
STATUTORY INSTRUMENTS

2021 No. 849

The Criminal Procedure (Amendment No. 2) Rules 2021

Amendments to the Criminal Procedure Rules

6. In Part 9 (Allocation and sending for trial)—

- (a) in rule 9.1 (When this Part applies), for the first two paragraphs of the note to the rule substitute—

“[Note. 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). 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;*
- (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*

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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).

- (f) *in a case of low-value shoplifting, whether the defendant chooses Crown Court trial: see section 22A of the 1980 Act*⁽⁵⁾.”;
- (b) in rule 9.2 (Exercise of magistrates’ court’s powers)—
- (i) in paragraph (3), renumber sub-paragraphs (a) and (b) as (b) and (c) respectively and before sub-paragraph (b), as thus renumbered, insert—
- “(a) where rule 9.7 (Sending for Crown Court trial) applies, if the defendant is represented;”;
- (ii) for paragraph (4) substitute—
- “(4) The court—
- (a) at the first hearing in the case must require a defendant who is present to provide, in writing or orally, his or her name and date of birth;
- (b) at any subsequent hearing may require such a defendant to provide that information by those means; and
- (c) may exercise its power to adjourn—
- (i) if either party asks, or
- (ii) on its own initiative.”; and
- (iii) after the fourth paragraph of the note to the rule insert—
- “Under section 86A of the Courts Act 2003*⁽⁶⁾, *Criminal Procedure Rules must specify stages of proceedings at which the court must require the information listed in rule 9.2(4) and may specify other stages of proceedings when such requirements may be imposed. A person commits an offence if, without reasonable excuse, that person fails to comply with such a requirement, whether by providing false or incomplete information or by providing no information.*”;
- (c) in rule 9.5 (Duty of magistrates’ court officer), in paragraph (1)(c) after “rule 9.11” insert “or rule 9.13”;
- (d) in rule 9.11 (Adult defendant: allocation for magistrates’ court trial), at the end of the note to the rule insert—
- “Where the court orders trial in a magistrates’ court, see also rules 3.16 to 3.18 about preparation for trial.”; and*
- (e) in rule 9.13 (Young defendant)—
- (i) renumber paragraph (3)(f) as (3)(g),
- (ii) at the end of paragraph (3)(e) omit “and”,
- (iii) after paragraph (3)(e) insert—
- “(f) that before answering and at any time until the court decides whether to send the defendant for Crown Court trial or order trial in a youth court—
- (i) 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
- (ii) the court need not give such an indication; and”;
- (iv) renumber paragraphs (4), (5) and (6) as (5), (6) and (7) respectively,

(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).

(6) 2003 c. 39; section 86A was inserted by section 162 of the Policing and Crime Act 2017 (c. 3).

- (v) after paragraph (3) insert—
 - “(4) The defendant may then ask the court for such an indication of sentence.”,
- (vi) in paragraph (5), as thus renumbered, for the initial “The” substitute “Whether the defendant asks for and the court gives such an indication or not, the”,
- (vii) in paragraph (7), as thus renumbered, in sub-paragraph (c) after “allocate the case for trial” insert “in the Crown Court or a youth court”, and
- (viii) at the end of the note to the rule insert—
 - “Where the court orders trial in a youth court, see also rules 3.16 to 3.18 about preparation for trial.”*