)(c), [Sch.](#) (with [arts. 3, 4](#)) (as amended (4.11.2012) by [S.I. 2012/2761](#), art. 2) (with [S.I. 2013/1103](#), art. 4); [S.I. 2013/1103](#), art. 2(1)(c)(2)(3) (with [arts. 3, 4](#))

### 25 Power to change from summary trial to committal proceedings, and vice versa.

- (1) Subsections [<sup>F44</sup>(2) to (2D)] below shall have effect where a person who has attained [<sup>F45</sup>the age of 18 years] appears or is brought before a magistrates' court on an information charging him with an offence triable either way.
- [<sup>F46</sup>(2) Where the court is required under section 20(9) above to proceed to the summary trial of the information, the prosecution may apply to the court for the offence to be tried on indictment instead.
- (2A) An application under subsection (2) above—
  - (a) must be made before the summary trial begins; and
  - (b) must be dealt with by the court before any other application or issue in relation to the summary trial is dealt with.
- (2B) The court may grant an application under subsection (2) above but only if it is satisfied that the sentence which a magistrates' court would have power to impose for the offence would be inadequate.
- (2C) Where—
  - (a) the accused is charged on the same occasion with two or more offences; and
  - (b) it appears to the court that they constitute or form part of a series of two or more offences of the same or a similar character,

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subsection (2B) above shall have effect as if references to the sentence which a magistrates' court would have power to impose for the offence were a reference to the maximum aggregate sentence which a magistrates' court would have power to impose for all of the offences taken together.

(2D) Where the court grants an application under subsection (2) above, it shall proceed in relation to the offence in accordance with section 51(1) of the Crime and Disorder Act 1998.]

(3) [<sup>F47</sup>Where the court has begun to inquire into the information as examining justices, then, if at any time during the inquiry it appears to the court, having regard to any representations made in the presence of the accused by the prosecutor, or made by the accused, and to the nature of the case, that the offence is after all more suitable for summary trial, the court may, after doing as provided in subsection (4) below, ask the accused whether he consents to be tried summarily and, if he so consents, may [<sup>F48</sup>subject to subsection (3A) below ] proceed to try the information summarily; ]<sup>F49</sup>

[<sup>F50</sup>(3A) [<sup>F47</sup>Where the prosecution is being carried on by the Attorney General or the Solicitor General, the court shall not exercise the power conferred by subsection (3) above without his consent and, where the prosecution is being carried on by the Director of Public Prosecutions, shall not exercise that power if the Attorney General directs that it should not be exercised.]]

(4) [<sup>F47</sup>Before asking the accused under subsection (3) above whether he consents to be tried summarily, the court shall in ordinary language—

- (a) explain to him that it appears to the court more suitable for him to be tried summarily for the offence, but that this can only be done if he consents to be so tried; and
- (b) unless it has already done so, explain to him, as provided in section 20(2)(b) above, about the court's power to commit to the Crown Court for sentence.]

(5) [<sup>F47</sup>Where a person under [<sup>F45</sup> the age of 18 years] appears or is brought before a magistrates' court on an information charging him with an indictable offence other than [<sup>F51</sup>one falling within section 24(1B) above] , and the court—

- (a) has begun to try the information summarily on the footing that the case does not fall within paragraph (a) or (b) of section 24(1) above and must therefore be tried summarily, as required by the said section 24(1); or
- (b) has begun to inquire into the case as examining justices on the footing that the case does so fall,

subsection (6) or (7) below, as the case may be, shall have effect.]

(6) [<sup>F47</sup>If, in a case falling within subsection (5)(a) above, it appears to the court at any time before the conclusion of the evidence for the prosecution that the case is after all one which under the said section 24(1) ought not to be tried summarily, the court may discontinue the summary trial and proceed to inquire into the information as examining justices and, on doing so, [<sup>F52</sup>shall adjourn the hearing.]]

(7) [<sup>F47</sup>If, in a case falling within subsection (5)(b) above, it appears to the court at any time during the inquiry that the case is after all one which under the said section 24(1) ought to be tried summarily, the court may proceed to try the information summarily.]

[<sup>F53</sup>(8) [<sup>F47</sup>If the court adjourns the hearing under subsection (2) or (6) above it may (if it thinks fit) do so without remanding the accused.]]

