
STATUTORY INSTRUMENTS

2020 No. 759

The Criminal Procedure Rules 2020

PART 9

ALLOCATION AND SENDING FOR TRIAL

ALLOCATION FOR MAGISTRATES' COURT OR CROWN COURT TRIAL

Adult defendant: allocation for magistrates' court trial

- 9.11.**—(1) This rule applies where—
- (a) rule 9.10 applies; and
 - (b) the court allocates the case to a magistrates' court for trial.
- (2) The court must explain, in terms the defendant can understand (with help, if necessary) that—
- (a) the court considers the case more suitable for trial in a magistrates' court than in the Crown Court;
 - (b) if the defendant is convicted at a magistrates' court trial, then in some circumstances the court may commit the defendant to the Crown Court for sentence;
 - (c) if the defendant does not agree to a magistrates' court trial, then the court must send the defendant to the Crown Court for trial; and
 - (d) before deciding whether to accept magistrates' court trial, the defendant may ask the court for an indication of whether a custodial or non-custodial sentence is more likely in the event of a guilty plea at such a trial, but the court need not give such an indication.
- (3) If the defendant asks for such an indication of sentence and the court gives such an indication—
- (a) the court must then ask again whether the defendant intends to plead guilty;
 - (b) if, in answer to that question, the defendant indicates an intention to plead guilty, then the court must exercise its power to deal with the case—
 - (i) as if the defendant had just pleaded guilty to an offence that can be tried only in a magistrates' court, and
 - (ii) in accordance with rule 24.11 (Procedure if the court convicts); and
 - (c) if, in answer to that question, the defendant indicates an intention to plead not guilty, or gives no indication of intended plea, in the following sequence the court must then—
 - (i) ask whether the defendant agrees to trial in a magistrates' court,
 - (ii) if the defendant's answer to that question is 'yes', order such a trial, and
 - (iii) if the defendant does not answer that question, or the answer is 'no', apply rule 9.14.
- (4) If the defendant asks for an indication of sentence but the court gives none, or if the defendant does not ask for such an indication, in the following sequence the court must then—

- (a) ask whether the defendant agrees to trial in a magistrates' court;
- (b) if the defendant's answer to that question is 'yes', order such a trial; and
- (c) if the defendant does not answer that question, or the answer is 'no', apply rule 9.14.

[Note. See section 20 of the Magistrates' Courts Act 1980(1).

For the circumstances in which a magistrates' court may (and, in some cases, must) commit a defendant to the Crown Court for sentence after that defendant has been convicted at a magistrates' court trial, see sections 3, 3A, 3C, and 6 of the Powers of Criminal Courts (Sentencing) Act 2000(2).

For the circumstances in which an indication of sentence to which this rule applies restricts the sentencing powers of a court, see section 20A of the 1980 Act(3).]

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- (1) 1980 c. 43; section 20 was amended by section 100 of, and paragraph 25 of Schedule 11 to, the Criminal Justice Act 1991 (c. 53), paragraph 63 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) and paragraphs 1 and 6 of Schedule 3 to the Criminal Justice Act 2003 (c. 44).
 - (2) 2000 c. 6; sections 3 and 6 were amended, and sections 3A and 3C inserted, by paragraphs 21, 22A, 23 and 28 of Schedule 3 to the Criminal Justice Act 2003 (c. 44). Section 3A was amended by section 53 of, and paragraphs 1 and 9 of Schedule 13 to, the Criminal Justice and Immigration Act 2008 (c. 4) and paragraphs 7 and 8 of Schedule 21 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10). Section 3C was amended by paragraphs 7 and 9 of Schedule 21 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10). Section 6 was further amended by paragraphs 90 and 91 of Schedule 32, and Parts 7 and 9 of Schedule 37, to the Criminal Justice Act 2003 (c. 44).
 - (3) 1980 c. 43; section 20A was inserted by paragraphs 1 and 6 of Schedule 3 to the Criminal Justice Act 2003 (c. 44).