
STATUTORY INSTRUMENTS

2010 No. 60

The Criminal Procedure Rules 2010

PART 37

TRIAL AND SENTENCE IN A MAGISTRATES' COURT

General rules

- 37.2.**—(1) Where this Part applies—
- (a) the general rule is that the hearing must be in public; but
 - (b) the court may exercise any power it has to—
 - (i) impose reporting restrictions,
 - (ii) withhold information from the public, or
 - (iii) order a hearing in private; and
 - (c) unless the court otherwise directs, only the following may attend a hearing in a youth court—
 - (i) the parties and their legal representatives,
 - (ii) a defendant's parents, guardian or other supporting adult,
 - (iii) a witness,
 - (iv) anyone else directly concerned in the case, and
 - (v) a representative of a news-gathering or reporting organisation.
- (2) Unless already done, the justices' legal adviser or the court must—
- (a) read the allegation of the offence to the defendant;
 - (b) explain, in terms the defendant can understand (with help, if necessary)—
 - (i) the allegation, and
 - (ii) what the procedure at the hearing will be;
 - (c) ask whether the defendant has been advised about the potential effect on sentence of a guilty plea;
 - (d) ask whether the defendant pleads guilty or not guilty; and
 - (e) take the defendant's plea.
- (3) The court may adjourn the hearing—
- (a) at any stage, to the same or to another magistrates' court; or
 - (b) to a youth court, where the court is not itself a youth court and the defendant is under 18.

[Note. See sections 10, 27A, 29 and 121 of the Magistrates' Courts Act 1980(1) and sections 46 and 47 of the Children and Young Persons Act 1933.

Where the case has been allocated for trial in a magistrates' court, part of the procedure under rule 37.2(2) will have taken place.

The court's powers to impose reporting restrictions include those under—

- (a) *section 39 of the Children and Young Persons Act 1933(2) (identification of any defendant or witness under 18);*
- (b) *section 4(2) of the Contempt of Court Act 1981(3) (information that may prejudice the administration of justice);*
- (c) *section 11 of the 1981 Act (information about a matter withheld from the public); and*
- (d) *section 46 of the Youth Justice and Criminal Evidence Act 1999(4) (identification of an adult witness).*

Reporting restrictions that apply in all cases include those under—

- (a) *section 49 of the Children and Young Persons Act 1933(5) (identification of any defendant or witness under 18 involved in proceedings in a youth court);*
- (b) *section 1 of the Sexual Offences (Amendment) Act 1992(6) (identification of the complainant of a sexual offence); and*
- (c) *section 47 of the Youth Justice and Criminal Evidence Act 1999(7) (special measures direction or application for such a direction).*

Under section 34A of the Children and Young Persons Act 1933(8), the court—

- (a) *may require the defendant's parents or guardian to attend court with the defendant, where the defendant is under 18; and*
- (b) *must do so, where the defendant is under 16,*
unless satisfied that that would be unreasonable.

Part 7 contains rules about (among other things) the issue of a summons to a parent or guardian.

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- (1) 1980 c. 43; section 29 was amended by sections 68 and 100 of, and paragraph 6 of Schedule 8 and paragraph 40 of Schedule 11 to, the Criminal Justice Act 1991 (c. 53), section 168 of, and paragraph 41 of Schedule 10 to, the Criminal Justice and Public Order Act 1994 (c. 33) and section 41 of, and paragraph 51 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44).
 - (2) 1933 c. 12; section 39 was amended by sections 57 and 64 of, and Schedule 5 to, the Children and Young Persons Act 1963 (c. 37), sections 37 and 39 of, and Schedule 3 to, the Criminal Justice Act 1982 (c. 48) and it is amended by section 48 of, and paragraphs 1 and 2 of Schedule 2 to, the Youth Justice and Criminal Evidence Act 1999 (c. 23), with effect from a date to be appointed.
 - (3) 1981 c. 49.
 - (4) 1999 c. 23.
 - (5) 1933 c. 12; section 49 was amended by section 49 of the Criminal Justice and Public Order Act 1994 (c. 33), section 45 of the Crime (Sentences) Act 1997 (c. 43), section 119 of, and paragraph 1 of Schedule 8 to, the Crime and Disorder Act 1998 (c. 37), section 165 of, and paragraph 2 of Schedule 9 to, the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), section 304 of, and paragraph 2 of Schedule 32 to, the Criminal Justice Act 2003 (c. 44) and sections 208 and 210 of, and paragraphs 15 and 19 of Schedule 21, and Schedule 23 to, the Legal Services Act 2007 (c. 29). It is amended by section 48 of, and paragraphs 1 and 3 of Schedule 2 to, the Youth Justice and Criminal Evidence Act 1999 (c. 23), section 74 of, and paragraph 5 of Schedule 7 to, the Criminal Justice and Court Services Act 2000 (c. 43), sections 208 and 210 of, and paragraphs 15 and 19 of Schedule 21 and Schedule 23, to the Legal Services Act 2007 (c. 29) and sections 6 and 149 of, and paragraphs 1, 3 and 100 of Schedule 4 and Schedule 28 to, the Criminal Justice and Immigration Act 2008 (c. 4), with effect from dates to be appointed.
 - (6) 1992 c. 34; section 1 was amended by section 48 of, and paragraphs 6 and 7 of Schedule 2 to, the Youth Justice and Criminal Evidence Act 1999 (c. 23).
 - (7) 1999 c. 23; section 47 was amended by section 52 of, and paragraph 37 of Schedule 14 to, the Police and Justice Act 2006 (c. 48).
 - (8) 1933 c. 12; section 34A was inserted by section 56 of the Criminal Justice Act 1991 (c. 53) and amended by section 107 of, and paragraph 1 of Schedule 5 to, the Local Government Act 2000 (c. 22).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Part 2 contains rules allowing a parent, guardian or other supporting adult to help a defendant under 18.]