

Status: Point in time view as at 01/09/2004.

Changes to legislation: Crime and Disorder Act 1998, SCHEDULE 3 is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 3

Section 52(6).

PROCEDURE WHERE PERSONS ARE SENT FOR TRIAL UNDER SECTION 51

Regulations

- 1 The Attorney General shall by regulations provide that, where a person is sent for trial under section 51 of this Act on any charge or charges, copies of the documents containing the evidence on which the charge or charges are based shall, ^{F1}. . .—
- (a) be served on that person; and
 - (b) be given to the Crown Court sitting at the place specified in the notice under subsection (7) of that section^{F2} before the expiry of the period prescribed by the regulations; but the judge may at his discretion extend or further extend that period.]

^{F3}(2) The regulations may make provision as to the procedure to be followed on an application for the extension or further extension of a period under sub-paragraph (1) above.]

Textual Amendments

- F1** Words in Sch. 3 para. 1 repealed (27.9.1999) by virtue of 1999 c. 22, ss. 67(1)(a), 106, 108(3)(b)(f), **Sch. 15 Pt. III** (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/2657, **art. 2(d)(iii)**
- F2** Words in Sch. 3 para. 1 inserted (27.9.1999) by virtue of 1999 c. 22, **ss. 67(1)(a), 108(3)(b)** (with Sch. 14 para. 7(2))
- F3** Sch. 3 para. 1(2) substituted (27.9.1999) by 1999 c. 22, **ss. 67(1)(b), 108(3)(b)** (with Sch. 14 para. 7(2))

Commencement Information

- I1** Sch. 3 para. 1 wholly in force; Sch. 3 para. 1 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8) Sch. 3 para. 1 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, **art. 4(2)**; Sch. 3 para. 1 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, **art. 2** (subject to transitional provisions in art. 3)

Applications for dismissal

- 2 (1) A person who is sent for trial under section 51 of this Act on any charge or charges may, at any time—
- (a) after he is served with copies of the documents containing the evidence on which the charge or charges are based; and
 - (b) before he is arraigned (and whether or not an indictment has been preferred against him),

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apply orally or in writing to the Crown Court sitting at the place specified in the notice under subsection (7) of that section for the charge, or any of the charges, in the case to be dismissed.

- (2) The judge shall dismiss a charge (and accordingly quash any count relating to it in any indictment preferred against the applicant) which is the subject of any such application if it appears to him that the evidence against the applicant would not be sufficient for a jury properly to convict him.
- (3) No oral application may be made under sub-paragraph (1) above unless the applicant has given to the Crown Court sitting at the place in question written notice of his intention to make the application.
- (4) Oral evidence may be given on such an application only with the leave of the judge or by his order; and the judge shall give leave or make an order only if it appears to him, having regard to any matters stated in the application for leave, that the interests of justice require him to do so.
- (5) If the judge gives leave permitting, or makes an order requiring, a person to give oral evidence, but that person does not do so, the judge may disregard any document indicating the evidence that he might have given.
- (6) If the charge, or any of the charges, against the applicant is dismissed—
 - (a) no further proceedings may be brought on the dismissed charge or charges except by means of the preferment of a voluntary bill of indictment; and
 - (b) unless the applicant is in custody otherwise than on the dismissed charge or charges, he shall be discharged.
- (7) [^{F4}Criminal Procedure Rules] may make provision for the purposes of this paragraph and, without prejudice to the generality of this sub-paragraph, may make provision—
 - (a) as to the time or stage in the proceedings at which anything required to be done is to be done (unless the court grants leave to do it at some other time or stage);
 - (b) as to the contents and form of notices or other documents;
 - (c) as to the manner in which evidence is to be submitted; and
 - (d) as to persons to be served with notices or other material.

