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# Magistrates' Courts Act 1980

## 1980 CHAPTER 43

### PART I

#### CRIMINAL JURISDICTION AND PROCEDURE

#### *Offences triable on indictment or summarily*

#### 17 Certain offences triable either way.

- (1) The offences listed in Schedule 1 to this Act shall be triable either way.
- (2) Subsection (1) above is without prejudice to any other enactment by virtue of which any offence is triable either way.

VALID FROM 04/07/1996

#### [17A <sup>F1</sup>Initial procedure: accused to indicate intention as to plea.

- (1) This section shall have effect where a person who has attained the age of 18 years appears or is brought before a magistrates' court on an information charging him with an offence triable either way.
- (2) Everything that the court is required to do under the following provisions of this section must be done with the accused present in court.
- (3) The court shall cause the charge to be written down, if this has not already been done, and to be read to the accused.
- (4) The court shall then explain to the accused in ordinary language that he may indicate whether (if the offence were to proceed to trial) he would plead guilty or not guilty, and that if he indicates that he would plead guilty—
  - (a) the court must proceed as mentioned in subsection (6) below; and

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- (b) he may be committed for sentence to the Crown Court under section 38 below if the court is of such opinion as is mentioned in subsection (2) of that section.
- (5) The court shall then ask the accused whether (if the offence were to proceed to trial) he would plead guilty or not guilty.
- (6) If the accused indicates that he would plead guilty the court shall proceed as if—
  - (a) the proceedings constituted from the beginning the summary trial of the information; and
  - (b) section 9(1) above was complied with and he pleaded guilty under it.
- (7) If the accused indicates that he would plead not guilty section 18(1) below shall apply.
- (8) If the accused in fact fails to indicate how he would plead, for the purposes of this section and section 18(1) below he shall be taken to indicate that he would plead not guilty.
- (9) Subject to subsection (6) above, the following shall not for any purpose be taken to constitute the taking of a plea—
  - (a) asking the accused under this section whether (if the offence were to proceed to trial) he would plead guilty or not guilty;
  - (b) an indication by the accused under this section of how he would plead.]

#### Textual Amendments

- F1** Ss. 17A-17C inserted (4.7.1996 with application where a person appears or is brought before a magistrates' court on or after 1.10.1997) by 1996 c. 25, s. 49(2)(6) (with s. 78(1)); S.I. 1997/2199, art.2

VALID FROM 04/07/1996

#### **<sup>F2</sup>17B Intention as to plea: absence of accused.**

- (1) This section shall have effect where—
  - (a) a person who has attained the age of 18 years appears or is brought before a magistrates' court on an information charging him with an offence triable either way,
  - (b) the accused is represented by a legal representative,
  - (c) the court considers that by reason of the accused's disorderly conduct before the court it is not practicable for proceedings under section 17A above to be conducted in his presence, and
  - (d) the court considers that it should proceed in the absence of the accused.
- (2) In such a case—
  - (a) the court shall cause the charge to be written down, if this has not already been done, and to be read to the representative;
  - (b) the court shall ask the representative whether (if the offence were to proceed to trial) the accused would plead guilty or not guilty;

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- (c) if the representative indicates that the accused would plead guilty the court shall proceed as if the proceedings constituted from the beginning the summary trial of the information, and as if section 9(1) above was complied with and the accused pleaded guilty under it;
  - (d) if the representative indicates that the accused would plead not guilty section 18(1) below shall apply.
- (3) If the representative in fact fails to indicate how the accused would plead, for the purposes of this section and section 18(1) below he shall be taken to indicate that the accused would plead not guilty.
- (4) Subject to subsection (2)(c) above, the following shall not for any purpose be taken to constitute the taking of a plea—
- (a) asking the representative under this section whether (if the offence were to proceed to trial) the accused would plead guilty or not guilty;
  - (b) an indication by the representative under this section of how the accused would plead.

