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STATUTORY INSTRUMENTS

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**2020 No. 759**

**The Criminal Procedure Rules 2020**

**PART 9**

**ALLOCATION AND SENDING FOR TRIAL**

*SENDING WITHOUT ALLOCATION FOR CROWN COURT TRIAL*

**Prosecutor's notice requiring Crown Court trial**

**9.6.**—(1) This rule applies where a prosecutor with power to do so requires a magistrates' court to send for trial in the Crown Court—

- (a) a case of serious or complex fraud; or
  - (b) a case which will involve a child witness.
- (2) The prosecutor must serve notice of that requirement—
- (a) on the magistrates' court officer and on the defendant; and
  - (b) before trial in a magistrates' court begins under Part 24 (Trial and sentence in a magistrates' court).
- (3) The notice must identify—
- (a) the power on which the prosecutor relies; and
  - (b) the Crown Court centre at which the prosecutor wants the trial to take place.
- (4) The prosecutor—
- (a) must, when choosing a Crown Court centre, take into account the matters listed in rule 9.3(3) (court deciding to which Crown Court centre to send a case); and
  - (b) may change the centre identified before the case is sent for trial.

*[Note. Under section 51B of the Crime and Disorder Act 1998(1), the Director of Public Prosecutions or a Secretary of State may require the court to send a case for trial in the Crown Court if, in that prosecutor's opinion, the evidence of the offence charged—*

- (a) *is sufficient for the person charged to be put on trial for the offence; and*
- (b) *reveals a case of fraud of such seriousness or complexity that it is appropriate that the management of the case should without delay be taken over by the Crown Court.*

*Under section 51C of the Crime and Disorder Act 1998(2), the Director of Public Prosecutions may require the court to send for trial in the Crown Court a case involving one of certain specified violent or sexual offences if, in the Director's opinion—*

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- (1) 1998 c. 37; section 51B was inserted by paragraphs 15 and 18 of Schedule 3 to the Criminal Justice Act 2003 (c. 44) and amended by section 50 of, and paragraph 69 of Schedule 4 to, the Commissioners for Revenue and Customs Act 2005 (c. 11) and paragraphs 46 and 48 of Schedule 5 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).
- (2) 1998 c. 37; section 51C was inserted by paragraphs 15 and 18 of Schedule 3 to the Criminal Justice Act 2003 (c. 44) and modified by section 63 of, and paragraph 36 of Schedule 6 to, the Serious Crime Act 2007 (c. 27).

- (a) *the evidence of the offence would be sufficient for the person charged to be put on trial for that offence;*
- (b) *a child would be called as a witness at the trial; and*
- (c) *for the purpose of avoiding any prejudice to the welfare of the child, the case should be taken over and proceeded with without delay by the Crown Court.*

*'Child' for these purposes is defined by section 51C(7) of the 1998 Act.]*

### **Sending for Crown Court trial**

**9.7.**—(1) This rule applies where a magistrates' court must, or can, send a defendant to the Crown Court for trial without first allocating the case for trial there.

- (2) The court must read the allegation of the offence to the defendant.
- (3) The court must explain, in terms the defendant can understand (with help, if necessary)—
  - (a) the allegation, unless it is self-explanatory;
  - (b) that the offence is one for which the court, as appropriate—
    - (i) must send the defendant to the Crown Court for trial because the offence is one which can only be tried there or because the court for some other reason is required to send that offence for trial,
    - (ii) may send the defendant to the Crown Court for trial if the magistrates' court decides that the offence is related to one already sent for trial there, or
    - (iii) (where the offence is low-value shoplifting and the defendant is 18 or over) must send the defendant to the Crown Court for trial if the defendant wants to be tried there; and
  - (c) that reporting restrictions apply, which the defendant may ask the court to vary or remove.
- (4) In the following sequence, the court must then—
  - (a) invite the prosecutor to—
    - (i) identify the court's power to send the defendant to the Crown Court for trial for the offence, and
    - (ii) make representations about any ancillary matters, including bail and directions for the management of the case in the Crown Court;
  - (b) invite the defendant to make representations about—
    - (i) the court's power to send the defendant to the Crown Court, and
    - (ii) any ancillary matters;
  - (c) (where the offence is low-value shoplifting and the defendant is 18 or over) offer the defendant the opportunity to require trial in the Crown Court; and
  - (d) decide whether or not to send the defendant to the Crown Court for trial.
- (5) If the court sends the defendant to the Crown Court for trial, it must—
  - (a) ask whether the defendant intends to plead guilty in the Crown Court and—
    - (i) if the answer is 'yes', make arrangements for the Crown Court to take the defendant's plea as soon as possible, or
    - (ii) if the defendant does not answer, or the answer is 'no', make arrangements for a case management hearing in the Crown Court; and
  - (b) give any other ancillary directions.

*[Note. See sections 51, 51A and 51E of the Crime and Disorder Act 1998(3), and sections 22A and 24A of the Magistrates' Courts Act 1980(4).*

*See also Part 6 (Reporting, etc. restrictions).]*

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- (3) 1998 c. 37; section 51 was substituted, and sections 51A and 51E inserted, by paragraphs 15 and 18 of Schedule 3 to the Criminal Justice Act 2003 (c. 44). Section 51 was amended by section 59 of, and paragraph 1 of Schedule 11 to, the Constitutional Reform Act 2005 (c. 4). Section 51A was amended by section 49 of, and paragraph 5 of Schedule 1 to, the Violent Crime Reduction Act 2006 (c. 38) and paragraph 6 of Schedule 21 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).
- (4) 1980 c. 43; section 24A was inserted by paragraphs 1 and 10 of Schedule 3 to the Criminal Justice Act 2003 (c. 44). Section 22A was inserted by section 176 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12).