Textual Amendments

- F4** Words in Sch. 3 para. 2(7) substituted (1.9.2004) by [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S.I. 2004/2035\)](#), art. 3, **Sch. para. 37(2)** (with art. 2(2))

Commencement Information

- I2** Sch. 3 para. 2 wholly in force; Sch. 3 para. 2 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by [S.I. 1998/2327](#), **art. 2(1)** (subject to savings in [arts. 5-8](#)); Sch. 3 para. 2 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by [S.I. 1998/2327](#), **art. 4(2)**; Sch. 3 para. 2 in force at 15.1.2001 to the extent that it is not already in force by [S.I. 2000/3283](#), **art. 2** (subject to transitional provisions in [art. 3](#))

Reporting restrictions

- 3 (1) Except as provided by this paragraph, it shall not be lawful—

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- (a) to publish in Great Britain a written report of an application under paragraph 2(1) above; or
 - (b) to include in a relevant programme for reception in Great Britain a report of such an application,if (in either case) the report contains any matter other than that permitted by this paragraph.
- (2) An order that sub-paragraph (1) above shall not apply to reports of an application under paragraph 2(1) above may be made by the judge dealing with the application.
- (3) Where in the case of two or more accused one of them objects to the making of an order under sub-paragraph (2) above, the judge shall make the order if, and only if, he is satisfied, after hearing the representations of the accused, that it is in the interests of justice to do so.
- (4) An order under sub-paragraph (2) above shall not apply to reports of proceedings under sub-paragraph (3) above, but any decision of the court to make or not to make such an order may be contained in reports published or included in a relevant programme before the time authorised by sub-paragraph (5) below.
- (5) It shall not be unlawful under this paragraph to publish or include in a relevant programme a report of an application under paragraph 2(1) above containing any matter other than that permitted by sub-paragraph (8) below where the application is successful.
- (6) Where—
 - (a) two or more persons were jointly charged; and
 - (b) applications under paragraph 2(1) above are made by more than one of them,sub-paragraph (5) above shall have effect as if for the words “the application is” there were substituted the words “ all the applications are ”.
- (7) It shall not be unlawful under this paragraph to publish or include in a relevant programme a report of an unsuccessful application at the conclusion of the trial of the person charged, or of the last of the persons charged to be tried.
- (8) The following matters may be contained in a report published or included in a relevant programme without an order under sub-paragraph (2) above before the time authorised by sub-paragraphs (5) and (6) above, that is to say—
 - (a) the identity of the court and the name of the judge;
 - (b) the names, ages, home addresses and occupations of the accused and witnesses;
 - (c) the offence or offences, or a summary of them, with which the accused is or are charged;
 - (d) the names of counsel and solicitors engaged in the proceedings;
 - (e) where the proceedings are adjourned, the date and place to which they are adjourned;
 - (f) the arrangements as to bail;
 - [^{F5}(g) whether a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service was granted to the accused or any of the accused.]
- (9) The addresses that may be published or included in a relevant programme under sub-paragraph (8) above are addresses—

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- (a) at any relevant time; and
 - (b) at the time of their publication or inclusion in a relevant programme.
- (10) If a report is published or included in a relevant programme in contravention of this paragraph, the following persons, that is to say—
- (a) in the case of a publication of a written report as part of a newspaper or periodical, any proprietor, editor or publisher of the newspaper or periodical;
 - (b) in the case of a publication of a written report otherwise than as part of a newspaper or periodical, the person who publishes it;
 - (c) in the case of the inclusion of a report in a relevant programme, any body corporate which is engaged in providing the service in which the programme is included and any person having functions in relation to the programme corresponding to those of the editor of a newspaper;
- shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (11) Proceedings for an offence under this paragraph shall not, in England and Wales, be instituted otherwise than by or with the consent of the Attorney General.
- (12) Sub-paragraph (1) above shall be in addition to, and not in derogation from, the provisions of any other enactment with respect to the publication of reports of court proceedings.
- (13) In this paragraph—
- “publish”, in relation to a report, means publish the report, either by itself or as part of a newspaper or periodical, for distribution to the public;
 - “relevant programme” means a programme included in a programme service (within the meaning of the ^{M1}Broadcasting Act 1990);
 - “relevant time” means a time when events giving rise to the charges to which the proceedings relate occurred.

Textual Amendments

F5 Sch. 3 para. 3(8)(g) substituted (2.4.2001) by [1999 c. 22, s. 24, Sch. 4 paras. 53, 55](#) (with [Sch. 14 para. 7\(2\)](#)); [S.I. 2001/916, art. 3\(a\)\(ii\)](#) (with [Sch. 2 para. 2](#))

Commencement Information

I3 Sch. 3 para. 3 wholly in force; Sch. 3 para. 3 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by [S.I. 1998/2327, art. 2\(1\)](#) (subject to savings in [arts. 5-8](#)); Sch. 3 para. 3 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by [S.I. 1998/2327, art. 4\(2\)](#); Sch. 3 para. 3 in force at 15.1.2001 to the extent that it is not already in force by [S.I. 2000/3283, art. 2](#) (subject to transitional provisions in [art. 3](#))

Marginal Citations

M1 [1990 c.42.](#)

Power of justice to take depositions etc.