#### Textual Amendments

- F2** Ss. 17A-17C inserted (4.7.1996 with application where a person appears or is brought before a magistrates' court on or after 1.10.1997) by 1996 c. 25, s. 49(2)(6) (with s. 78(1)); S.I. 1997/2199, art.2

VALID FROM 04/07/1996

#### <sup>F3</sup>17C Intention as to plea: adjournment.

A magistrates' court proceeding under section 17A or 17B above may adjourn the proceedings at any time, and on doing so on any occasion when the accused is present may remand the accused, and shall remand him if—

- (a) on the occasion on which he first appeared, or was brought, before the court to answer to the information he was in custody or, having been released on bail, surrendered to the custody of the court; or
- (b) he has been remanded at any time in the course of proceedings on the information;

and where the court remands the accused, the time fixed for the resumption of proceedings shall be that at which he is required to appear or be brought before the court in pursuance of the remand or would be required to be brought before the court but for section 128(3A) below.

#### Textual Amendments

- F3** Ss. 17A-17C inserted (4.7.1996 with application where a person appears or is brought before a magistrates' court on or after 1.10.1997) by 1996 c. 25, s. 49(2)(6) (with s. 78(1)); S.I. 1997/2199, art.2

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VALID FROM 18/06/2012

**[<sup>F4</sup>17D Maximum penalty under section 17A(6) or 17B(2)(c) for certain offences**

- (1) If—
- (a) the offence is a scheduled offence (as defined in section 22(1) below);
  - (b) the court proceeds in relation to the offence in accordance with section 17A(6) or 17B(2)(c) above; and
  - (c) the court convicts the accused of the offence,
- the court shall consider whether, having regard to any representations made by him or by the prosecutor, the value involved (as defined in section 22(10) below) appears to the court to exceed the relevant sum (as specified for the purposes of section 22 below).
- (2) If it appears to the court clear that the value involved does not exceed the relevant sum, or it appears to the court for any reason not clear whether the value involved does or does not exceed the relevant sum—
- (a) subject to subsection (4) below, the court shall not have power to impose on the accused in respect of the offence a sentence in excess of the limits mentioned in section 33(1)(a) below; and
  - (b) sections 3 and 4 of the Powers of Criminal Courts (Sentencing) Act 2000 shall not apply as regards that offence.
- (3) Subsections (9) to (12) of section 22 below shall apply for the purposes of this section as they apply for the purposes of that section (reading the reference to subsection (1) in section 22(9) as a reference to subsection (1) of this section).
- (4) Subsection (2)(a) above does not apply to an offence under section 12A of the Theft Act 1968 (aggravated vehicle-taking).

**Textual Amendments**

**F4** Ss. 17D, 17E inserted (prosp.) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 41, 336, **Sch. 3 para. 3**

VALID FROM 18/06/2012

**17E Functions under sections 17A to 17D capable of exercise by single justice**

- (1) The functions of a magistrates' court under sections 17A to 17D above may be discharged by a single justice.
- (2) Subsection (1) above shall not be taken as authorising—
- (a) the summary trial of an information (otherwise than in accordance with section 17A(6) or 17B(2)(c) above); or
  - (b) the imposition of a sentence,
- by a magistrates' court composed of fewer than two justices.]

