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Changes to legislation: There are currently no known outstanding effects for the Judicial Review and Courts Act 2022, Paragraph 6. (See end of Document for details)

SCHEDULES

SCHEDULE 2

CRIMINAL PROCEDURE: CONSEQUENTIAL AND RELATED AMENDMENTS

PROSPECTIVE

Amendments in connection with sections 6 to 8

- 6 (1) The Magistrates' Courts Act 1980 is amended as follows.
- (2) In section 17A (initial indication of plea at hearing)—
- (a) in the heading, for “procedure” substitute “hearing”;
 - (b) after subsection (1) insert—
 - “(1A) But in a case where section 17ZA(3) has effect, this section does not have effect unless—
 - (a) the accused has failed to give a written indication of guilty plea (see subsection (13) of that section), or
 - (b) the accused has given such an indication but later withdrawn it as described in subsection (10) of that section.”;
 - (c) in subsection (7), for “section 18(1) below shall apply” substitute “, the court is to proceed in accordance with section 17BA”.
- (3) In section 17B (power to proceed with hearing for initial indication of plea in absence of disruptive accused)—
- (a) in subsection (2)(d), for “section 18(1) below shall apply” substitute “, the court is to proceed in accordance with section 17BA”;
 - (b) in subsection (3), for “and section 18(1) below” substitute “, section 18(1) and section 20”.
- (4) In section 17C (power to adjourn hearing for initial indication of plea), for “or 17B” substitute “, 17B or 17BA”.
- (5) In section 17D (maximum penalty following indication of guilty plea for certain low-value offences)—
- (a) in the heading, after “section” insert “17ZB(9),”;
 - (b) in subsection (1)(b), after “section” insert “17ZB(9),”.
- (6) In section 17E (functions under sections 17A to 17D capable of exercise by single justice)—
- (a) in the heading, for “17A” substitute “17ZA”;
 - (b) in subsection (1), for “17A” substitute “17ZA”.
- (7) In section 18 (procedure for determining mode of trial)—
- (a) for subsection (1) substitute—

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“(1) A magistrates’ court must proceed by way of a hearing in accordance with such of sections 19 to 22 as are applicable where—

- (a) a person before the court as mentioned in section 17A(1)—
 - (i) indicates under that section that (if the offence in question were to proceed to trial) the person would plead not guilty, and
 - (ii) does not give an in-court indication of non-consent to summary trial (see section 17BA(6));
- (b) the legal representative of a person who has been before the court as mentioned in section 17A(1)—
 - (i) indicates under section 17B that (if the offence in question were to proceed to trial) the person would plead not guilty, and
 - (ii) does not give an in-court indication of non-consent to summary trial; or
- (c) section 17B has effect and no legal representative of the accused is present at the hearing referred to in that section.

(1A) A magistrates’ court must also proceed in that way (subject to section 17ZA(11)) where—

- (a) a person charged with an offence that is not a scheduled offence—
 - (i) has given a written indication of a not guilty plea (see section 17ZA(13)),
 - (ii) has failed to give a written indication of non-consent to summary trial (see section 17ZC(9)), and
 - (iii) has failed to make an election for written allocation proceedings (see section 17ZC(9));
- (b) a person charged with a scheduled offence—
 - (i) has given a written indication of a not guilty plea, and
 - (ii) has failed to make an election for written allocation proceedings; or
- (c) a person has given a written indication of a not guilty plea and neither subsection (3) nor subsection (5) of section 17ZC has effect in relation to the case.

(1B) Subsections (2) and (4) apply in respect of a hearing under subsection (1) or (1A).”;

(b) after subsection (4) insert—

“(4A) A magistrates’ court must (subject to section 17ZA(11)) proceed in writing in accordance with such of sections 19 to 22 as are applicable where—

- (a) a person charged with an offence that is not a scheduled offence—
 - (i) has given a written indication of a not guilty plea,
 - (ii) has failed to give a written indication of non-consent to summary trial, and

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- (iii) has made an election for written allocation proceedings (see section 17ZC(9)); or
- (b) a person charged with a scheduled offence—
 - (i) has given a written indication of a not guilty plea, and
 - (ii) has made an election for written allocation proceedings.
- (4B) Everything that the court is required to do under any of sections 19 to 22, when proceeding by virtue of subsection (4A), must be done before any evidence is called; but it is not to be done in open court or in the presence of the accused (or the accused’s legal representative).”;
- (c) after subsection (5) insert—
 - “(6) In this section, “scheduled offence” has the meaning given by section 22(1).”
- (8) In section 20 (procedure at allocation hearing where summary trial deemed suitable)
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 - (a) in subsections (5), (6) and (8)(b), after “section” insert “17ZA,”;
 - (b) in subsection (7), after “If” insert “the court is proceeding by way of a hearing and”;
 - (c) after subsection (7) insert—
 - “(7A) If the court is proceeding in writing and the accused indicates that he would plead guilty the court shall proceed (at a hearing rather than in writing) to try the offence summarily under section 9.
 - (7B) If, at a summary trial held in accordance with subsection (7A), the accused pleads not guilty—
 - (a) the trial and the plea are void, and
 - (b) subsection (9) below applies.”
- (9) In section 22 (certain low-value either-way offences to be tried summarily)—
 - (a) after subsection (2) insert—
 - “(2A) If, where subsection (1) above applies, it does not appear to the court clear that, for the offence charged, the value involved does not exceed the relevant sum, the court shall proceed in accordance with subsections (2B) to (2E).
 - (2B) If the court is proceeding by way of a hearing and the accused, or a legal representative of the accused, is present, the court shall proceed in accordance with section 17BA.
 - (2C) For the purposes of subsection (2B), the references in subsections (2) and (5) of section 17BA to proceeding in accordance with section 18(1) are to be read as references to proceeding in accordance with sections 19 to 21.
 - (2D) If the court is proceeding in writing, and the accused has given a written indication of non-consent to summary trial (see

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section 17ZC(9)), the court shall proceed in relation to the offence in accordance with section 51 of the Crime and Disorder Act 1998.

(2E) If neither subsection (2B) nor subsection (2D) applies, the court shall proceed in accordance with sections 19 to 21.”;

(b) omit subsections (3) to (6).

(10) In section 23 (power to proceed with allocation hearing in absence of represented accused), omit subsection (3).

(11) In section 24A (child or young person to indicate intention as to plea in certain cases)

(a) for the heading substitute “Child or young person to indicate plea at hearing where allocation decision otherwise required”;

(b) after subsection (1) insert—

“(1A) But in a case where section 24ZA(3) has effect, this section does not apply unless—

(a) the accused has failed to give a written indication of a guilty plea (see section 24ZA(11)), or

(b) the accused has given such an indication but later withdrawn it as described in section 24ZB(7).”

(12) In section 27A (power to transfer criminal proceedings), for subsections (1) and (2) substitute—

“(1) A magistrates’ court may at any time, whether before or after beginning to hear the trial of any person for an offence, transfer the matter to another magistrates’ court.”

Commencement Information

II Sch. 2 para. 6 not in force at Royal Assent, see s. 51(4)

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