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### Textual Amendments

- F44** Words in s. 25(1) substituted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 11\(2\)](#); [S.I. 2012/1320](#), art. 4(1)(c)(2)(3) (with art. 5) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4); [S.I. 2012/2574](#), art. 2(2)(3)(c), [Sch.](#) (with arts. 3, 4) (as amended (4.11.2012) by [S.I. 2012/2761](#), art. 2) (with [S.I. 2013/1103](#), art. 4); [S.I. 2013/1103](#), art. 2(1)(c)(2)(3) (with arts. 3, 4)
- F45** Words in s. 25 substituted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53\)](#), SIF 39:1), ss. 68(d), 101(1), [Sch. 8 para. 6\(1\)\(a\)](#), [Sch. 12](#), para. 22(1); [S.I. 1992/333](#), art. 2(2), [Sch. 2](#).
- F46** S. 25(2)-(2D) substituted for s. 25(2) (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 11\(3\)](#); [S.I. 2012/1320](#), art. 4(1)(c)(2)(3) (with art. 5) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4); [S.I. 2012/2574](#), art. 2(2)(3)(c), [Sch.](#) (with arts. 3, 4) (as amended (4.11.2012) by [S.I. 2012/2761](#), art. 2) (with [S.I. 2013/1103](#), art. 4); [S.I. 2013/1103](#), art. 2(1)(c)(2)(3) (with arts. 3, 4)
- F47** S. 25(3)-(8) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 11\(4\)](#), [Sch. 37 Pt. 4](#); [S.I. 2012/1320](#), art. 4(1)(c)(d)(2)(3) (with art. 5) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4); [S.I. 2012/2574](#), art. 2(2)(3)(c)(d), [Sch.](#) (with arts. 3, 4) (as amended (4.11.2012) by [S.I. 2012/2761](#), art. 2) (with [S.I. 2013/1103](#), art. 4); [S.I. 2013/1103](#), art. 2(1)(c)(2)(3) (with arts. 3, 4)
- F48** Words inserted by [Prosecution of Offences Act 1985 \(c. 23\)](#), SIF 39:1), s. 31(5), [Sch. 1 Pt. I para. 3](#)
- F49** Words repealed by [Prosecution of Offences Act 1985 \(c. 23\)](#), SIF 39:1), s. 31(6), [Sch. 2](#)
- F50** S. 25(3A) inserted by [Prosecution of Offences Act 1985 \(c. 23\)](#), SIF 39:1), s. 31(5), [Sch. 1 Pt. I para. 3](#)
- F51** Words in s. 25(5) substituted (22.1.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 42(3), 336; [S.I. 2004/81](#), art. 3(2)(a)
- F52** Words in s. 25(2)(6) substituted (4.7.1996 with effect as mentioned in [Sch. 1 Pt. III para. 39](#) of the substituting Act) by [1996 c. 25](#), s. 47, [Sch. 1 Pt. I para. 5\(2\)](#) (with s. 78(1)); [S.I. 1997/683](#), art. 1(2)
- F53** S. 25(8) inserted (4.7.1996 with effect as mentioned in [Sch. 1 Pt. III para. 39](#) of the inserting Act) by [1996 c. 25](#), s. 47, [Sch. 1 Pt. I para. 5\(3\)](#) (with s. 78(1)); [S.I. 1997/683](#), art. 1(2)

### [<sup>F54</sup>26 Power to issue summons to accused in certain circumstances.

- (1) Where, in the circumstances mentioned in section 23(1)(a) above, the court is not satisfied that there is good reason for proceeding in the absence of the accused, the justice or any of the justices of which the court is composed may issue a summons directed to the accused requiring his presence before the court.
- (2) In a case within subsection (1) above, if the accused is not present at the time and place appointed for the proceedings under section 19 or section 22(1) above, the court may issue a warrant for his arrest.]

### Textual Amendments

- F54** S. 26(1)(2) substituted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 12](#); [S.I. 2012/1320](#), art. 4(1)(c)(2)(3) (with art. 5) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4); [S.I. 2012/2574](#), art. 2(2)(3)(c), [Sch.](#) (with arts. 3, 4) (as amended (4.11.2012) by [S.I. 2012/2761](#), art. 2) (with [S.I. 2013/1103](#), art. 4); [S.I. 2013/1103](#), art. 2(1)(c)(2)(3) (with arts. 3, 4)

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**27 Effect of dismissal of information for offence triable either way.**

Where on the summary trial of an information for an offence triable either way the court dismisses the information, the dismissal shall have the same effect as an acquittal on indictment.

**Status:**

Point in time view as at 28/05/2013.

**Changes to legislation:**

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