
STATUTORY INSTRUMENTS

2005 No. 384

The Criminal Procedure Rules 2005

PART 10

COMMITTAL FOR TRIAL

Contents of this Part

| | |
|--|-----------|
| Restrictions on reports of committal proceedings | rule 10.1 |
| Committal for trial without consideration of the evidence | rule 10.2 |
| Consideration of evidence at committal proceedings | rule 10.3 |
| Court's reminder to defendant of right to object to evidence being read at trial without further proof | rule 10.4 |
| Material to be sent to court of trial | rule 10.5 |

Restrictions on reports of committal proceedings

10.1.—(1) Except in a case where evidence is, with the consent of the accused, to be tendered in his absence under section 4(4)(b) of the Magistrates' Courts Act 1980⁽¹⁾ (absence caused by ill health), a magistrates' court acting as examining justices shall before admitting any evidence explain to the accused the restrictions on reports of committal proceedings imposed by section 8 of that Act and inform him of his right to apply to the court for an order removing those restrictions.

(2) Where a magistrates' court has made an order under section 8(2) of the 1980 Act⁽²⁾ removing restrictions on the reports of committal proceedings, such order shall be entered in the register.

(3) Where the court adjourns any such proceedings to another day, the court shall, at the beginning of any adjourned hearing, state that the order has been made.

[Note. Formerly rule 5 of the Magistrates' Courts Rules 1981⁽³⁾. On the coming into force of Schedule 3 to the Criminal Justice Act 2003⁽⁴⁾ committal for trial will be abolished and cases

-
- (1) 1980 c. 43; section 4(4)(b) was amended by paragraph 25 of Schedule 18 to the Courts and Legal Services Act 1990 (c. 41) and paragraph 2 of Schedule 1 to the Criminal Procedure and Investigations Act 1996 (c. 25), and is repealed by paragraph 51 of Schedule 3 and Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c. 44) with effect from a date to be appointed.
- (2) Section 8(2) was amended by sections 1(1) and 2 of the Criminal Justice (Amendment) Act 1981 (c. 27) and is repealed by paragraph 51 of Schedule 3 and Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c. 44) with effect from a date to be appointed.
- (3) S.I. 1981/552; amending instruments relevant to this Part are S.I. 1983/523, 1992/729, 1992/2072, 1994/1481, 1997/706, 2001/610 and 2003/1236.
- (4) 2003 c. 44.

triable either way will be sent to the Crown Court under sections 51 and 51A of the Crime and Disorder Act 1998(5) in the same way as cases triable only on indictment.]

Committal for trial without consideration of the evidence

10.2.—(1) This rule applies to committal proceedings where the accused has a solicitor acting for him in the case and where the court has been informed that all the evidence falls within section 5A(2) of the Magistrates' Courts Act 1980(6).

(2) A magistrates' court inquiring into an offence in committal proceedings to which this rule applies shall cause the charge to be written down, if this has not already been done, and read to the accused and shall then ascertain whether he wishes to submit that there is insufficient evidence to put him on trial by jury for the offence with which he is charged.

(3) If the court is satisfied that the accused or, as the case may be, each of the accused does not wish to make such a submission as is referred to in paragraph (2) it shall, after receiving any written evidence falling within section 5A(3) of the 1980 Act, determine whether or not to commit the accused for trial without consideration of the evidence, and where it determines not to so commit the accused it shall proceed in accordance with rule 10.3.

[Note. Formerly rule 6 of the Magistrates' Courts Rules 1981. On the coming into force of Schedule 3 to the Criminal Justice Act 2003 committal for trial will be abolished and cases triable either way will be sent to the Crown Court under sections 51 and 51A of the Crime and Disorder Act 1998 in the same way as cases triable only on indictment.]

Consideration of evidence at committal proceedings

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

(2) A magistrates' court inquiring into an offence as examining justices, having ascertained—

- (a) that the accused has no legal representative acting for him in the case; or
- (b) that the accused's legal representative has requested the court to consider a submission that there is insufficient evidence to put the accused on trial by jury for the offence with which he is charged, as the case may be,

shall permit the prosecutor to make an opening address to the court, if he so wishes, before any evidence is tendered.

(3) After such opening address, if any, the court shall cause evidence to be tendered in accordance with sections 5B(4), 5C(4), 5D(5) and 5E(3)(8) of the 1980 Act, that is to say by being read out aloud, except where the court otherwise directs or to the extent that it directs that an oral account be given of any of the evidence.

(4) The court may view any exhibits produced before the court and may take possession of them.

-
- (5) 1998 c. 37; section 51 is substituted, and section 51A inserted, by paragraphs 15 and 18 of Schedule 3 to the Criminal Justice Act 2003 (c. 44) with effect from a date to be appointed.
 - (6) Section 5A was inserted by paragraph 3 of Schedule 1 to the Criminal Procedure and Investigations Act 1996 (c. 25) and is repealed by paragraph 51 of Schedule 3 and Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c. 44) with effect from a date to be appointed.
 - (7) Section 6(2) was substituted by paragraph 4 of Schedule 1 to the Criminal Procedure and Investigations Act 1996 (c. 25) and is repealed by paragraph 51 of Schedule 3 and Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c. 44) with effect from a date to be appointed.
 - (8) Sections 5B to 5E were inserted by paragraph 3 of Schedule 1 to the Criminal Procedure and Investigations Act 1996 (c. 25) and are repealed by paragraph 51 of Schedule 3 and Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c. 44) with effect from a date to be appointed.