- 4 (1) Sub-paragraph (2) below applies where a justice of the peace for any commission area is satisfied that—

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- (a) any person in England and Wales (“the witness”) is likely to be able to make on behalf of the prosecutor a written statement containing material evidence, or produce on behalf of the prosecutor a document or other exhibit likely to be material evidence, for the purposes of proceedings for an offence for which a person has been sent for trial under section 51 of this Act by a magistrates’ court for that area; and
 - (b) the witness will not voluntarily make the statement or produce the document or other exhibit.
- (2) In such a case the justice shall issue a summons directed to the witness requiring him to attend before a justice at the time and place appointed in the summons, and to have his evidence taken as a deposition or to produce the document or other exhibit.
- (3) If a justice of the peace is satisfied by evidence on oath of the matters mentioned in sub-paragraph (1) above, and also that it is probable that a summons under sub-paragraph (2) above would not procure the result required by it, the justice may instead of issuing a summons issue a warrant to arrest the witness and to bring him before a justice at the time and place specified in the warrant.
- (4) A summons may also be issued under sub-paragraph (2) above if the justice is satisfied that the witness is outside the British Islands, but no warrant may be issued under sub-paragraph (3) above unless the justice is satisfied by evidence on oath that the witness is in England and Wales.
- (5) If—
 - (a) the witness fails to attend before a justice in answer to a summons under this paragraph;
 - (b) the justice is satisfied by evidence on oath that the witness is likely to be able to make a statement or produce a document or other exhibit as mentioned in sub-paragraph (1)(a) above;
 - (c) it is proved on oath, or in such other manner as may be prescribed, that he has been duly served with the summons and that a reasonable sum has been paid or tendered to him for costs and expenses; and
 - (d) it appears to the justice that there is no just excuse for the failure,the justice may issue a warrant to arrest the witness and to bring him before a justice at the time and place specified in the warrant.
- (6) Where—
 - (a) a summons is issued under sub-paragraph (2) above or a warrant is issued under sub-paragraph (3) or (5) above; and
 - (b) the summons or warrant is issued with a view to securing that the witness has his evidence taken as a deposition,the time appointed in the summons or specified in the warrant shall be such as to enable the evidence to be taken as a deposition before the relevant date.
- (7) If any person attending or brought before a justice in pursuance of this paragraph refuses without just excuse to have his evidence taken as a deposition, or to produce the document or other exhibit, the justice may do one or both of the following—
 - (a) commit him to custody until the expiration of such period not exceeding one month as may be specified in the summons or warrant or until he sooner has his evidence taken as a deposition or produces the document or other exhibit;
 - (b) impose on him a fine not exceeding £2,500.

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- (8) A fine imposed under sub-paragraph (7) above shall be deemed, for the purposes of any enactment, to be a sum adjudged to be paid by a conviction.
- (9) If in pursuance of this paragraph a person has his evidence taken as a deposition, the [^{F6}chief executive to] the justice concerned shall as soon as is reasonably practicable send a copy of the deposition to the prosecutor and the Crown Court.
- (10) If in pursuance of this paragraph a person produces an exhibit which is a document, the [^{F6}chief executive to] the justice concerned shall as soon as is reasonably practicable send a copy of the document to the prosecutor and the Crown Court.
- (11) If in pursuance of this paragraph a person produces an exhibit which is not a document, the [^{F6}chief executive to] the justice concerned shall as soon as is reasonably practicable inform the prosecutor and the Crown Court of that fact and of the nature of the exhibit.
- (12) In this paragraph—
 “prescribed” means prescribed by [^{F7}Criminal Procedure Rules];
 “the relevant date” has the meaning given by paragraph 1(2) above.