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#### Textual Amendments

**F4** Ss. 17D, 17E inserted (prosp.) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 41, 336, [Sch. 3 para. 3](#)

### **18 Initial procedure on information against adult for offence triable either way.**

- (1) Sections 19 to 23 below shall have effect where a person who has attained the age of 17 appears or is brought before a magistrates' court on an information charging him with an offence triable either way.
- (2) Without prejudice to section 11(1) above, everything that the court is required to do under sections 19 to 22 below must be done before any evidence is called and, subject to subsection (3) below and section 23 below, with the accused present in court.
- (3) The court may proceed in the absence of the accused in accordance with such of the provisions of sections 19 to 22 below as are applicable in the circumstances if the court considers that by reason of his disorderly conduct before the court it is not practicable for the proceedings to be conducted in his presence; and the subsections (3) to (5) of section 23 below, so far as applicable, shall have effect in relation to proceedings conducted in the absence of the accused by virtue of this subsection (references in those subsections to the person representing the accused being for this purpose read as references to the person, if any, representing him).
- (4) A magistrates' court proceeding under sections 19 to 23 below may adjourn the proceedings at any time, and on doing so on any occasion when the accused is present may remand the accused, and shall remand him if—
  - (a) on the occasion on which he first appeared, or was brought, before the court to answer to the information he was in custody or, having been released on bail, surrendered to the custody of the court; or
  - (b) he has been remanded at any time in the course of proceedings on the information;and where the court remands the accused, the time fixed for the resumption of the proceedings shall be that at which he is required to appear or be brought before the court in pursuance of the remand [<sup>F5</sup>or would be required to be brought before the court but for section 128(3A) below].
- (5) The functions of a magistrates' court under sections 19 to 23 below may be discharged by a single justice, but the foregoing provision shall not be taken to authorise the summary trial of an information by a magistrates' court composed of less than two justices.

#### Textual Amendments

**F5** Words added by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 59(1), [Sch. 9 para. 1\(c\)](#)

### **19 Court to begin by considering which mode of trial appears more suitable.**

- (1) The court shall consider whether, having regard to the matters mentioned in subsection (3) below and any representations made by the prosecutor or the accused, the offence appears to the court more suitable for summary trial or for trial on indictment.

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- (2) Before so considering, the court—
- (a) shall cause the charge to be written down, if this has not already been done, and read to the accused; and
  - (b) shall afford first the prosecutor and then the accused an opportunity to make representations as to which mode of trial would be more suitable.
- (3) The matters to which the court is to have regard under subsection (1) above are the nature of the case; whether the circumstances make the offence one of serious character; whether the punishment which a magistrates' court would have power to inflict for it would be adequate; and any other circumstances which appear to the court to make it more suitable for the offence to be tried in one way rather than the other.
- (4) If the prosecution is being carried on by the Attorney General, the Solicitor General or the Director of Public Prosecutions and he applies for the offence to be tried on indictment, the preceding provisions of this section and sections 20 to 21 below shall not apply, and the court shall proceed to inquire into the information as examining justices.
- [<sup>F6</sup>(5) The power of the Director of Public Prosecutions under subsection (4) above to apply for an offence to be tried on indictment shall not be exercised except with the consent of the Attorney General.]

#### Textual Amendments

**F6** S. 19(5) added by [Prosecution of Offences Act 1985 \(c. 23, SIF 39:1\)](#), s. 31(5), **Sch. 1 Pt. I para. 2**

## 20 Procedure where summary trial appears more suitable.

- (1) If, where the court has considered as required by section 19(1) above, it appears to the court that the offence is more suitable for summary trial, the following provisions of this section shall apply (unless excluded by section 23 below).
- (2) The court shall explain to the accused in ordinary language—
- (a) that it appears to the court more suitable for him to be tried summarily for the offence, and that he can either consent to be so tried or, if he wishes, be tried by a jury; and
  - (b) that if he is tried summarily and is convicted by the court, he may be committed for sentence to the Crown Court under section 38 below if the convicting court, on obtaining information about his character and antecedents, is of opinion that they are such that greater punishment should be inflicted than the convicting court has power to inflict for the offence.
- (3) After explaining to the accused as provided by subsection (2) above the court shall ask him whether he consents to be tried summarily or wishes to be tried by a jury, and—
- (a) if he consents to be tried summarily, shall proceed to the summary trial of the information;
  - (b) if he does not so consent, shall proceed to inquire into the information as examining justices.

