



Judicial Review and Courts Act 2022

2022 CHAPTER 35

PART 2

COURTS, TRIBUNALS AND CORONERS

CHAPTER 1

CRIMINAL PROCEDURE

Transfer of cases between courts

PROSPECTIVE

10 Sending cases to Crown Court for trial

- (1) Section 51 of the Crime and Disorder Act 1998 (sending of adult defendants to Crown Court for trial) is amended as set out in subsections (2) to (5).
- (2) For subsection (1) substitute—
 - “(1) Subsections (2A) and (2B) apply where—
 - (a) a magistrates’ court (“the court”) determines that any of the conditions set out in subsection (2) is met in relation to an offence with which a person has been charged, and
 - (b) the accused is an adult.”
- (3) In subsection (2)(b)—
 - (a) for the words from “section” to “25(2D)” substitute “any provision of Part 1”;
 - (b) for “subsection (1) above” substitute “this section”.
- (4) After subsection (2) insert—

Status: This version of this cross heading contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Judicial Review and Courts Act 2022, Cross Heading: Transfer of cases between courts. (See end of Document for details)

“(2A) If the determination referred to in subsection (1)(a) is made while the accused is present before the court, the court must—

- (a) explain that the court is required to send the accused to the Crown Court for trial for the offence; and
- (b) so send the accused.

(2B) Otherwise, the court must serve on the accused one or more documents which—

- (a) state the charge against the accused;
- (b) explain that the court is required to send the accused to the Crown Court for trial for the offence; and
- (c) set out any other information—
 - (i) that is required by Criminal Procedure Rules, or
 - (ii) that is authorised by Criminal Procedure Rules and which the court decides to include.

(2C) As soon as practicable after serving the documents required by subsection (2B), the court must send the accused to the Crown Court for trial for the offence (which need not be done in open court).

(2D) Subsections (2A) to (2C) have effect subject to any provision in Criminal Procedure Rules of the sort described in subsection (2E) or (3A).

(2E) Criminal Procedure Rules may make provision—

- (a) about circumstances in which the requirement under subsection (2A) or (2B) does not apply; and
- (b) about the sending of the accused to the Crown Court under this section in those circumstances.”

(5) For subsections (3) to (12) substitute—

“(3A) Criminal Procedure Rules may make provision about situations where—

- (a) a condition in subsection (2) is met in relation to an alleged offence, and
- (b) any other alleged offence is, or appears to be, related (in such a way as is specified in the Rules) to the alleged offence referred to in paragraph (a).

(3B) The provision that may be made as described in subsection (3A) includes provision—

- (a) for a person to be sent to the Crown Court for trial for the other alleged offence—
 - (i) whether or not a condition in subsection (2) is met in relation to it;
 - (ii) whether or not it is alleged to have been committed by the same person as the offence referred to in paragraph (a) of that subsection;
 - (iii) even if it is a summary offence;
- (b) applying any other provision made by or under an Act about the sending of a person to the Crown Court for trial;
- (c) disapplying any other provision made by or under an Act about how a magistrates’ court is to deal with the other alleged offence.”

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(6) Section 51A of the Crime and Disorder Act 1998 (sending of children or young persons to Crown Court for trial) is amended as set out in subsections (7) to (10).

(7) Before subsection (1) insert—

“(A1) Subsections (3A) and (3B) apply where—

- (a) a magistrates’ court (“the court”) determines that any of the conditions set out in subsection (3) is met in relation to an offence with which a person has been charged, and
- (b) the accused is a child or young person.”

(8) Omit subsection (2).

(9) After subsection (3) insert—

“(3A) If the determination referred to in subsection (A1)(a) is made while the accused is present before the court, the court must—

- (a) explain that the court is required to send the accused to the Crown Court for trial for the offence; and
- (b) so send the accused.

(3B) Otherwise, the court must serve on the accused one or more documents which—

- (a) state the charge against the accused;
- (b) explain that the court is required to send the accused to the Crown Court for trial for the offence; and
- (c) set out any other information—
 - (i) that is required by Criminal Procedure Rules, or
 - (ii) that is authorised by Criminal Procedure Rules and which the court decides to include.

(3C) As soon as practicable after serving the documents required by subsection (3B), the court must send the accused to the Crown Court for trial for the offence (which need not be done in open court).

(3D) Subsections (3A) to (3C) have effect subject to any provision in Criminal Procedure Rules of the sort described in subsection (3E) or (4A).

