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STATUTORY INSTRUMENTS

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**1999 No. 1149 (L. 12)**

**MAGISTRATES' COURTS**

**The Magistrates' Courts (Forms) (Amendment) Rules 1999**

<i>Made</i>	- - - -	<i>10th April 1999</i>
<i>Laid before Parliament</i>		<i>13th April 1999</i>
<i>Coming into force</i>	- -	<i>4th May 1999</i>

The Lord Chancellor, in exercise of the power conferred on him by 144 of the Magistrates' Courts Act 1980(1), as extended by section 145 of that Act, after consultation with the Rule Committee appointed under the said section 144, hereby makes the following Rules:

1. This Order may be cited as the Magistrates' Courts (Forms) (Amendment) Rules 1999, and shall come into force on 4th May 1999.

2. In the Table of Contents in Schedule 2 to the Magistrates' Courts (Forms) Rules 1981(2), after the entry for Form 27 there shall be inserted:–

“27A. Notice to defendant: plea of guilty in absence – written statement procedure.”and after the entry for Form 28 there shall be inserted:–

“28A. Plea and mitigation form.”.

3. The forms numbered 27A and 28A contained in the Schedule to these Rules shall be inserted after Forms 27 and 28 respectively in Schedule 2 to the Magistrates' Courts (Forms) Rules 1981.

Signed by authority of the Lord Chancellor

Dated 10th April 1999

*G.W. Hoon*  
Minister of State,  
Lord Chancellor's Department

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(1) 1980 c. 43.  
(2) S.I.1981/553.

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## SCHEDULE

SUMMARY TRIAL—FORM 27 A

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*Notice to defendant: plea of guilty in absence—written statement procedure  
(MC Act 1980 s.12(3)(a) and s.12(3)(b)(ii))*

**Please read all of this notice and everything sent with the summons carefully before you fill in any forms**

With this notice you will find a summons. It lists the offences which the prosecutor says you have committed. The evidence for this is in the enclosed witness statements. This notice tells you about the court procedure and the choices open to you. It also tells you how to fill in the plea form and the other forms enclosed with the summons.

**Warning:** If you do not reply to the summons, the court may find you guilty in your absence.

**Your decisions**

After reading all the papers, you must decide which course of action to take. You can do **one** of the following:

1. You may plead guilty by post (Section 1 explains what to do); or
2. You may attend court and plead guilty (Section 2 explains what to do); or
3. You may plead not guilty (Section 3 explains what to do).

Decide how you want to plead. If you need help with this, see a lawyer or advice agency **at once**. If you need general help about the summons, contact the court office. The address and telephone number are on the summons.

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**Section 1: Pleading guilty by post**

\*Alter as necessary:  
see Note at end

If you admit the offences, you may plead guilty in writing without attending court. If this is your decision, **please sign in Box 1 on the plea form\*** and return it to the court. You need not attend court on the date shown on the summons.

Fill in the enclosed **statement of means form** (about your income and expenses) and send it to the court with your plea form. Giving these details helps the court decide the right amount of any fine. If you do not give these details, you may be ordered to pay a fine which is more than you can afford. You should also tell the court anything about the offences or yourself which you feel the magistrates should know when deciding what sentence to give you. To do this fill in the enclosed **mitigation form**. Send the completed form to the court with the plea form and your statement of means.

**You must send your driving licence and its counterpart to the court if the summons says you should. If you do not, then (unless you satisfy the court that you have applied for a new licence and have not yet received it) you will be guilty of an offence and the licence will be suspended from the time its production was required until it and its counterpart are produced to the court.**

At the hearing, the court will hear only

- the witness statements with these papers, or a summary of them
- any other details (such as a claim for costs) which came with the summons
- details of your driving record; and
- anything you write on the plea, statement of means forms, and the mitigation form

If you want to plead guilty in writing, you must act quickly. Fill in the plea form, statement of means form and mitigation form. Then send them to the court so that they get there at least three days before the hearing date shown on the summons.

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If you plead guilty by post, you will normally be convicted by the magistrates on the hearing date shown in the summons. The court will write to you soon after the hearing to tell you what sentence the magistrates have given you.

If the court decides not to accept your guilty plea, it will tell you why in writing and give you a fresh hearing date. If the court puts the case back to a later date, the court does not have to tell you what that later date is unless the case has been put back for more than four weeks.

**Changing your plea:** If you have sent the plea form to the court saying that you want to plead guilty, you can change your mind at any time **before the hearing**. If you do change your mind you must tell the court in writing as soon as possible that you want to plead not guilty.

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## Section 2: Pleading guilty at court

\*Alter as necessary:  
see Note at end

If you admit the offences and want to plead guilty, you can do this in person at court. If this is your decision, **please sign in Box 2 on the plea form\*** and return it to the court. You must attend court at the time and on the date shown in the summons. You must bring your driving licence to court if the summons says that you should. Complete the statement of means form and send it to the court so that it reaches the court at least three days before the hearing or bring it with you to court so that it can be handed to the magistrates at the hearing.