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VALID FROM 18/06/2012

### [<sup>F7</sup>20A Procedure where summary trial appears more suitable: supplementary

- (1) Where the case is dealt with in accordance with section 20(7) above, no court (whether a magistrates' court or not) may impose a custodial sentence for the offence unless such a sentence was indicated in the indication of sentence referred to in section 20 above.
- (2) Subsection (1) above is subject to sections 3A(4), 4(8) and 5(3) of the Powers of Criminal Courts (Sentencing) Act 2000.
- (3) Except as provided in subsection (1) above—
  - (a) an indication of sentence shall not be binding on any court (whether a magistrates' court or not); and
  - (b) no sentence may be challenged or be the subject of appeal in any court on the ground that it is not consistent with an indication of sentence.
- (4) Subject to section 20(7) above, the following shall not for any purpose be taken to constitute the taking of a plea—
  - (a) asking the accused under section 20 above whether (if the offence were to proceed to trial) he would plead guilty or not guilty; or
  - (b) an indication by the accused under that section of how he would plead.
- (5) Where the court gives an indication of sentence under section 20 above, it shall cause each such indication to be entered in the register.
- (6) In this section and in section 20 above, references to a custodial sentence are to a custodial sentence within the meaning of section 76 of the Powers of Criminal Courts (Sentencing) Act 2000, and references to a non-custodial sentence shall be construed accordingly.]

#### Textual Amendments

**F7** Ss. 20, 20A substituted (prosp.) for s. 20 by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 41, 336, [Sch. 3 para. 6](#)

#### Modifications etc. (not altering text)

**C1** S. 20A(1) excluded (prosp.) by [2000 c. 6, s. 5\(3\)](#) (as substituted by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 41, 336, [Sch. 3 Pt. 1 para. 26](#))

## 21 Procedure where trial on indictment appears more suitable.

If, where the court has considered as required by section 19(1) above, it appears to the court that the offence is more suitable for trial on indictment, the court shall tell the accused that the court has decided that it is more suitable for him to be tried for the offence by a jury, and shall proceed to inquire into the information as examining justices.



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**22 Certain offences triable either way to be tried summarily if value involved is small.**

(1) If the offence charged by the information is one of those mentioned in the first column of Schedule 2 to this Act (in this section referred to as “scheduled offences”) then, subject to subsection (7) below, the court shall, before proceeding in accordance with section 19 above, consider whether, having regard to any representations made by the prosecutor or the accused, the value involved (as defined in subsection (10) below) appears to the court to exceed the relevant sum.

For the purposes of this section the relevant sum is [<sup>F8</sup>£2,000].

(2) If, where subsection (1) above applies, it appears to the court clear that, for the offence charged, the value involved does not exceed the relevant sum, the court shall proceed as if the offence were triable only summarily, and sections 19 to 21 above shall not apply.

(3) If, where subsection (1) above applies, it appears to the court clear that, for the offence charged, the value involved exceeds that relevant sum, the court shall thereupon proceed in accordance with section 19 above in the ordinary way without further regard to the provisions of this section.

(4) If, where subsection (1) above applies, it appears to the court for any reason not clear whether, for the offence charged, the value involved does or does not exceed the relevant sum, the provisions of subsections (5) and (6) below shall apply.

(5) The court shall cause the charge to be written down, if this has not already been done, and read to the accused, and shall explain to him in ordinary language—

- (a) that he can, if he wishes, consent to be tried summarily for the offence and that if he consents to be so tried, he will definitely be tried in that way; and
- (b) that if he is tried summarily and is convicted by the court, his liability to imprisonment or a fine will be limited as provided in section 33 below.

(6) After explaining to the accused as provided by subsection (5) above the court shall ask him whether he consents to be tried summarily and—

- (a) if he so consents, shall proceed in accordance with subsection (2) above as if that subsection applied;
- (b) if he does not so consent, shall proceed in accordance with subsection (3) above as if that subsection applied.

(7) ..... <sup>F9</sup>

(8) Where a person is convicted by a magistrates’ court of a scheduled offence, it shall not be open to him to appeal to the Crown Court against the conviction on the ground that the convicting court’s decision as to the value involved was mistaken.

(9) If, where subsection (1) above applies, the offence charged is one with which the accused is charged jointly with a person who has not attained the age of 17, the reference in that subsection to any representations made by the accused shall be read as including any representations made by the person under 17.

(10) In this section “the value involved”, in relation to any scheduled offence, means the value indicated in the second column of Schedule 2 to this Act, measured as indicated in the third column of that Schedule; and in that Schedule “the material time” means the time of the alleged offence.



