



# Magistrates' Courts Act 1980

## 1980 CHAPTER 43

### PART I

#### CRIMINAL JURISDICTION AND PROCEDURE

##### *Summary trial of information*

#### **9 Procedure on trial.**

- (1) On the summary trial of an information, the court shall, if the accused appears, state to him the substance of the information and ask him whether he pleads guilty or not guilty.
- (2) The court, after hearing the evidence and the parties, shall convict the accused or dismiss the information.
- (3) If the accused pleads guilty, the court may convict him without hearing evidence.

#### **10 Adjournment of trial.**

- (1) A magistrates' court may at any time, whether before or after beginning to try an information, adjourn the trial, and may do so, notwithstanding anything in this Act, when composed of a single justice.
- (2) The court may when adjourning either fix the time and place at which the trial is to be resumed, or, unless it remands the accused, leave the time and place to be determined later by the court; but the trial shall not be resumed at that time and place unless the court is satisfied that the parties have had adequate notice thereof.
- (3) A magistrates' court may, for the purpose of enabling inquiries to be made or of determining the most suitable method of dealing with the case, exercise its power to adjourn after convicting the accused and before sentencing him or otherwise dealing with him; but, if it does so, the adjournment shall not be for more than 4 weeks at a time unless the court remands the accused in custody and, where it so remands him, the adjournment shall not be for more than 3 weeks at a time.

*Status: Point in time view as at 04/09/1995.*

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- (4) On adjourning the trial of an information the court may remand the accused and, where the accused has attained [<sup>F1</sup>the age of 18 years], shall do so if the offence is triable either way and—
- (a) on the occasion on which the accused 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) the accused 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 trial shall be that at which he is required to appear or be brought before the court in pursuance of the remand [<sup>F2</sup>or would be required to be brought before the court but for section 128(3A) below].

#### Textual Amendments

- F1** Words in s. 10(4) 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**
- F2** Words added by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 59(1), **Sch. 9 para. 1(b)**

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

- C1** S. 10 applied by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 41(1), 123(6), **Sch. 8 para. 16**

## 11 Non-appearance of accused: general provisions.

- (1) Subject to the provisions of this Act, where at the time and place appointed for the trial or adjourned trial of an information the prosecutor appears but the accused does not, the court may proceed in his absence.
- (2) Where a summons has been issued, the court shall not begin to try the information in the absence of the accused unless either it is proved to the satisfaction of the court, on oath or in such other manner as may be prescribed, that the summons was served on the accused within what appears to the court to be a reasonable time before the trial or adjourned trial or the accused has appeared on a previous occasion to answer to the information.
- (3) A magistrates' court shall not in a person's absence sentence him to imprisonment or detention in a detention centre or make an order under section 23 of the <sup>M1</sup>Powers of Criminal Courts Act 1973 that a suspended sentence passed on him shall take effect.
- (4) A magistrates' court shall not in a person's absence impose any disqualification on him, except on resumption of the hearing after an adjournment under section 10(3) above; and where a trial is adjourned in pursuance of this subsection the notice required by section 10(2) above shall include notice of the reason for the adjournment.

#### Marginal Citations

- M1** 1973 c. 62.

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**[12] <sup>F3</sup>Non-appearance of accused: plea of guilty.**

- (1) This section shall apply where—
  - (a) a summons has been issued requiring a person to appear before a magistrates' court, other than a youth court, to answer to an information for a summary offence, not being—
    - (i) an offence for which the accused is liable to be sentenced to be imprisoned for a term exceeding 3 months; or
    - (ii) an offence specified in an order made by the Secretary of State by statutory instrument; and
  - (b) the clerk of the court is notified by or on behalf of the prosecutor that the documents mentioned in subsection (3) below have been served upon the accused with the summons.
- (2) The reference in subsection (1)(a) above to the issue of a summons requiring a person to appear before a magistrates' court other than a youth court includes a reference to the issue of a summons requiring a person who has attained the age of 16 at the time when it is issued to appear before a youth court.
- (3) The documents referred to in subsection (1)(b) above are—
  - (a) a notice containing such statement of the effect of this section as may be prescribed;
  - (b) a concise statement in the prescribed form of such facts relating to the charge as will be placed before the court by or on behalf of the prosecutor if the accused pleads guilty without appearing before the court; and
  - (c) if any information relating to the accused will or may, in those circumstances, be placed before the court by or on behalf of the prosecutor, a notice containing or describing that information.
- (4) Where the clerk of the court receives a notification in writing purporting to be given by the accused or by a legal representative acting on his behalf that the accused desires to plead guilty without appearing before the court—
  - (a) the clerk of the court shall inform the prosecutor of the receipt of the notification; and
  - (b) the following provisions of this section shall apply.
- (5) If at the time and place appointed for the trial or adjourned trial of the information—
  - (a) the accused does not appear; and
  - (b) it is proved to the satisfaction of the court, on oath or in such manner as may be prescribed, that the documents mentioned in subsection (3) above have been served upon the accused with the summons,  
the court may, subject to section 11(3) and (4) above and subsections (6) to (8) below, proceed to hear and dispose of the case in the absence of the accused, whether or not the prosecutor is also absent, in like manner as if both parties had appeared and the accused had pleaded guilty.
- (6) If at any time before the hearing the clerk of the court receives an indication in writing purporting to be given by or on behalf of the accused that he wishes to withdraw the notification—
  - (a) the clerk of the court shall inform the prosecutor of the withdrawal; and
  - (b) the court shall deal with the information as if the notification had not been given.