Textual Amendments

- F6** Words in Sch. 3 para. 4(9)-(11) substituted (1.4.2001) by 1999 c. 22, s. 90(1), Sch. 13 para. 179(1)(2) (with Sch. 14 para. 7(2)); S.I. 2001/916, art. 2(a)(ii) (with Sch. 2 para. 2)
- F7** Words in Sch. 3 para. 4(12) substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, Sch. para. 37(3) (with art. 2(2))

Commencement Information

- I4** Sch. 3 para. 4 wholly in force; Sch. 3 para. 4 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8); Sch. 3 para. 4 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, art. 4(2); Sch. 3 para. 4 in force at 15.1.2000 to the extent that it is not already in force by S.I. 2000/3283, art. 2 (subject to transitional provisions in art. 3)

Use of depositions as evidence

- 5 (1) Subject to sub-paragraph (3) below, sub-paragraph (2) below applies where in pursuance of paragraph 4 above a person has his evidence taken as a deposition.
- (2) Where this sub-paragraph applies the deposition may without further proof be read as evidence on the trial of the accused, whether for an offence for which he was sent for trial under section 51 of this Act or for any other offence arising out of the same transaction or set of circumstances.
- (3) Sub-paragraph (2) above does not apply if—
 (a) it is proved that the deposition was not signed by the justice by whom it purports to have been signed;
 (b) the court of trial at its discretion orders that sub-paragraph (2) above shall not apply; or
 (c) a party to the proceedings objects to sub-paragraph (2) above applying.

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- (4) If a party to the proceedings objects to sub-paragraph (2) applying the court of trial may order that the objection shall have no effect if the court considers it to be in the interests of justice so to order.

Commencement Information

- I5** Sch. 3 para. 5 wholly in force; Sch. 3 para. 5 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8); Sch. 3 para. 5 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, art. 4(2); Sch. 3 para. 5 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, art. 2 (subject to transitional provisions in art. 3)

Power of Crown Court to deal with summary offence

- 6 (1) This paragraph applies where a magistrates' court has sent a person for trial under section 51 of this Act for offences which include a summary offence.
- (2) If the person is convicted on the indictment, the Crown Court shall consider whether the summary offence is related to the offence that is triable only on indictment or, as the case may be, any of the offences that are so triable.
- (3) If it considers that the summary offence is so related, the court shall state to the person the substance of the offence and ask him whether he pleads guilty or not guilty.
- (4) If the person pleads guilty, the Crown Court shall convict him, but may deal with him in respect of the summary offence only in a manner in which a magistrates' court could have dealt with him.
- (5) If he does not plead guilty, the powers of the Crown Court shall cease in respect of the summary offence except as provided by sub-paragraph (6) below.
- (6) If the prosecution inform the court that they would not desire to submit evidence on the charge relating to the summary offence, the court shall dismiss it.
- (7) The Crown Court shall inform the [F8:justices' chief executive for] the magistrates' court of the outcome of any proceedings under this paragraph.
- (8) If the summary offence is one to which section 40 of the ^{M2}Criminal Justice Act 1988 applies, the Crown Court may exercise in relation to the offence the power conferred by that section; but where the person is tried on indictment for such an offence, the functions of the Crown Court under this paragraph in relation to the offence shall cease.
- (9) Where the Court of Appeal allows an appeal against conviction of an indictable-only offence which is related to a summary offence of which the appellant was convicted under this paragraph—
- (a) it shall set aside his conviction of the summary offence and give the clerk of the magistrates' court notice that it has done so; and
- (b) it may direct that no further proceedings in relation to the offence are to be undertaken;
- and the proceedings before the Crown Court in relation to the offence shall thereafter be disregarded for all purposes.

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(10) A notice under sub-paragraph (9) above shall include particulars of any direction given under paragraph (b) of that sub-paragraph in relation to the offence.

^{F9}(11)

(12) An offence is related to another offence for the purposes of this paragraph if it arises out of circumstances which are the same as or connected with those giving rise to the other offence.

Textual Amendments

F8 Words in Sch. 3 para. 6(7) substituted (1.4.2001) by 1999 c. 22, s. 90(1), **Sch. 13 para. 179(1)(3)** (with **Sch. 14 para. 7(2)**); S.I. 2001/916, **art. 2(a)(ii)** (with **Sch. 2 para. 2**)

F9 Sch. 3 para. 6(11) repealed (1.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. V(7)** (with **Sch. 14 paras. 7(2), 36(9)**); S.I. 2001/916, **art. 2(c)(ii)** (with **Sch. 2 para. 2**)

Commencement Information

I6 Sch. 3 para. 6 wholly in force; Sch. 3 para. 6 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by S.I. 1998/2327, **art. 2(1)** (subject to savings in **arts. 5-8**); Sch. 3 para. 6 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, **art. 4(2)**; Sch. 3 para. 6 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, **art. 2** (subject to transitional provisions in **art. 3**)

Marginal Citations

M2 1988 c.33.