At the court hearing, you will be asked to say that you still want to plead guilty. The court will hear

- the witness statements with these papers, or a summary of them
- any other details (such as a claim for costs) which came with the summons
- details of your driving record

The court will listen to anything you say about the offences and your income and expenses, and then decide what sentence to give you.

Attending court to plead guilty lets you tell the court things, in your own words, which might be difficult to explain in writing. For example, if an offence was committed in very unusual circumstances or if your income and expenses are complicated.

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## Section 3: Pleading not guilty

\*Alter as necessary:  
see Note at end

If you do not admit the offences and you want to plead not guilty, **please sign in Box 3 on the plea form\*** and return it to the court.

You should **not attend** court on the date shown in the summons. The court will tell you in writing of a **fresh date for a trial hearing when you must attend** with your witnesses and any documents you want the court to see. You should bring the original documents not photocopies.

If your trial is expected to occupy some time or involve a lot of witnesses, the court may ask you to attend a pre-trial hearing to review your case so that the trial can be planned and arrangements made for the witnesses so that they do not have to wait at court longer than necessary

\*Alter as necessary:  
see Note at end

**Your witnesses:** It is important that you tell the court the number and the names of the witnesses you want to give evidence for you and when **you** or any of your witnesses cannot attend in the next 3 months. Fill in **part 8 of the plea form\*** to give the court this information. The court will try and use it when fixing the date of your trial hearing.

**The Prosecutor's witnesses:** At the trial hearing, the prosecutor may read the witness statements sent to you with the summons unless you tell him that you want the witnesses to come to court to give evidence. If you want any of these witnesses to give oral evidence, you should tell the **prosecutor**, whose name and address is on the notice accompanying the statements, as soon as possible. If you do not do this

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within seven days of receiving this notice, you will lose your right to prevent the statements being tendered in evidence and you will be able to require the attendance of the witnesses only with the court's permission.

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### What will happen if you do not reply to the summons

If you do not reply to the summons, the court may deal with your case in your absence on the date shown in the summons. The prosecutor will read the statements sent with the summons to the court or give a summary of them. Having heard what is in the witness statements, the court will find you either guilty or not guilty of each of the offences in the summons. If you are found guilty of any offence, the court may sentence you in your absence.

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### Claims by the prosecutor for money

If you plead guilty or are found guilty, the prosecutor will normally ask the court to order you to pay his costs for bringing the case.

[In some cases the prosecutor may also ask the court to order you to pay another sum of money. For example

- a penalty equal to the outstanding duty, if the summons says that you used an unlicensed motor vehicle; or
- a claim by the Department of Social Security for unpaid contributions.]†

† The text in brackets to be inserted only in cases to which it applies

The amount which the prosecutor claims will be printed on the summons or on a notice with the summons.

\*Alter as necessary: see Note at end

If you **dispute** the prosecutor's claim for costs, **sign in Box 4 on the plea form\*** and give your reasons on the **mitigation form**.

\*Alter as necessary: see Note at end

[If you **admit** the claim for outstanding duty or unpaid contributions, **sign in Box 5A on the plea form\***. If you send in a plea of guilty by post but **dispute** the claim for outstanding duty or contributions, **sign in Box 5B on the plea form\***. You will then have to come to court (with any witnesses or evidence, or both) on the date shown in the summons to support your argument that you should not be ordered to pay. If you **fail to indicate** whether or not the claim is appropriate, the court will proceed as if you admitted the claim.]†

† The text in brackets to be inserted only in cases to which it applies

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### Motoring cases

If you plead guilty by post, the magistrates will normally convict and sentence you on the date shown in the summons. But if the court is considering a driving disqualification, it will not finish your case on that date. The court will send you a notice saying when you must attend before the magistrates on a later date. At that hearing, you can give reasons why you should not be disqualified. The magistrates will consider what you say before making their decision. If you do not attend the hearing about disqualification, the court **may issue a warrant for your arrest or sentence you (and make a driving disqualification order) in your absence**.

**Note:** Form 27A is intended to be used in conjunction with Form 28A, which is a combined plea and mitigation form. These forms may be adapted or substituted by others to like effect to suit local circumstances. Whatever forms are used, the notice to defendants should give clear directions to the defendant to complete that part of the plea form which is appropriate to his intended plea.

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SUMMARY TRIAL—FORM 28 A Plea and mitigation form (MC Act 1980 s.12(4))



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**Mitigating circumstances**

Please use the space below to write what you want the court to know about the offences and yourself. Mitigating circumstances are facts about the offences or yourself which tend to make the offences less serious. The court clerk will read out *everything* you write in the space below to the court.

**Your Driving licence**

Does your summons say you must send your driving licence to the court? (Circle <b>Yes</b> or <b>No</b> )	Yes/No
If you must send your licence to the court have you enclosed it with this form? (Circle <b>Yes</b> or <b>No</b> )	Yes/No
Write your driver number in full here: (This is the number on your licence)	
If you have not enclosed your licence, say why in the space below	

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### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

These Rules prescribe a new Form 27A, for use in cases where statements are served under the procedure in section 12 of the Magistrates' Courts Act 1980, as amended by the Magistrates' Courts (Procedure) Act 1998, and a new Form 28A, for a defendant to record his intended plea and statement of mitigation.