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- (7) Before accepting the plea of guilty and convicting the accused under subsection (5) above, the court shall cause the following to be read out before the court by the clerk of the court, namely—
- (a) the statement of facts served upon the accused with the summons;
  - (b) any information contained in a notice so served, and any information described in such a notice and produced by or on behalf of the prosecutor;
  - (c) the notification under subsection (4) above; and
  - (d) any submission received with the notification which the accused wishes to be brought to the attention of the court with a view to mitigation of sentence.
- (8) If the court proceeds under subsection (5) above to hear and dispose of the case in the absence of the accused, the court shall not permit—
- (a) any other statement with respect to any facts relating to the offence charged; or
  - (b) any other information relating to the accused,
- to be made or placed before the court by or on behalf of the prosecutor except on a resumption of the trial after an adjournment under section 10(3) above.
- (9) If the court decides not to proceed under subsection (5) above to hear and dispose of the case in the absence of the accused, it shall adjourn or further adjourn the trial for the purpose of dealing with the information as if the notification under subsection (4) above had not been given.
- (10) In relation to an adjournment on the occasion of the accused's conviction in his absence under subsection (5) above or to an adjournment required by subsection (9) above, the notice required by section 10(2) above shall include notice of the reason for the adjournment.
- (11) No notice shall be required by section 10(2) above in relation to an adjournment—
- (a) which is for not more than 4 weeks; and
  - (b) the purpose of which is to enable the court to proceed under subsection (5) above at a later time.
- (12) No order shall be made under subsection (1) above unless a draft of the order has been laid before and approved by resolution of each House of Parliament.
- (13) Any such document as is mentioned in subsection (3) above may be served in Scotland with a summons which is so served under the Summary Jurisdiction (Process) Act 1881.]

#### Extent Information

**E1** S. 12(13) extends to Scotland see s. 155(2) (as amended by 1994 c. 33, s. 45, **Sch. 5 para. 3(4)**)

#### Textual Amendments

**F3** S. 12 substituted (E.W.) (4.9.1995) by 1994 c. 33, s. 45, **Sch. 5 para.1**; S.I. 1995/1957, **art.4**

#### [<sup>F4</sup>12A Application of section 12 where accused appears.

- (1) Where the clerk of the court has received such a notification as is mentioned in subsection (4) of section 12 above but the accused nevertheless appears before the

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court at the time and place appointed for the trial or adjourned trial, the court may, if he consents, proceed under subsection (5) of that section as if he were absent.

- (2) Where the clerk of the court has not received such a notification and the accused appears before the court at that time and place and informs the court that he desires to plead guilty, the court may, if he consents, proceed under section 12(5) above as if he were absent and the clerk had received such a notification.
- (3) For the purposes of subsections (1) and (2) above, subsections (6) to (11) of section 12 above shall apply with the modifications mentioned in subsection (4) or, as the case may be, subsection (5) below.
- (4) The modifications for the purposes of subsection (1) above are that—
  - (a) before accepting the plea of guilty and convicting the accused under subsection (5) of section 12 above, the court shall afford the accused an opportunity to make an oral submission with a view to mitigation of sentence; and
  - (b) where he makes such a submission, subsection (7)(d) of that section shall not apply.
- (5) The modifications for the purposes of subsection (2) above are that—
  - (a) subsection (6) of section 12 above shall apply as if any reference to the notification under subsection (4) of that section were a reference to the consent under subsection (2) above;
  - (b) subsection (7)(c) and (d) of that section shall not apply; and
  - (c) before accepting the plea of guilty and convicting the accused under subsection (5) of that section, the court shall afford the accused an opportunity to make an oral submission with a view to mitigation of sentence.]