(3E) Criminal Procedure Rules may make provision—

- (a) about circumstances in which the requirement under subsection (3A) or (3B) does not apply; and
- (b) about the sending of the accused to the Crown Court under this section in those circumstances.”

(10) For subsections (4) to (10) substitute—

“(4A) Criminal Procedure Rules may make provision about situations where—

- (a) a condition in subsection (3) is met in relation to an alleged offence, and
- (b) any other alleged offence is, or appears to be, related (in such a way as is specified in the Rules) to the alleged offence referred to in paragraph (a).

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(4B) The provision that may be made as described in subsection (4A) includes provision—

- (a) for a person to be sent to the Crown Court for trial for the other alleged offence—
 - (i) whether or not a condition in subsection (3) is met in relation to it;
 - (ii) whether or not it is alleged to have been committed by the same person as the offence referred to in paragraph (a) of that subsection;
 - (iii) even if it is a summary offence;
- (b) applying any other provision made by or under an Act about the sending of a person to the Crown Court for trial;
- (c) disapplying any other provision made by or under an Act about how a magistrates' court is to deal with the other alleged offence.”

(11) In section 52 of the Crime and Disorder Act 1998 (provision supplementary to sections 51 and 51A), after subsection (2) insert—

“(2A) If the court sends a person for trial under section 51 or 51A other than in open court—

- (a) it must do so on bail, and
- (b) that bail is to be—
 - (i) unconditional, if the accused is not already on bail, or is on unconditional bail, in respect of the charge in question, or
 - (ii) if the accused is already on bail subject to conditions in respect of the charge in question, subject to the same conditions.”

Commencement Information

II S. 10 not in force at Royal Assent, see [s. 51\(4\)](#)

11 Powers of Crown Court to remit cases to the magistrates' court

(1) After section 46 of the Senior Courts Act 1981 insert—

“46ZA Remitting proceedings to magistrates' courts for trial

- (1) In a case where a person has been sent by a magistrates' court to the Crown Court for trial for an offence, the Crown Court may send the person back to a magistrates' court for trial.
- (2) The Crown Court may not exercise the power in subsection (1)—
 - (a) in respect of a person who has attained the age of 18, or is not an individual, if the offence in question is triable only on indictment;
 - (b) in respect of a person who has not attained the age of 18, if the offence in question falls within section 51A(12) of the Crime and Disorder Act 1998.

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- (3) In the case of an offence that is triable either way, the Crown Court may not exercise the power in subsection (1)—
 - (a) unless the person appears in court or consents to the power being exercised in the person's absence, and
 - (b) in the case of a person who has attained the age of 18, or is not an individual, unless the person consents to the power being exercised.
- (4) If a person under the age of 18 appears before the Crown Court having been sent to it as mentioned in subsection (1), the Crown Court—
 - (a) must consider whether to send the person back to a magistrates' court under subsection (1), and
 - (b) if it decides not to send the person back, must give reasons for not doing so.
- (5) In deciding whether to exercise the power in subsection (1), the Crown Court must—
 - (a) take into account any other offence before the Crown Court that appears to the court to be related to that offence (whether the same, or a different, person is accused or has been convicted of the other offence), and
 - (b) have regard to any allocation guidelines (or revised allocation guidelines) issued as definitive guidelines under section 122 of the Coroners and Justice Act 2009.
- (6) Where the Crown Court exercises the power in subsection (1) it may, subject to section 25 of the Criminal Justice and Public Order Act 1994 (restrictions on granting bail), give such directions as appear to be necessary—
 - (a) with respect to the custody of the accused, or
 - (b) for the accused's release on bail,until the accused can appear or be brought before the magistrates' court.
- (7) There is no right of appeal against an order under subsection (1)."
- (2) In section 25 of the Sentencing Code (remission of offenders aged under 18 to youth court for sentence), after subsection (2) insert—
 - "(2A) If—
 - (a) the convicting court is a magistrates' court, and
 - (b) that court commits the offender to the Crown Court for sentence,the Crown Court may remit the offender to a youth court acting for the place where the convicting court sat."
- (3) After section 25 of the Sentencing Code insert—

"25A Power to remit adult offenders to magistrates' courts for sentence

- (1) This section applies where a person aged 18 or over, or a person who is not an individual—
 - (a) has been convicted of an offence by a magistrates' court and committed to the Crown Court for sentence, or
 - (b) has been convicted of an offence (other than an offence triable only on indictment) by the Crown Court following a plea of guilty.