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[<sup>F10</sup>(11) Where—

- (a) the accused is charged on the same occasion with two or more scheduled offences and it appears to the court that they constitute or form part of a series of two or more offences of the same or a similar character; or
- (b) the offence charged consists in incitement to commit two or more scheduled offences,

this section shall have effect as if any reference in it to the value involved were a reference to the aggregate of the values involved.]

[<sup>F11</sup>(12) Subsection (8) of section 12A of the Theft Act 1968 (which determines when a vehicle is recovered) shall apply for the purposes of paragraph 3 of Schedule 2 to this Act as it applies for the purposes of that section.]

#### Textual Amendments

- F8** “£2,000” substituted for “£200” by virtue of S.I. 1984/447, art. 2(1), **Sch. 1** and Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 38(1)(2), 123(6), **Sch. 8 para. 16**
- F9** S. 22(7) repealed by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 123(6), 170(2), Sch. 8 para. 16, **Sch. 16**
- F10** S. 22(11) inserted by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 38(3)(4), 123(6), **Sch. 8 para. 16**
- F11** S. 22(12) added (1.4.1992) by Aggravated Vehicle-Taking Act 1992 (c. 11), s. 2(2); S.I. 1992/764, **art.2**

## 23 Power of court, with consent of legally represented accused, to proceed in his absence.

(1) Where—

- (a) the accused is represented by [<sup>F12</sup>a legal representative]who in his absence signifies to the court the accused's consent to the proceedings for determining how he is to be tried for the offence being conducted in his absence; and
- (b) the court is satisfied that there is good reason for proceeding in the absence of the accused,

the following provisions of this section shall apply.

(2) Subject to the following provisions of this section, the court may proceed in the absence of the accused in accordance with such of the provisions of sections 19 to 22 above as are applicable in the circumstances.

(3) If, in a case where subsection (1) of section 22 above applies, it appears to the court as mentioned in subsection (4) of that section, subsections (5) and (6) of that section shall not apply and the court—

- (a) if the accused's consent to be tried summarily has been or is signified by the person representing him, shall proceed in accordance with subsection (2) of that section as if that subsection applied; or
- (b) if that consent has not been and is not so signified, shall proceed in accordance with subsection (3) of that section as if that subsection applied.

(4) If, where the court has considered as required by section 19(1) above, it appears to the court that the offence is more suitable for summary trial then—

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- (a) if the accused's consent to be tried summarily has been or is signified by the person representing him, section 20 above shall not apply, and the court shall proceed to the summary trial of the information; or
  - (b) if that consent has not been and is not so signified, section 20 above shall not apply and the court shall proceed to inquire into the information as examining justices and may adjourn the hearing without remanding the accused.
- (5) If, where the court has considered as required by section 19(1) above, it appears to the court that the offence is more suitable for trial on indictment, section 21 above shall not apply, and the court shall proceed to inquire into the information as examining justices and may adjourn the hearing without remanding the accused.

#### Textual Amendments

**F12** Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37, 82\), s. 125\(3\), Sch. 18 para. 25\(3\)\(a\)](#)

## 24 Summary trial of information against child or young person for indictable offence.

- (1) Where a person under the age of 17 appears or is brought before a magistrates' court on an information charging him with an indictable offence other than homicide, he shall be tried summarily unless—
- (a) he has attained the age of 14 and the offence is such as is mentioned in subsection (2) of section 53 of the <sup>M1</sup>Children and Young Persons Act 1933 (under which young persons convicted on indictment of certain grave crimes may be sentenced to be detained for long periods) and the court considers that if he is found guilty of the offence it ought to be possible to sentence him in pursuance of that subsection; or
  - (b) he is charged jointly with a person who has attained the age of 17 and the court considers it necessary in the interests of justice to commit them both for trial;
- and accordingly in a case falling within paragraph (a) or (b) of this subsection the court shall commit the accused for trial if either it is of opinion that there is sufficient evidence to put him on trial or it has power under section 6(2) above so to commit him without consideration of the evidence.
- (2) Where, in a case falling within subsection (1)(b) above, a magistrates' court commits a person under the age of 17 for trial for an offence with which he is charged jointly with a person who has attained that age, the court may also commit him for trial for any other indictable offence with which he is charged at the same time (whether jointly with the person who has attained that age or not) if that other offence arises out of circumstances which are the same as or connected with those giving rise to the first-mentioned offence.
- (3) If on trying a person summarily in pursuance of subsection (1) above the court finds him guilty, it may impose a fine of an amount not exceeding [<sup>F13</sup>£400] or may exercise the same powers as it could have exercised if he had been found guilty of an offence for which, but for section [<sup>F14</sup>1(1) of the Criminal Justice Act 1982, it could have sentenced him to imprisonment for a term not exceeding—
- (a) the maximum term of imprisonment for the offence on conviction on indictment; or
  - (b) six months,

