



Judicial Review and Courts Act 2022

2022 CHAPTER 35

PART 2

COURTS, TRIBUNALS AND CORONERS

CHAPTER 1

CRIMINAL PROCEDURE

Offences triable either way: determining the mode of trial

PROSPECTIVE

8 Written procedure for indicating plea and determining mode of trial: children

In the Magistrates' Courts Act 1980, after section 24 insert—

“24ZA Option for child or young person to indicate plea in writing where allocation decision otherwise required

- (1) Subsection (3) has effect where—
- (a) a person under the age of 18 years is charged with an offence other than one falling within section 51A(12) of the Crime and Disorder Act 1998 (“the 1998 Act”),
 - (b) the person has not since attained the age of 18 years, and
 - (c) a magistrates' court would, but for this section and sections 24A and 24B, have to determine under section 51A of the 1998 Act—
 - (i) whether to send the accused to the Crown Court for trial, or
 - (ii) any matter the effect of which would be to determine whether the accused is sent to the Crown Court for trial.

Status: Point in time view as at 07/11/2023. This version of this provision is prospective.

Changes to legislation: There are currently no known outstanding effects for the Judicial Review and Courts Act 2022, Section 8. (See end of Document for details)

- (2) But Criminal Procedure Rules may make provision about circumstances in which subsection (3) does not have effect.
- (3) A magistrates' court must, in writing—
 - (a) provide the accused with the information referred to in subsection (4), and
 - (b) ask the accused—
 - (i) whether the accused chooses to give a written indication of plea, and
 - (ii) if the accused chooses to do so, whether (if the offence were to proceed to trial) the accused would plead guilty or not guilty.
- (4) The information is—
 - (a) a statement of the charge against the accused;
 - (b) an explanation, including such details as may be prescribed by Criminal Procedure Rules, of—
 - (i) why the accused is being asked the questions set out in subsection (3)(b), and
 - (ii) the consequences of giving or failing to give a written indication of plea;
 - (c) an explanation of the way in which, and the period of time within which, the accused may give a written indication of plea;
 - (d) any other information that—
 - (i) Criminal Procedure Rules require to be provided, or
 - (ii) Criminal Procedure Rules allow to be provided and the court decides to provide.
- (5) If the accused gives a written indication of a guilty plea, the court is not to make the relevant determination but is to proceed to try the offence summarily under section 9.
- (6) If, at a summary trial held in accordance with subsection (5), the accused pleads not guilty—
 - (a) the trial and the plea are void, and
 - (b) the court is to proceed as if the hearing were for the purposes of section 24A and the accused had indicated that the accused would (if the offence were to proceed to trial) plead not guilty.
- (7) If the accused gives a written indication of a not guilty plea, the court is to—
 - (a) give the prosecutor and the accused an opportunity to make representations in writing about the matters referred to in subsection (1)(c)(i) or (ii), and
 - (b) proceed to make the relevant determination.
- (8) If the accused fails to give a written indication of plea, the court is to proceed by way of a hearing for the purposes of section 24A.
- (9) 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) the accused would plead guilty or not guilty;

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(b) a written indication of plea under this section.

(10) In subsection (1), the reference to a person charged with an offence is a reference to—

- (a) a person in respect of whom a summons or warrant has been issued under section 1,
- (b) a person who has been charged with an offence under Part 4 of the Police and Criminal Evidence Act 1984, or
- (c) a person against whom a written charge and requisition have been issued under section 29 of the Criminal Justice Act 2003.

(11) In this section and sections 24ZB, 24A and 24BA—

- (a) “written indication of plea” means a written indication given—
 - (i) by a person who has been provided with the information and asked the questions required by subsection (3),
 - (ii) in accordance with the explanation provided under subsection (4)(c),of whether (if the offence were to proceed to trial) that person would plead guilty or not guilty;
- (b) “written indication of a guilty plea” and “written indication of a not guilty plea” are to be read accordingly;
- (c) references to a person’s failing to give a written indication of plea are to a person’s—
 - (i) having been provided with the information and asked the questions required by subsection (3), and
 - (ii) not having given a written indication of plea within the period indicated under subsection (4)(c).

(12) In this section and section 24ZB, “relevant determination” means the determination referred to in subsection (1)(c).

24ZB Written indication of plea: accused turning 18 or withdrawing indication

- (1) This section has effect where a magistrates’ court has complied with section 24ZA(3).
- (2) If the accused attains the age of 18 years before giving, or failing to give, a written indication of plea (see section 24ZA(11)), section 24ZA ceases to have effect (and the court is to proceed in accordance with section 17ZA or 17A).

The court may not exercise its powers under section 29 of the Children and Young Persons Act 1963 so as to produce a different result.

- (3) Subsection (4) applies if the accused attains the age of 18 years—
 - (a) after giving a written indication of plea, but
 - (b) before the taking of a plea in the summary trial or, as the case may be, the making of the relevant determination (see section 24ZA(12)).
- (4) The court must consider whether to exercise its powers under section 29 of the Children and Young Persons Act 1963; but subject to any exercise of those powers—

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- (a) section 24ZA(5) or (7) ceases to apply, and
 - (b) the court is to proceed as if the written indication of plea had been given under (and within the meaning of) section 17ZA.
- (5) Subsection (6) applies if the accused attains the age of 18 years—
- (a) having failed to give a written indication of plea, but
 - (b) before the hearing for the purposes of section 24A.
- (6) Section 24ZA(8) ceases to apply, and the court is to proceed as if the accused had failed to give a written indication of plea within the meaning of section 17ZA.
- The court may not exercise its powers under section 29 of the Children and Young Persons Act 1963 so as to produce a different result.
- (7) Subsection (8) applies if—
- (a) the accused gives a written indication of plea,
 - (b) at any time before—
 - (i) the taking of a plea in the summary trial,
 - (ii) the hearing for the purposes of section 24A(2), or
 - (iii) the sending of the accused to the Crown Court for trial,
 the court receives an indication given by the accused that the accused wishes to withdraw the written indication of plea, and
 - (c) the written indication of plea is not at that time being treated by virtue of subsection (4) as having been given under section 17ZA.
- (8) If this subsection applies—
- (a) the designated officer for the court must inform the prosecutor of the withdrawal;
 - (b) the court is to cease to proceed in accordance with section 24ZA(5) or (7); and
 - (c) the court is to proceed by way of—
 - (i) a hearing for the purposes of section 24A(2), or
 - (ii) if the accused attains the age of 18 before any hearing for the purposes of section 24A(2) (and subject to the court’s powers under section 29 of the Children and Young Persons Act 1963), a hearing for the purposes of section 17A (which is to apply as if the accused’s written indication of plea had been given and withdrawn as described in subsection (1A)(b) of that section).”

Commencement Information

II S. 8 not in force at Royal Assent, see s. 51(4)

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