
STATUTORY INSTRUMENTS

1981 No. 552

The Magistrates' Courts Rules 1981

PROCEEDINGS PRELIMINARY TO TRIAL ON INDICTMENT

Taking depositions of witnesses and statement of accused

7.—(1) This rule does not apply to committal proceedings where under section 6(2) of the Act of 1980 a magistrates' court commits a person for trial without consideration of the evidence.

(2) A magistrates' court inquiring into an offence as examining justices shall cause the evidence of each witness, including the evidence of the accused, but not including any witness of his merely to his character, to be put into writing; and as soon as may be after the examination of such a witness shall cause his deposition to be read to him in the presence and hearing of the accused, and shall require the witness to sign the deposition:

Provided that where the evidence has been given in the absence of the accused under section 4(4) of the Act of 1980 this shall be recorded on the deposition of the witness and the deposition need not be read in the presence and hearing of the accused.

(3) The depositions shall be authenticated by a certificate signed by one of the examining justices.

(4) Where the accused is not represented by counsel or a solicitor, before a statement made in writing by or taken in writing from a child is received in evidence under subsection (1) of section 103 of the Act of 1980 the court shall cause the effect of that subsection to be explained to the accused in ordinary language and, if the defence does not object to the application of that subsection, shall inform him that he may ask questions about the circumstances in which the statement was made or taken.

(5) Any such statement as aforesaid which is received in evidence shall be made an exhibit.

(6) After the evidence for the prosecution (including any statements tendered under section 102 of the Act of 1980, has been given and after hearing any submission, if any is made, the court shall, unless it then decides not to commit for trial, cause the charge to be written down, if this has not already been done, and, if the accused is not represented by counsel or a solicitor, shall read the charge to him and explain it in ordinary language.

(7) The court shall then ask the accused whether he wishes to say anything in answer to the charge and, if he is not represented by counsel or a solicitor, shall before asking the question say to him—
“You will have an opportunity to give evidence on oath before us and to call witnesses. But first I am going to ask you whether you wish to say anything in answer to the charge. You need not say anything unless you wish to do so. Anything you say will be taken down and may be given in evidence at your trial. You should take no notice of any promise or threat which any person may have made to persuade you to say anything.”,

or words to that effect.

(8) Whatever the accused says in answer to the charge shall be put into writing, read over to him and signed by one of the examining justices and also, if the accused wishes, by him.

(9) The court shall then say to the accused—

“I must warn you that if this court should commit you for trial you may not be permitted at that trial to give evidence of an alibi or to call witnesses in support of an alibi unless you have earlier given

particulars of the alibi and of the witnesses. You may give those particulars now to this court or to the solicitor for the prosecution not later than 7 days from the end of these committal proceedings.”, or words to that effect and, if it appears to the court that the accused may not understand the meaning of the term “alibi”, the court shall explain it to him:

Provided that the court shall not be required to give this warning in any case where it appears to the court that, having regard to the nature of the offence with which the accused is charged, it is unnecessary to do so.

(10) After complying with the requirements of this rule relating to the statement of the accused, and whether or not he has made a statement in answer to the charge, the court shall give him an opportunity to give evidence himself and to call witnesses.

(11) Where the accused is represented by counsel or a solicitor, his counsel or solicitor shall be heard on his behalf, either before or after the evidence for the defence is taken, at his discretion, and may, if the accused gives evidence himself and calls witnesses, be heard on his behalf with the leave of the court both before and after the evidence is taken:

Provided that, where the court gives leave to counsel or the solicitor for the accused to be heard after, as well as before, the evidence is taken, counsel or the solicitor for the prosecution shall be entitled to be heard immediately before counsel or the solicitor for the accused is heard for the second time.

(12) Where the court determines to commit the accused for trial in respect of a charge which differs from that which was read to him in accordance with the provisions of paragraph (6), the court shall cause the new charge to be read to him.

(13) Where the court has given to the accused the warning required by paragraph (9) the clerk of the court shall give to him written notice of the provisions of section 11 of the Criminal Justice Act 1967 about giving notice of particulars of alibi to the solicitor for the prosecution and the solicitor's name and address shall be stated in the notice.