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whichever is the less.]

- (4) In relation to a person under the age of 14 subsection (3) above shall have effect as if for the words “£200” there were substituted the words “[<sup>F15</sup>£100]”; but this subsection shall cease to have effect on the coming into force of section 4 of the <sup>M2</sup>Children and Young Persons Act 1969 (which prohibits criminal proceedings against children).

#### Textual Amendments

- F13** “£400” substituted for “£200” by S.I. 1984/447, art. 2(1), **Sch. 1**  
**F14** Words substituted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 77, **Sch. 14 para. 47**  
**F15** “£100” substituted for “£50” by S.I. 1984/447, art. 2(1), **Sch. 1**

#### Marginal Citations

- M1** 1933 c. 12.  
**M2** 1969 c. 54.

VALID FROM 18/06/2012

#### [<sup>F16</sup>24A Child or young person to indicate intention as to plea in certain cases

- (1) This section applies where—
- (a) a person under the age of 18 years appears or is brought before a magistrates' court on an information charging him with an offence other than one falling within section 51A(12) of the Crime and Disorder Act 1998 (“the 1998 Act”); and
  - (b) but for the application of the following provisions of this section, the court would be required at that stage, by virtue of section 51(7) or (8) or 51A(3) (b), (4) or (5) of the 1998 Act to determine, in relation to the offence, whether to send the person to the Crown Court for trial (or to determine any matter, the effect of which would be to determine whether he is sent to the Crown Court for trial).
- (2) Where this section applies, the court shall, before proceeding to make any such determination as is referred to in subsection (1)(b) above (the “relevant determination”), follow the procedure set out in this section.
- (3) Everything that the court is required to do under the following provisions of this section must be done with the accused person in court.
- (4) The court shall cause the charge to be written down, if this has not already been done, and to be read to the accused.
- (5) The court shall then explain to the accused in ordinary language that he may indicate whether (if the offence were to proceed to trial) he would plead guilty or not guilty, and that if he indicates that he would plead guilty—
- (a) the court must proceed as mentioned in subsection (7) below; and
  - (b) (in cases where the offence is one mentioned in section 91(1) of the Powers of Criminal Courts (Sentencing) Act 2000) he may be sent to the Crown Court for sentencing under section 3B or (if applicable) 3C of that Act if the

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court is of such opinion as is mentioned in subsection (2) of the applicable section.

- (6) The court shall then ask the accused whether (if the offence were to proceed to trial) he would plead guilty or not guilty.
- (7) If the accused indicates that he would plead guilty, the court shall proceed as if—
  - (a) the proceedings constituted from the beginning the summary trial of the information; and
  - (b) section 9(1) above was complied with and he pleaded guilty under it, and, accordingly, the court shall not (and shall not be required to) proceed to make the relevant determination or to proceed further under section 51 or (as the case may be) section 51A of the 1998 Act in relation to the offence.
- (8) If the accused indicates that he would plead not guilty, the court shall proceed to make the relevant determination and this section shall cease to apply.
- (9) If the accused in fact fails to indicate how he would plead, for the purposes of this section he shall be taken to indicate that he would plead not guilty.
- (10) Subject to subsection (7) above, the following shall not for any purpose be taken to constitute the taking of a plea—
  - (a) asking the accused under this section whether (if the offence were to proceed to trial) he would plead guilty or not guilty;
  - (b) an indication by the accused under this section of how he would plead.