#### Textual Amendments

**F4** S. 12A inserted (4.9.1995) by 1994 c. 33, s. 45, Sch. 5 para.2; S.I. 1995/1957, art.4

### 13 Non-appearance of accused: issue of warrant.

- (1) Subject to the provisions of this section, where the court, instead of proceeding in the absence of the accused, adjourns or further adjourns the trial, the court may, if the information has been substantiated on oath, issue a warrant for his arrest.
- (2) Where a summons has been issued, the court shall not issue a warrant under this section unless either it is proved to the satisfaction of the court, on oath or in such other manner as may be prescribed, that the summons was served on the accused within what appears to the court to be a reasonable time before the trial or adjourned trial or the accused has appeared on a previous occasion to answer to the information.
- (3) A warrant for the arrest of any person who has attained [<sup>F5</sup>the age of 18 years] shall not be issued under this section unless—
  - (a) the offence to which the warrant relates is punishable with imprisonment; or
  - (b) the court, having convicted the accused, proposes to impose a disqualification on him.

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[<sup>F6</sup>(4) This section shall not apply to an adjournment on the occasion of the accused's conviction in his absence under subsection (5) of section 12 above or to an adjournment required by subsection (9) of that section.]

(5) Where the court adjourns the trial—

- (a) after having, either on that or on a previous occasion, received any evidence or convicted the accused without hearing evidence on his pleading guilty under section 9(3) above; or
- (b) after having on a previous occasion convicted the accused without hearing evidence on his pleading guilty under section [<sup>F7</sup>12(5)] above,

the court shall not issue a warrant under this section unless it thinks it undesirable, by reason of the gravity of the offence, to continue the trial in the absence of the accused.

#### Textual Amendments

- F5** Words in s. 13(3) 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**
- F6** S. 13(4) substituted (4.9.1995) by 1994 c. 33, s. 45, **Sch. 5 para. 3(2)**; S.I. 1995/1957, **art.4**
- F7** Words in s. 13(5) substituted (4.9.1995) by 1994 c. 33, s. 45, **Sch. 5 para. 3(3)**; S.I. 1995/1957, **art.4**

## 14 Proceedings invalid where accused did not know of them.

- (1) Where a summons has been issued under section 1 above and a magistrates' court has begun to try the information to which the summons relates, then, if—
  - (a) the accused, at any time during or after the trial, makes a statutory declaration that he did not know of the summons or the proceedings until a date specified in the declaration, being a date after the court has begun to try the information; and
  - (b) within 21 days of that date the declaration is served on the clerk to the justices, without prejudice to the validity of the information, the summons and all subsequent proceedings shall be void.
- (2) For the purposes of subsection (1) above a statutory declaration shall be deemed to be duly served on the clerk to the justices if it is delivered to him, or left at his office, or is sent in a registered letter or by the recorded delivery service addressed to him at his office.
- (3) If on the application of the accused it appears to a magistrates' court (which for this purpose may be composed of a single justice) that it was not reasonable to expect the accused to serve such a statutory declaration as is mentioned in subsection (1) above within the period allowed by that subsection, the court may accept service of such a declaration by the accused after that period has expired; and a statutory declaration accepted under this subsection shall be deemed to have been served as required by that subsection.
- (4) Where any proceedings have become void by virtue of subsection (1) above, the information shall not be tried again by any of the same justices.

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**15 Non-appearance of prosecutor.**

- (1) Where at the time and place appointed for the trial or adjourned trial of an information the accused appears or is brought before the court and the prosecutor does not appear, the court may dismiss the information or, if evidence has been received on a previous occasion, proceed in the absence of the prosecutor.
- (2) Where, instead of dismissing the information or proceeding in the absence of the prosecutor, the court adjourns the trial, it shall not remand the accused in custody unless he has been brought from custody or cannot be remanded on bail by reason of his failure to find sureties.

**16 Non-appearance of both parties.**

Subject to section 11(3) and (4) and to section 12 above, where at the time and place appointed for the trial or adjourned trial of an information neither the prosecutor nor the accused appears, the court may dismiss the information or, if evidence has been received on a previous occasion, proceed in their absence.

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