



# Magistrates' Courts Act 1980

## 1980 CHAPTER 43

### PART I

#### CRIMINAL JURISDICTION AND PROCEDURE

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

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

- (1) Subsections [<sup>F1</sup>(2) to (2D)] below shall have effect where a person who has attained [<sup>F2</sup>the age of 18 years] appears or is brought before a magistrates' court on an information charging him with an offence triable either way.
- [<sup>F3</sup>(2) Where the court is required under section 20(9) above to proceed to the summary trial of the information, the prosecution may apply to the court for the offence to be tried on indictment instead.
- (2A) An application under subsection (2) above—
- must be made before the summary trial begins; and
  - must be dealt with by the court before any other application or issue in relation to the summary trial is dealt with.
- (2B) The court may grant an application under subsection (2) above but only if it is satisfied that the sentence which a magistrates' court would have power to impose for the offence would be inadequate.
- (2C) Where—
- the accused is charged on the same occasion with two or more 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,
- subsection (2B) above shall have effect as if references to the sentence which a magistrates' court would have power to impose for the offence were a reference to the maximum aggregate sentence which a magistrates' court would have power to impose for all of the offences taken together.

*Status: Point in time view as at 12/02/2019.*

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- (2D) Where the court grants an application under subsection (2) above, it shall proceed in relation to the offence in accordance with section 51(1) of the Crime and Disorder Act 1998.]
- (3) [<sup>F4</sup>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>F5</sup>subject to subsection (3A) below ] proceed to try the information summarily; ]<sup>F6</sup>
- [<sup>F7</sup>(3A) [<sup>F4</sup>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) [<sup>F4</sup>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) [<sup>F4</sup>Where a person under [<sup>F2</sup> the age of 18 years] appears or is brought before a magistrates' court on an information charging him with an indictable offence other than [<sup>F8</sup>one falling within section 24(1B) above] , 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
  - (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) [<sup>F4</sup>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, [<sup>F9</sup>shall adjourn the hearing.]]
- (7) [<sup>F4</sup>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.]
- [<sup>F10</sup>(8) [<sup>F4</sup>If the court adjourns the hearing under subsection (2) or (6) above it may (if it thinks fit) do so without remanding the accused.]]

#### Textual Amendments

- F1** Words in s. 25(1) substituted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para.](#)

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- 11(2)**; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)
- F2** Words in s. 25 substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 68(d), 101(1), Sch. 8 para. 6(1)(a), **Sch. 12**, para. 22(1); S.I. 1992/333, art. 2(2), **Sch. 2**.
- F3** S. 25(2)-(2D) substituted for s. 25(2) (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 11(3)**; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)
- F4** S. 25(3)-(8) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 11(4)**, **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)
- F5** Words inserted by Prosecution of Offences Act 1985 (c. 23, SIF 39:1), s. 31(5), **Sch. 1 Pt. I para. 3**
- F6** Words repealed by Prosecution of Offences Act 1985 (c. 23, SIF 39:1), s. 31(6), **Sch. 2**
- F7** S. 25(3A) inserted by Prosecution of Offences Act 1985 (c. 23, SIF 39:1), s. 31(5), **Sch. 1 Pt. I para. 3**
- F8** Words in s. 25(5) substituted (22.1.2004) by Criminal Justice Act 2003 (c. 44), **ss. 42(3)**, 336; S.I. 2004/81, **art. 3(2)(a)**
- F9** Words in s. 25(2)(6) substituted (4.7.1996 with effect as mentioned in Sch. 1 Pt. III para. 39 of the substituting Act) by 1996 c. 25, s. 47, **Sch. 1 Pt. I para. 5(2)** (with s. 78(1)); S.I. 1997/683, **art. 1(2)**
- F10** S. 25(8) inserted (4.7.1996 with effect as mentioned in Sch. 1 Pt. III para. 39 of the inserting Act) by 1996 c. 25, s. 47, **Sch. 1 Pt. I para. 5(3)** (with s. 78(1)); S.I. 1997/683, **art. 1(2)**

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