Procedure where no indictable-only offence remains

- 7 (1) Subject to paragraph 13 below, this paragraph applies where—
 - (a) a person has been sent for trial under section 51 of this Act but has not been arraigned; and
 - (b) the person is charged on an indictment which (following amendment of the indictment, or as a result of an application under paragraph 2 above, or for any other reason) includes no offence that is triable only on indictment.
- (2) Everything that the Crown Court is required to do under the following provisions of this paragraph must be done with the accused present in court.
- (3) The court shall cause to be read to the accused each count of the indictment that charges an offence triable either way.
- (4) The court shall then explain to the accused in ordinary language that, in relation to each of those offences, he may indicate whether (if it were to proceed to trial) he would plead guilty or not guilty, and that if he indicates that he would plead guilty the court must proceed as mentioned in sub-paragraph (6) below.
- (5) The court shall then ask the accused whether (if the offence in question 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 he had been arraigned on the count in question and had pleaded guilty.

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- (7) If the accused indicates that he would plead not guilty, or fails to indicate how he would plead, the court shall consider whether the offence is more suitable for summary trial or for trial on indictment.
- (8) Subject to sub-paragraph (6) above, the following shall not for any purpose be taken to constitute the taking of a plea—
- (a) asking the accused under this paragraph whether (if the offence were to proceed to trial) he would plead guilty or not guilty;
 - (b) an indication by the accused under this paragraph of how he would plead.

Commencement Information

I7 Sch. 3 para. 7 partly in force; Sch. 3 para. 7 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8); Sch. 3 para. 7 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, art. 4(2); Sch. 3 para. 7 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, art. 2 (subject to transitional provisions in art. 3)

- 8 (1) Subject to paragraph 13 below, this paragraph applies in a case where—
- (a) a person has been sent for trial under section 51 of this Act but has not been arraigned;
 - (b) he is charged on an indictment which (following amendment of the indictment, or as a result of an application under paragraph 2 above, or for any other reason) includes no offence that is triable only on indictment;
 - (c) he is represented by a legal representative;
 - (d) the Crown Court considers that by reason of his disorderly conduct before the court it is not practicable for proceedings under paragraph 7 above to be conducted in his presence; and
 - (e) the court considers that it should proceed in his absence.
- (2) In such a case—
- (a) the court shall cause to be read to the representative each count of the indictment that charges an offence triable either way;
 - (b) the court shall ask the representative whether (if the offence in question 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 accused had been arraigned on the count in question and had pleaded guilty;
 - (d) if the representative indicates that the accused would plead not guilty, or fails to indicate how the accused would plead, the court shall consider whether the offence is more suitable for summary trial or for trial on indictment.
- (3) Subject to sub-paragraph (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 paragraph of how the accused would plead.

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Commencement Information

18 Sch. 3 para. 8 partly in force; Sch. 3 para. 8 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8); Sch. 3 para. 8 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, art. 4(2); Sch. 3 para. 8 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, art. 2 (subject to transitional provisions in art. 3)

- 9
- (1) This paragraph applies where the Crown Court is required by paragraph 7(7) or 8(2) (d) above to consider the question whether an offence is more suitable for summary trial or for trial on indictment.
 - (2) Before considering the question, the court 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) In considering the question, the court shall have regard to—
 - (a) any representations made by the prosecutor or the accused;
 - (b) the nature of the case;
 - (c) whether the circumstances make the offence one of a serious character;
 - (d) whether the punishment which a magistrates' court would have power to impose for it would be adequate; and
 - (e) any other circumstances which appear to the court to make it more suitable for the offence to be dealt tried in one way rather than the other.