#### Textual Amendments

**F16** Ss. 24A-24D inserted (prosp.) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 41, 336, [Sch. 3 para. 10](#)

VALID FROM 18/06/2012

#### **24B Intention as to plea by child or young person: absence of accused**

- (1) This section shall have effect where—
  - (a) a person under the age of 18 years appears or is brought before a magistrates' court on an information charging him with an offence other than one falling within section 51A(12) of the Crime and Disorder Act 1998;
  - (b) but for the application of the following provisions of this section, the court would be required at that stage to make one of the determinations referred to in paragraph (b) of section 24A(1) above (“the relevant determination”);
  - (c) the accused is represented by a legal representative;
  - (d) the court considers that by reason of the accused’s disorderly conduct before the court it is not practicable for proceedings under section 24A above to be conducted in his presence; and
  - (e) the court considers that it should proceed in the absence of the accused.
- (2) In such a case—
  - (a) the court shall cause the charge to be written down, if this has not already been done, and to be read to the representative;

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- (b) the court shall ask the representative whether (if the offence were to proceed to trial) the accused would plead guilty or not guilty;
  - (c) if the representative indicates that the accused would plead guilty the court shall proceed as if the proceedings constituted from the beginning the summary trial of the information, and as if section 9(1) above was complied with and the accused pleaded guilty under it;
  - (d) if the representative indicates that the accused would plead not guilty the court shall proceed to make the relevant determination and this section shall cease to apply.
- (3) If the representative in fact fails to indicate how the accused would plead, for the purposes of this section he shall be taken to indicate that the accused would plead not guilty.
- (4) Subject to subsection (2)(c) above, the following shall not for any purpose be taken to constitute the taking of a plea—
- (a) asking the representative under this section whether (if the offence were to proceed to trial) the accused would plead guilty or not guilty;
  - (b) an indication by the representative under this section of how the accused would plead.

#### Textual Amendments

**F16** Ss. 24A-24D inserted (prosp.) by Criminal Justice Act 2003 (c. 44), ss. 41, 336, **Sch. 3 para. 10**

VALID FROM 18/06/2012

#### **24C Intention as to plea by child or young person: adjournment**

- (1) A magistrates' court proceeding under section 24A or 24B above may adjourn the proceedings at any time, and on doing so on any occasion when the accused is present may remand the accused.
- (2) Where the court remands the accused, the time fixed for the resumption of proceedings shall be that at which he is required to appear or be brought before the court in pursuance of the remand or would be required to be brought before the court but for section 128(3A) below.

#### Textual Amendments

**F16** Ss. 24A-24D inserted (prosp.) by Criminal Justice Act 2003 (c. 44), ss. 41, 336, **Sch. 3 para. 10**

VALID FROM 18/06/2012

#### **24D Functions under sections 24A to 24C capable of exercise by single justice**

- (1) The functions of a magistrates' court under sections 24A to 24C above may be discharged by a single justice.

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- (2) Subsection (1) above shall not be taken as authorising—
- (a) the summary trial of an information (other than a summary trial by virtue of section 24A(7) or 24B(2)(c) above); or
  - (b) the imposition of a sentence,  
by a magistrates' court composed of fewer than two justices.]

