
STATUTORY INSTRUMENTS

2020 No. 759

The Criminal Procedure Rules 2020

PART 10

THE INDICTMENT

When this Part applies

10.1. This Part applies where—

- (a) a magistrates' court sends a defendant to the Crown Court for trial under section 51 or section 51A of the Crime and Disorder Act 1998(1);
- (b) a prosecutor wants a High Court judge's permission to serve a draft indictment;
- (c) the Crown Court approves a proposed indictment under paragraph 2 of Schedule 17 to the Crime and Courts Act 2013(2) and rule 11.4 (Deferred prosecution agreements: Application to approve the terms of an agreement);
- (d) a prosecutor wants to re-institute proceedings in the Crown Court under section 22B of the Prosecution of Offences Act 1985(3); or
- (e) the Court of Appeal orders a retrial, under section 8 of the Criminal Appeal Act 1968(4) or under section 77 of the Criminal Justice Act 2003(5).

[Note. See also sections 3, 4 and 5 of the Indictments Act 1915(6) and section 2 of the Administration of Justice (Miscellaneous Provisions) Act 1933(7). Under section 2(1) of the

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- (1) 1998 c. 37; section 51 was substituted by paragraphs 15 and 18 of Schedule 3 to the Criminal Justice Act 2003 (c. 44) and amended by section 59 of, and paragraph 1 of Schedule 11 to, the Constitutional Reform Act 2005 (c. 4). Section 51A was inserted by paragraphs 15 and 18 of Schedule 3 to the Criminal Justice Act 2003 (c. 44) and 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).
 - (2) 2013 c. 22.
 - (3) 1985 c. 23; section 22B was inserted by section 45 of the Crime and Disorder Act 1998 (c. 37) and amended by paragraph 17 of Schedule 36 to the Criminal Justice Act 2003 (c. 44) and section 112 of, and Part 13 of Schedule 8 to, the Policing and Crime Act 2009 (c. 26).
 - (4) 1968 c. 19; section 8 was amended by Section 12 of, and paragraph 38 of Schedule 2 to, the Bail Act 1976 (c. 63), section 56 of, and Part IV of Schedule 11 to, the Courts Act 1971 (c. 23), section 65 of, and paragraph 36 of Schedule 3 to, the Mental Health (Amendment) Act 1982 (c. 51), section 148 of, and paragraph 23 of Schedule 4 to, the Mental Health Act 1983 (c. 20), section 43 of the Criminal Justice Act 1988 (c. 33), section 168 of, and paragraph 19 of Schedule 10 to, the Criminal Justice and Public Order Act 1994 (c. 33), section 58 of the Access to Justice Act 1999 (c. 22), sections 41 and 332 of, and paragraph 43 of Schedule 3 to, and Part 4 of Schedule 37 to, the Criminal Justice Act 2003 (c. 44) and section 32 of, and paragraph 2 of Schedule 4 to, the Mental Health Act 2007 (c. 12).
 - (5) 2003 c. 44.
 - (6) 1915 c. 90; section 4 was amended by section 83 of, and Part I of Schedule 10 to, the Criminal Justice Act 1948 (c. 58) and section 10 of, and Part III of Schedule 3 to, the Criminal Law Act 1967 (c. 58). Section 5 was amended by section 12 of, and paragraph 8 of Schedule 2 to, the Bail Act 1976 (c. 63), section 31 of, and Schedule 2 to, the Prosecution of Offences Act 1985 (c. 23) and section 331 of, and paragraph 40 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44).
 - (7) 1933 c. 36; section 2 was amended by Part IV of Schedule 11 to, the Courts Act 1971 (c. 23), Schedule 5 to, the Senior Courts Act 1981 (c. 54), Schedule 2 to the Prosecution of Offences Act 1985 (c. 23), paragraph 1 of Schedule 2 to the Criminal Justice Act 1987 (c. 38), paragraph 10 of Schedule 15 to the Criminal Justice Act 1988 (c. 33), paragraph 8 of Schedule 6 to the Criminal Justice Act 1991 (c. 53), Schedule 1 to the Statute Law (Repeals) Act 1993, paragraph 17 of Schedule 1 to the Criminal Procedure and Investigations Act 1996 (c. 25), paragraph 5 of Schedule 8 to the Crime and Disorder Act 1998 (c. 37), paragraph 34 of Schedule 3 and Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c. 44),

1933 Act, a draft indictment (in the Act, a 'bill of indictment') becomes an indictment when it is 'preferred' in accordance with these rules. See rule 10.2.

