
STATUTORY INSTRUMENTS

2021 No. 849

The Criminal Procedure (Amendment No. 2) Rules 2021

Amendments to the Criminal Procedure Rules

4. In Part 3 (Case management)—

(a) in rule 3.1 (When this Part applies)—

(i) for paragraph (2) substitute—

“(2) Rules 3.16 to 3.18 apply where the case must be tried in a magistrates’ court, or the court orders trial there.”, and

(ii) for the second paragraph of the note to the rule substitute—

“At the first hearing in a magistrates’ court the court may (and in some cases must) order trial in that court, or may (and in some cases must) send the defendant to the Crown Court for trial under section 51 or 51A of the Crime and Disorder Act 1998(1). See Part 9 (Allocation and sending for trial) for the procedure. The decision depends upon—

(a) the classification of the offence (and the general rule, subject to exceptions, is that an offence classified as triable only on indictment must be sent to the Crown Court for trial; an offence classified as triable only summarily must be tried in a magistrates’ court; and an offence classified as triable either way, on indictment or summarily, must be allocated to one or the other court for trial, subject to the defendant’s right to choose Crown Court trial : see in particular sections 50A, 51 and 51A of the 1998 Act(2) and section 19 of the Magistrates’ Courts Act 1980(3));

(b) the defendant’s age (and the general rule, subject to exceptions, is that an offence alleged against a defendant under 18 must be tried in a magistrates’ court sitting as a youth court: see in particular sections 24 and 24A of the 1980 Act(4));

(c) whether the defendant is awaiting Crown Court trial for another offence;

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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) 1998 c. 37; section 50A was inserted by paragraphs 15 and 17 of Schedule 3 to the Criminal Justice Act 2003 (c. 44).
- (3) 1980 c. 43; section 19 was substituted by paragraphs 1 and 5 of Schedule 3 to the Criminal Justice Act 2003 (c. 44) and amended by sections 144, 177 and 178 of, and paragraph 4 of Schedule 17, paragraph 80 of Schedule 21 and Part 5 of Schedule 23 to, the Coroners and Justice Act 2009 (c. 25).
- (4) 1980 c. 43; section 24 was amended by paragraph 47 of Schedule 14 to the Criminal Justice Act 1982 (c. 48), sections 17, 68 and 101 of, and paragraph 6 of Schedule 8 and Schedule 13 to, the Criminal Justice Act 1991 (c. 53), paragraph 40 of Schedule 10, and Schedule 11, to the Criminal Justice and Public Order Act 1994 (c. 33), sections 47 and 119 of, and paragraph 40 of Schedule 8, to the Crime and Disorder Act 1998 (c. 37), paragraph 64 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), section 42 of, and paragraphs 1 and 9 of Schedule 3, and Part 4 of Schedule 37, to the Criminal Justice Act 2003 (c. 44) and sections 49 and 65 of, and paragraph 1 of Schedule 1 and Schedule 5 to, the Violent Crime Reduction Act 2006 (c. 38). Section 24A was inserted by paragraphs 1 and 10 of Schedule 3 to the Criminal Justice Act 2003 (c. 44).

- (d) *whether another defendant, charged with the same offence, is awaiting Crown Court trial for that offence;*
- (e) *in some cases (destroying or damaging property; aggravated vehicle taking), whether the value involved is more or less than £5,000; and*
- (f) *in a case of low-value shoplifting, whether the defendant chooses Crown Court trial: see section 22A of the 1980 Act(5).”; and*
- (b) in rule 3.5 (The court’s case management powers), in paragraph (2)(k)—
 - (i) for “an application” substitute “a request”, and
 - (ii) for “(Supply to the public, including reporters, of information about cases)” substitute “(Request for information about a case)”;
- (c) in rule 3.14 (Duty of court officer), for the note to the rule substitute—

“[Note. See also rule 5.9 (Request for information by a party or person directly affected by a case).]”; and
- (d) in rule 3.16 (Pre-trial hearings in a magistrates’ court: general rules)—
 - (i) for paragraph (1)(a)(i) substitute “under rule 9.11 or rule 9.13 (Adult defendant: allocation for magistrates’ court trial; Young defendant) the defendant indicates an intention to plead guilty, or”,
 - (ii) for paragraph (3) substitute—
 - “(3) At a preparation for trial hearing, if the defendant is present—
 - (a) the court must satisfy itself that there has been explained to the defendant, in terms the defendant can understand (with help, if necessary), that the defendant will receive credit for a guilty plea;
 - (b) the court may explain, in terms the defendant can understand (with help, if necessary), that 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 there and then, but the court need not give such an indication;
 - (c) whether the court gives such an explanation or not the defendant may ask the court for such an indication;
 - (d) if the defendant asks the court for such an indication, the prosecutor must—
 - (i) provide any information relevant to sentence not yet served but which is available there and then, and
 - (ii) identify any other matter relevant to sentence, including the legislation applicable, any sentencing guidelines or guideline cases and aggravating and mitigating factors;
 - (e) the court must take the defendant’s plea or if no plea can be taken then find out whether the defendant is likely to plead guilty or not guilty; and
 - (f) unless the defendant pleads guilty, the court must satisfy itself that there has been explained to the defendant, in terms the defendant can understand (with help, if necessary), that at the trial—
 - (i) the defendant will have the right to give evidence after the court has heard the prosecution case,

(5) 1980 c. 43; section 22A was inserted by section 176 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12) and amended by section 52 of the Criminal Justice and Courts Act 2015 (c. 2).

- (ii) if the defendant does not attend, the trial is likely to take place in the defendant's absence, and
- (iii) where the defendant is released on bail, failure to attend court when required is an offence for which the defendant may be arrested and punished and bail may be withdrawn.”,
- (iii) in paragraph (5)(a), after “date of birth” insert “, unless already provided under rule 9.2 (Allocation and sending for trial; Exercise of magistrates’ court’s powers)”, and
- (iv) save for the introductory word “[Note.”, omit the first paragraph of the note to the rule.