



Magistrates' Courts Act 1980

1980 CHAPTER 43

PART I U.K.

CRIMINAL JURISDICTION AND PROCEDURE

Summary trial of information

^{F1}[12] **Non-appearance of accused: plea of guilty.** E+W+S

- (1) This section shall apply where—
 - (a) a summons has been issued requiring a person to appear before a magistrates' court, other than a youth court, to answer to an information for a summary offence, not being—
 - (i) ^{F2}
 - (ii) an offence specified in an order made by the Secretary of State by statutory instrument; and
 - (b) the [^{F3}designated officer for] the court is notified by or on behalf of the prosecutor that the documents mentioned in subsection (3) below have been served upon the accused with the summons.
- (2) The reference in subsection (1)(a) above to the issue of a summons requiring a person to appear before a magistrates' court other than a youth court includes a reference to the issue of a summons requiring a person who has attained the age of 16 at the time when it is issued to appear before a youth court.
- (3) The documents referred to in subsection (1)(b) above are—
 - (a) a notice containing such statement of the effect of this section as may be prescribed;
 - ^{F4}(b) either of the following, namely—
 - (i) a concise statement of such facts relating to the charge as will be placed before the court by the prosecutor if the accused pleads guilty without appearing before the court, or

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- (ii) a copy of such written statement or statements complying with [F5subsection (2)(a) and (b)] of section 9 of the Criminal Justice Act 1967 (proof by written statement) as will be so placed in those circumstances; and]
 - (c) if any information relating to the accused will or may, in those circumstances, be placed before the court by or on behalf of the prosecutor, a notice containing or describing that information.
- (4) Where the [F3designated officer for] the court receives a notification in writing purporting to be given by the accused or by a legal representative acting on his behalf that the accused desires to plead guilty without appearing before the court—
- (a) the [F3designated officer for] the court shall inform the prosecutor of the receipt of the notification; and
 - (b) the following provisions of this section shall apply.
- (5) If at the time and place appointed for the trial or adjourned trial of the information—
- (a) the accused does not appear; and
 - (b) it is proved to the satisfaction of the court, on oath or in such manner as may be prescribed, that the documents mentioned in subsection (3) above have been served upon the accused with the summons,
- the court may, subject to section 11(3) and (4) above and subsections (6) to (8) below, proceed to hear and dispose of the case in the absence of the accused, whether or not the prosecutor is also absent, in like manner as if both parties had appeared and the accused had pleaded guilty.
- (6) If at any time before the hearing the [F3designated officer for] the court receives an indication in writing purporting to be given by or on behalf of the accused that he wishes to withdraw the notification—
- (a) the [F3designated officer for] the court shall inform the prosecutor of the withdrawal; and
 - (b) the court shall deal with the information as if the notification had not been given.
- (7) Before accepting the plea of guilty and convicting the accused under subsection (5) above, the court shall [F6, subject to rules of court made under subsection (7ZA),] cause the following to be read out before the court by the clerk of the court, namely—
- ^{F7}[(a) in a case where a statement of facts as mentioned in subsection (3)(b)(i) above was served on the accused with the summons, that statement;
 - (aa) in a case where a statement or statements as mentioned in subsection (3)(b)(ii) above was served on the accused with the summons and the court does not otherwise direct, that statement or those statements;]
 - (b) any information contained in a notice so served, and any information described in such a notice and produced by or on behalf of the prosecutor;
 - (c) the notification under subsection (4) above; and
 - (d) any submission received with the notification which the accused wishes to be brought to the attention of the court with a view to mitigation of sentence.

[F8(7ZA) Rules of court may—

- (a) specify which of paragraphs (a) to (d) of subsection (7) (if any) are to apply;
- (b) provide that any such paragraph is to apply only in circumstances specified in the rules.

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- (7ZB) Where rules of court are made under subsection (7ZA), subsection (7) applies only to the extent provided for by the rules.]
- ^{F9}[(7A) Where the court gives a direction under subsection (7)(aa) above the court shall cause an account to be given orally before the court by the clerk of the court of so much of any statement as is not read aloud.
- (7B) Whether or not a direction under paragraph (aa) of subsection (7) above is given in relation to any statement served as mentioned in that paragraph the court need not cause to be read out the declaration required by section 9(2)(b) of the Criminal Justice Act 1967.]
- (8) If the court proceeds under subsection (5) above to hear and dispose of the case in the absence of the accused, the court shall not permit—
- (a) any other statement with respect to any facts relating to the offence charged; or
 - (b) any other information relating to the accused,
- to be made or placed before the court by or on behalf of the prosecutor except on a resumption of the trial after an adjournment under section 10(3) above.
- (9) If the court decides not to proceed under subsection (5) above to hear and dispose of the case in the absence of the accused, it shall adjourn or further adjourn the trial for the purpose of dealing with the information as if the notification under subsection (4) above had not been given.
- (10) In relation to an adjournment on the occasion of the accused's conviction in his absence under subsection (5) above or to an adjournment required by subsection (9) above, the notice required by section 10(2) above shall include notice of the reason for the adjournment.
- (11) No notice shall be required by section 10(2) above in relation to an adjournment—
- (a) which is for not more than 4 weeks; and
 - (b) the purpose of which is to enable the court to proceed under subsection (5) above at a later time.
- (12) No order shall be made under subsection (1) above unless a draft of the order has been laid before and approved by resolution of each House of Parliament.
- (13) Any such document as is mentioned in subsection (3) above may be served in Scotland with a summons which is so served under the Summary Jurisdiction (Process) Act 1881.

Extent Information

- E1** S. 12(13) extends to Scotland see s. 155(2) (as amended by 1994 c. 33, s. 45, **Sch. 5 para. 3(4)**)

Textual Amendments

- F1** S. 12 substituted (E.W.) (4.9.1995) by 1994 c. 33, s. 45, **Sch. 5 para. 1**; S.I. 1995/1957, **art. 4**
- F2** S. 12(1)(a)(i) repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 308, 336, **Sch. 37 Pt. 12**; S.I. 2005/950, **art. 2(1)**, **Sch. 1 para. 44(5)** (subject to art. 2(2) and Sch. 2)
- F3** Words in s. 12(1)(b)(4)(6) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 203**; S.I. 2005/910, **art. 3(y)**
- F4** S. 12(3)(b)(i)(ii) substituted for s. 12(3)(b) (4.5.1999) by 1998 c. 15, s. 1(1); S.I. 1999/1197, **art. 2** (with art. 3)

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- F5** Words in s. 12(3)(b)(ii) substituted (26.5.2015) by Deregulation Act 2015 (c. 20), **ss. 80(6)(a)**, 115(7); S.I. 2015/994, art. 6(m)
- F6** Words in s. 12(7) inserted (26.5.2015) by Deregulation Act 2015 (c. 20), **ss. 81(2)**, 115(7); S.I. 2015/994, art. 6(n)
- F7** S. 12(7)(a)(aa) substituted for s. 12(7)(a) (4.5.1999) by 1998 c. 15, **s. 1(2)**; S.I. 1999/1197, **art. 2** (with art. 3)
- F8** S. 12(7ZA)(7ZB) inserted (26.5.2015) by Deregulation Act 2015 (c. 20), **ss. 81(3)**, 115(7); S.I. 2015/994, art. 6(n)
- F9** S. 12(7A)(7B) inserted (4.5.1999) by 1998 c. 15, **s. 1(3)**; S.I. 1999/1197, **art. 2** (with art. 3)

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