Commencement Information

19 Sch. 3 para. 9 fully in force; Sch. 3 para. 9 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8); Sch. 3 para. 9 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, art. 4(2); Sch. 3 para. 9 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, art. 2 (subject to transitional provisions in art. 3)

- 10
- (1) This paragraph applies (unless excluded by paragraph 15 below) where the Crown Court considers that an offence is more suitable for summary trial.
 - (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 magistrates' court, he may be committed for sentence to the Crown Court under [F10]section 3 of the Powers of Criminal Courts (Sentencing) Act 2000]if the convicting court is of such opinion as is mentioned in subsection (2) of that section.
 - (3) After explaining to the accused as provided by sub-paragraph (2) above the court shall ask him whether he wishes to be tried summarily or by a jury, and—
 - (a) if he indicates that he wishes to be tried summarily, shall remit him for trial to a magistrates' court acting for the place where he was sent to the Crown Court for trial;

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- (b) if he does not give such an indication, shall retain its functions in relation to the offence and proceed accordingly.

Textual Amendments

F10 Words in [Sch. 3 para. 10\(2\)](#) substituted (25.8.2000) by [2000 c. 6, ss. 165, 168\(1\), Sch. 9 para. 201\(2\)](#)

Commencement Information

I10 Sch. 3 para. 10 wholly in force; Sch. 3 para. 10 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by [S.I. 1998/2327, art. 2\(1\)](#); (subject to savings in arts. 5-8); Sch. 3 para. 10 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by [S.I. 1998/2327, art. 4\(2\)](#); Sch. 3 para. 10 in force at 15.1.2001 to the extent that it is not already in force by [S.I. 2000/3283, art. 2](#) (subject to transitional provisions in [art. 3](#))

- 11 If the Crown Court considers that an offence is more suitable for trial on indictment, the court—
- (a) shall tell the accused that it has decided that it is more suitable for him to be tried for the offence by a jury; and
- (b) shall retain its functions in relation to the offence and proceed accordingly.

Commencement Information

I11 Sch. 3 para. 11 wholly in force; Sch. 3 para. 11 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by [S.I. 1998/2327, art. 2\(1\)](#) (subject to savings in [arts. 5-8](#)); Sch. 3 para. 11 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by [S.I. 1998/2327, art. 4\(2\)](#); Sch. 3 para. 11 in force at 15.1.2001 to the extent that it is not already in force by [S.I. 2000/3283, art. 2](#) (subject to transitional provisions in [art. 3](#))

- 12 (1) Where the prosecution is being carried on by the Attorney General, the Solicitor General or the Director of Public Prosecutions and he applies for an offence which may be tried on indictment to be so tried—
- (a) sub-paragraphs (4) to (8) of paragraph 7, sub-paragraphs (2)(b) to (d) and (3) of paragraph 8 and paragraphs 9 to 11 above shall not apply; and
- (b) the Crown Court shall retain its functions in relation to the offence and proceed accordingly.
- (2) The power of the Director of Public Prosecutions under this paragraph to apply for an offence to be tried on indictment shall not be exercised except with the consent of the Attorney General.

Commencement Information

I12 Sch. 3 para. 12 partly in force; Sch. 3 para. 12 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by [S.I. 1998/2327, art. 2\(1\)](#) (subject to savings in [arts. 5-8](#)); Sch. 3 para. 12 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by [S.I. 1998/2327, art. 4\(2\)](#); Sch. 3 para. 12 in force at 15.1.2001 to the extent that it is not already in force by [S.I. 2000/3283, art. 2](#) (subject to transitional provisions in [art. 3](#))

- 13 (1) This paragraph applies, in place of paragraphs 7 to 12 above, in the case of a child or young person who—

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- (a) has been sent for trial under section 51 of this Act but has not been arraigned; and
 - (b) is charged on an indictment which (following amendment of the indictment, or as a result of an application under paragraph 2 above, or for any other reason) includes no offence that is triable only on indictment.
- (2) The Crown Court shall remit the child or young person for trial to a magistrates' court acting for the place where he was sent to the Crown Court for trial unless—
- (a) he is charged with such an offence as is mentioned in [F11]subsection (1) or (2) of section 91 of the Powers of Criminal Courts (Sentencing) Act 2000] (punishment of certain grave crimes) and the Crown Court considers that if he is found guilty of the offence it ought to be possible to sentence him in pursuance of subsection (3) of that section; or
 - (b) he is charged jointly with an adult with an offence triable either way and the Crown Court considers it necessary in the interests of justice that they both be tried for the offence in the Crown Court.
- (3) In sub-paragraph (2) above “adult” has the same meaning as in section 51 of this Act.