Part 3 contains rules about the court's general powers of case management, including power to consider applications and give directions for (among other things) the amendment of an indictment and for separate trials under section 5 of the Indictments Act 1915. See in particular rule 3.29 (Application for joint or separate trials, etc.).

Under section 51D of the Crime and Disorder Act 1998⁽⁸⁾, the magistrates' court must notify the Crown Court of the offence or offences for which the defendant is sent for trial. Part 9 (Allocation and sending for trial) contains relevant rules.

A Crown Court judge may approve a proposed indictment on approving a deferred prosecution agreement. Part 11 (Deferred prosecution agreements) contains relevant rules.

A prosecutor may apply to a High Court judge for permission to serve a draft indictment under rule 10.9.

Under section 22B of the Prosecution of Offences Act 1985, one of the prosecutors listed in that section may re-institute proceedings that have been stayed under section 22(4) of that Act⁽⁹⁾ on the expiry of an overall time limit (where such a time limit has been prescribed). Section 22B(2) requires the service of a draft indictment within 3 months of the date on which the Crown Court ordered the stay, or within such longer period as the court allows.

The Court of Appeal may order a retrial under section 8 of the Criminal Appeal Act 1968 (on a defendant's appeal against conviction) or under section 77 of the Criminal Justice Act 2003 (on a prosecutor's application for the retrial of a serious offence after acquittal). Section 8 of the 1968 Act and section 84 of the 2003 Act require the arraignment of a defendant within 2 months. See also rules 27.7 and 39.14.

Where a magistrates' court sends a defendant to the Crown Court for trial under section 51 or 51A of the Crime and Disorder Act 1998, in some circumstances the Crown Court may try the defendant for other offences: see section 2(2) of the Administration of Justice (Miscellaneous Provisions) Act 1933 (indictable offences founded on the prosecution evidence), section 40 of the Criminal Justice Act 1988⁽¹⁰⁾ (specified summary offences founded on that evidence) and paragraph 6 of Schedule 3 to the Crime and Disorder Act 1998 (power of Crown Court to deal with related summary offence sent to that court). An offence of theft under section 1 of the Theft Act 1968 which is low-value shoplifting under section 22A of the Magistrates' Courts Act 1980⁽¹¹⁾ is a summary offence unless the defendant chooses to be tried in the Crown Court.]

paragraph 1 of the Schedule to S.I. 2004/2035, section 12 of, and paragraph 7 of Schedule 1 to, the Constitutional Reform Act 2005 (c. 4), sections 116 and 178 of, and Part 3 of Schedule 23 to, the Coroners and Justice Act 2009 (c. 25), paragraph 32 of Schedule 17 to the Crime and Courts Act 2013 (c. 22) and section 82 of the Deregulation Act 2015 (c. 20).

(8) 1998 c. 37; section 51D was inserted by paragraphs 15 and 18 of Schedule 3 to the Criminal Justice Act 2003 (c. 44) and amended by section 59 of, and paragraph 1 of Schedule 11 to, the Constitutional Reform Act 2005 (c. 4).

(9) 1985 c. 23; section 22 was amended by paragraph 104 of Schedule 15 to the Criminal Justice Act 1988 (c. 33), section 43 of the Crime and Disorder Act 1998 (c. 37), paragraph 36 of Schedule 11 to the Criminal Justice Act 1991 (c. 53), paragraph 27 of Schedule 9 to the Criminal Justice and Public Order Act 1994 (c. 33), section 71 of the Criminal Procedure and Investigations Act 1996 (c. 25), section 67(3) of the Access to Justice Act 1999 (c. 22), section 70 of, and paragraph 57 of Schedule 3 and paragraphs 49 and 51 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44), section 59 of, and paragraph 1 of Schedule 11 to, the Constitutional Reform Act 2005 (c. 4) and paragraph 22 of Schedule 12 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).

(10) 1988 c. 33; section 40 was amended by section 4 of, and paragraph 39 of Schedule 3 to, the Road Traffic (Consequential Provisions) Act 1988 (c. 54), section 168 of, and paragraph 35 of Schedule 9 to, the Criminal Justice and Public Order Act 1994 (c. 33), section 47 of, and paragraph 34 of Schedule 1 to, the Criminal Procedure and Investigations Act 1996 (c. 25), section 119 of, and paragraph 66 of Schedule 8 to, the Crime and Disorder Act 1998 (c. 37) and paragraph 60 of Schedule 3 and Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c. 44).

(11) 1980 c. 43; section 22A was inserted by section 176 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12).