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- (2) The Crown Court may remit the offender to a magistrates' court for sentence.
- (3) In deciding whether to exercise the power in subsection (2), the Crown Court must—
 - (a) take into account any other offence before the Crown Court that appears to the court to be related to that offence (whether the same, or a different, person is accused or has been convicted of the other offence), and
 - (b) have regard to any allocation guidelines (or revised allocation guidelines) issued as definitive guidelines under section 122 of the Coroners and Justice Act 2009.
- (4) There is no right of appeal against an order under subsection (2)."

Commencement Information

I2 S. 11 in force at Royal Assent, see [s. 51\(1\)\(a\)](#)

PROSPECTIVE

12 Powers of youth court to transfer cases if accused turns 18

- (1) Section 47 of the Crime and Disorder Act 1998 (powers of youth courts) is amended as follows.
- (2) Before subsection (1) insert—

“(A1) This section applies where a person who appears or is brought before a youth court charged with an offence attains the age of 18 before the start of the trial of the person for the offence.”
- (3) For subsection (1) substitute—
 - “(1) In the case of a summary offence or an offence triable either way, the youth court may, at any time before the start of the trial, remit the person for trial to a magistrates' court (other than a youth court).
 - (1A) In the case of an indictable offence, the youth court may, at any time before the start of the trial, send the person for trial to the Crown Court.
 - (1B) In subsections (A1) to (1A), “the start of the trial” is to be read in accordance with section 22(11B)(a) and (b) of the 1985 Act.
 - (1C) If the youth court is proposing to exercise the power under subsection (1) to remit a person to a magistrates' court for trial for an offence triable either way, the youth court—
 - (a) must give the person the opportunity of electing to be tried by the Crown Court for the offence, and
 - (b) if the person elects to be so tried, must exercise the power under subsection (1A) to send the person for trial to the Crown Court.

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(1D) A remission or sending under subsection (1) or (1A) does not have to be done in open court in the presence of the accused; but if it is not the youth court must first serve on the person one or more documents which—

- (a) state the charge against the accused;
- (b) explain that the court proposes to remit the accused for trial to a magistrates' court (other than a youth court) or (as the case may be) to send the accused for trial to the Crown Court; and
- (c) set out any other information—
 - (i) that is required by Criminal Procedure Rules, or
 - (ii) that is authorised by Criminal Procedure Rules and which the court decides to include.

(1E) Criminal Procedure Rules may make provision about situations where—

- (a) a person is sent for trial under subsection (1A) in relation to an alleged offence, and
- (b) any other alleged offence is, or appears to be, related (in such a way as is specified in the Rules) to the alleged offence referred to in paragraph (a).

(1F) The provision that may be made as described in subsection (1E) includes provision—

- (a) for a person to be sent to the Crown Court for trial for the other alleged offence—
 - (i) whether or not this section applies in relation to it;
 - (ii) whether or not it is alleged to have been committed by the same person as the offence referred to in paragraph (a) of that subsection;
 - (iii) even if it is a summary offence;
- (b) applying any other provision made by or under an Act about the sending of a person to the Crown Court for trial;
- (c) disapplying any other provision made by or under an Act about how a magistrates' court is to deal with the other alleged offence."

(4) In subsection (2)—

- (a) in the words before paragraph (a), for "under subsection (1)" substitute "or sent under subsection (1) or (1A)";
- (b) in paragraph (a), for "of remission" substitute "for the remission or sending";
- (c) in paragraph (b), for "remitting" substitute "youth".

(5) In subsection (3)—

- (a) for "remitting" substitute "youth";
- (b) after "remitted" insert "or sent".

(6) In subsection (4)—

- (a) the words from "all" to the end become paragraph (a);
- (b) in that paragraph, for "remitting" substitute "youth";
- (c) at the end of that paragraph insert " ; and
 - (b) the person remitted or sent had attained the age of 18 before the start of those proceedings."

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(7) After subsection (4) insert—

“(4A) For the purposes of this section a person is to be taken to be the age which that person appears to the court to be after considering any available evidence.”

Commencement Information

I3 S. 12 not in force at Royal Assent, see [s. 51\(4\)](#)

Status:

This version of this cross heading contains provisions that are prospective.

Changes to legislation:

There are currently no known outstanding effects for the Judicial Review and Courts Act 2022,
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