Textual Amendments

F11 Words in [Sch. 3 para. 13\(2\)](#) substituted (25.8.2000) by [2000 c. 6, ss. 165, 168\(1\)](#), [Sch. 9 para. 201\(3\)](#)

Commencement Information

I13 Sch. 3 para. 13 wholly in force; Sch. 3 para. 13 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by [S.I. 1998/2327, art. 2\(1\)](#) (subject to savings in [arts. 5-8](#)); Sch. 3 para. 13 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by [S.I. 1998/2327, art. 4\(2\)](#); Sch. 3 para. 13 in force at 15.1.2001 to the extent that it is not already in force by [S.I. 2000/3283, art. 2](#) (subject to transitional provisions in [art. 3](#))

Procedure for determining whether offences of criminal damage etc. are summary offences

- 14 (1) This paragraph applies where the Crown Court has to determine, for the purposes of this Schedule, whether an offence which is listed in the first column of Schedule 2 to the 1980 Act (offences for which the value involved is relevant to the mode of trial) is a summary offence.
- (2) The court shall have regard to any representations made by the prosecutor or the accused.
- (3) If it appears clear to the court that the value involved does not exceed the relevant sum, it shall treat the offence as a summary offence.
- (4) If it appears clear to the court that the value involved exceeds the relevant sum, it shall treat the offence as an indictable offence.
- (5) If it appears to the court for any reason not clear whether the value involved does or does not exceed the relevant sum, the court shall ask the accused whether he wishes the offence to be treated as a summary offence.
- (6) Where sub-paragraph (5) above applies—
- (a) if the accused indicates that he wishes the offence to be treated as a summary offence, the court shall so treat it;

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(b) if the accused does not give such an indication, the court shall treat the offence as an indictable offence.

(7) In this paragraph “the value involved” and “the relevant sum” have the same meanings as in section 22 of the 1980 Act (certain offences triable either way to be tried summarily if value involved is small).

Commencement Information

I14 Sch. 3 para. 14 partly in force; Sch. 3 para. 14 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8); Sch. 3 para. 14 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, art. 4(2); Sch. 3 para. 14 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, art. 2 (subject to transitional provisions in art. 3)

Power of Crown Court, with consent of legally-represented accused, to proceed in his absence

- 15 (1) The Crown Court may proceed in the absence of the accused in accordance with such of the provisions of paragraphs 9 to 14 above as are applicable in the circumstances if—
- (a) the accused is represented by a legal representative who signifies to the court the accused’s consent to the proceedings in question being conducted in his absence; and
 - (b) the court is satisfied that there is good reason for proceeding in the absence of the accused.
- (2) Sub-paragraph (1) above is subject to the following provisions of this paragraph which apply where the court exercises the power conferred by that sub-paragraph.
- (3) If, where the court has considered as required by paragraph 7(7) or 8(2)(d) above, it appears to the court that an offence is more suitable for summary trial, paragraph 10 above shall not apply and—
- (a) if the legal representative indicates that the accused wishes to be tried summarily, the court shall remit the accused for trial to a magistrates’ court acting for the place where he was sent to the Crown Court for trial;
 - (b) if the legal representative does not give such an indication, the court shall retain its functions and proceed accordingly.
- (4) If, where the court has considered as required by paragraph 7(7) or 8(2)(d) above, it appears to the court that an offence is more suitable for trial on indictment, paragraph 11 above shall apply with the omission of paragraph (a).
- (5) Where paragraph 14 above applies and it appears to the court for any reason not clear whether the value involved does or does not exceed the relevant sum, sub-paragraphs (5) and (6) of that paragraph shall not apply and—
- (a) the court shall ask the legal representative whether the accused wishes the offence to be treated as a summary offence;
 - (b) if the legal representative indicates that the accused wishes the offence to be treated as a summary offence, the court shall so treat it;
 - (c) if the legal representative does not give such an indication, the court shall treat the offence as an indictable offence.

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Commencement Information

- I15** Sch. 3 para. 15 partly in force; Sch. 3 para. 15 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by [S.I. 1998/2327](#), [art. 2\(1\)](#) (subject to savings in [arts. 5-8](#)); Sch. 3 para. 15 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by [S.I. 1998/2327](#), [art. 4\(2\)](#); Sch. 3 para. 15 in force at 15.1.2001 to the extent that it is not already in force by [S.I. 2000/3283](#), [art. 2](#) (subject to transitional provisions in [art. 3](#))

Status:

Point in time view as at 01/09/2004.

Changes to legislation:

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