#### Textual Amendments

**F16** Ss. 24A-24D inserted (prosp.) by Criminal Justice Act 2003 (c. 44), ss. 41, 336, **Sch. 3 para. 10**

## 25 Power to change from summary trial to committal proceedings, and vice versa.

- (1) Subsections (2) to (4) below shall have effect where a person who has attained the age of 17 appears or is brought before a magistrates' court on an information charging him with an offence triable either way.
- (2) Where the court has (otherwise than in pursuance of section 22(2) above) begun to try the information summarily, the court may, at any time before the conclusion of the evidence for the prosecution, discontinue the summary trial and proceed to inquire into the information as examining justices and, on doing so, may adjourn the hearing without remanding the accused.
- (3) Where the court has begun to inquire into the information as examining justices, then, if at any time during the inquiry it appears to the court, having regard to any representations made in the presence of the accused by the prosecutor, or made by the accused, and to the nature of the case, that the offence is after all more suitable for summary trial, the court may, after doing as provided in subsection (4) below, ask the accused whether he consents to be tried summarily and, if he so consents, may [<sup>F17</sup>subject to subsection (3A) below] proceed to try the information summarily; <sup>F18</sup>
- [<sup>F19</sup>(3A) Where the prosecution is being carried on by the Attorney General or the Solicitor General, the court shall not exercise the power conferred by subsection (3) above without his consent and, where the prosecution is being carried on by the Director of Public Prosecutions, shall not exercise that power if the Attorney General directs that it should not be exercised.]
- (4) Before asking the accused under subsection (3) above whether he consents to be tried summarily, the court shall in ordinary language—
  - (a) explain to him that it appears to the court more suitable for him to be tried summarily for the offence, but that this can only be done if he consents to be so tried; and
  - (b) unless it has already done so, explain to him, as provided in section 20(2)(b) above, about the court's power to commit to the Crown Court for sentence.
- (5) Where a person under the age of 17 appears or is brought before a magistrates' court on an information charging him with an indictable offence other than homicide, and the court—
  - (a) has begun to try the information summarily on the footing that the case does not fall within paragraph (a) or (b) of section 24(1) above and must therefore be tried summarily, as required by the said section 24(1); or



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- (b) has begun to inquire into the case as examining justices on the footing that the case does so fall,  
subsection (6) or (7) below, as the case may be, shall have effect.
- (6) If, in a case falling within subsection (5)(a) above, it appears to the court at any time before the conclusion of the evidence for the prosecution that the case is after all one which under the said section 24(1) ought not to be tried summarily, the court may discontinue the summary trial and proceed to inquire into the information as examining justices and, on doing so, may adjourn the hearing without remanding the accused.
- (7) If, in a case falling within subsection (5)(b) above, it appears to the court at any time during the inquiry that the case is after all one which under the said section 24(1) ought to be tried summarily, the court may proceed to try the information summarily.

#### Textual Amendments

- F17** Words inserted by [Prosecution of Offences Act 1985 \(c. 23, SIF 39:1\), s. 31\(5\), Sch. 1 Pt. I para. 3](#)  
**F18** Words repealed by [Prosecution of Offences Act 1985 \(c. 23, SIF 39:1\), s. 31\(6\), Sch. 2](#)  
**F19** [S. 25\(3A\)](#) inserted by [Prosecution of Offences Act 1985 \(c. 23, SIF 39:1\), s. 31\(5\), Sch. 1 Pt. I para. 3](#)

## 26 Power to issue summons to accused in certain circumstances.

- (1) Where—
- (a) in the circumstances mentioned in section 23(1)(a) above the court is not satisfied that there is good reason for proceeding in the absence of the accused;  
or
- (b) subsection (4)(b) or (5) of section 23 or subsection (2) or (6) of section 25 above applies, and the court adjourns the hearing in pursuance of that subsection without remanding the accused,
- the justice or any of the justices of which the court is composed may issue a summons directed to the accused requiring his presence before the court.
- (2) If the accused is not present at the time and place appointed—
- (a) in a case within subsection (1)(a) above, for the proceedings under section 19(1) or 22(1) above, as the case may be; or
- (b) in a case within subsection (1)(b) above, for the resumption of the hearing, the court may issue a warrant for his arrest.

## 27 Effect of dismissal of information for offence triable either way.

Where on the summary trial of an information for an offence triable either way the court dismisses the information, the dismissal shall have the same effect as an acquittal on indictment.

## 28 Using in summary trial evidence given in committal proceedings.

Where under section 25(3) or (7) above a magistrates' court, having begun to inquire into an information as examining justices, proceeds to try the information summarily, then, subject to sections 102(9) and 103(3) below, any evidence already given before the court shall be deemed to have been given in and for the purposes of the summary trial.



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