(5) After the evidence has been tendered the court shall hear any submission which the accused may wish to make as to whether there is sufficient evidence to put him on trial by jury for any indictable offence.

(6) The court shall permit the prosecutor to make a submission—

- (a) in reply to any submission made by the accused in pursuance of paragraph (5); or
- (b) where the accused has not made any such submission but the court is nevertheless minded not to commit him for trial.

(7) After hearing any submission made in pursuance of paragraph (5) or (6) the court shall, unless it decides not to commit the accused 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.

[Note. Formerly rule 7 of the Magistrates' Courts Rules 1981. On the coming into force of Schedule 3 to the Criminal Justice Act 2003 committal for trial will be abolished and cases triable either way will be sent to the Crown Court under sections 51 and 51A of the Crime and Disorder Act 1998 in the same way as cases triable only on indictment.]

Court's reminder to a defendant of right to object to evidence being read at trial without further proof

10.4. A magistrates' court which commits a person for trial shall forthwith remind him of his right to object, by written notification to the prosecutor and the Crown Court within 14 days of being committed unless that court in its discretion permits such an objection to be made outside that period, to a statement or deposition being read as evidence at the trial without oral evidence being given by the person who made the statement or deposition, and without the opportunity to cross-examine that person.

[Note. Formerly rule 8 of the Magistrates' Courts Rules 1981. As to the duty on the prosecution to notify the defendant of this right, see rule 27.2. On the coming into force of Schedule 3 to the Criminal Justice Act 2003 committal for trial will be abolished and cases triable either way will be sent to the Crown Court under sections 51 and 51A of the Crime and Disorder Act 1998 in the same way as cases triable only on indictment.]

Material to be sent to court of trial

10.5.—(1) As soon as practicable after the committal of any person for trial, and in any case within 4 days from the date of his committal (not counting Saturdays, Sundays, Good Friday, Christmas Day or Bank Holidays), the magistrates' court officer shall, subject to the provisions of section 7 of the Prosecution of Offences Act 1985⁽⁹⁾ (which relates to the sending of documents and things to the Director of Public Prosecutions), send to the Crown Court officer—

- (a) the information, if it is in writing;
- (b) (i) the evidence tendered in accordance with section 5A of the Magistrates' Courts Act 1980 and, where any of that evidence consists of a copy of a deposition or documentary exhibit which is in the possession of the court, any such deposition or documentary exhibit, and
- (ii) a certificate to the effect that that evidence was so tendered;

(9) 1985 c. 23; section 7 was amended by paragraphs 129 and 130 of Schedule 13 to the Access to Justice Act 1999 (c. 22) and paragraph 287 of Schedule 8 to the Courts Act 2003 (c. 39).

- (c) any notification by the prosecutor under section 5D(2) of the 1980 Act regarding the admissibility of a statement under section 23 or 24 of the Criminal Justice Act 1988(10) (first hand hearsay; business documents);
- (d) a copy of the record made in pursuance of section 5 of the Bail Act 1976(11) relating to the grant or withholding of bail in respect of the accused on the occasion of the committal;
- (e) any recognizance entered into by any person as surety for the accused together with a statement of any enlargement thereof under section 129(4) of the 1980 Act;
- (f) a list of the exhibits produced in evidence before the justices or treated as so produced;
- (g) such of the exhibits referred to in paragraph (1)(f) as have been retained by the justices;
- (h) the names and addresses of any interpreters engaged for the defendant for the purposes of the committal proceedings, together with any telephone numbers at which they can be readily contacted, and details of the languages or dialects in connection with which they have been so engaged;
- (i) if the committal was under section 6(2) of the 1980 Act (committal for trial without consideration of the evidence), a statement to that effect;
- (j) if the magistrates' court has made an order under section 8(2) of the 1980 Act (removal of restrictions on reports of committal proceedings), a statement to that effect;
- (k) the certificate of the examining justices as to the costs of the prosecution under the Costs in Criminal Cases (General) Regulations 1986(12);
- (l) if any person under the age of 18 is concerned in the committal proceedings, a statement whether the magistrates' court has given a direction under section 39 of the Children and Young Persons Act 1933(13) (prohibition of publication of certain matter in newspapers);
- (m) a copy of any representation order previously made in the case;
- (n) a copy of any application for a representation order previously made in the case which has been refused; and
- (o) any documents relating to an appeal by the prosecution against the granting of bail.

(2) The period of 4 days specified in paragraph (1) may be extended in relation to any committal for so long as the Crown Court officer directs, having regard to the length of any document mentioned in that paragraph or any other relevant circumstances.

[Note. Formerly rule 11 of the Magistrates' Courts Rules 1981. On the coming into force of Schedule 3 to the Criminal Justice Act 2003 committal for trial will be abolished and cases triable either way will be sent to the Crown Court under sections 51 and 51A of the Crime and Disorder Act 1998 in the same way as cases triable only on indictment.]

-
- (10) 1988 c. 33; sections 23 and 24 were amended by paragraph 28 of Schedule 1 to the Criminal Procedure and Investigations Act 1996 (c. 25) and section 67 of, and paragraphs 15 and 16 of Schedule 4, and Schedule 6 to, the Youth Justice and Criminal Evidence Act 1999 (c. 23); section 24 was further amended by paragraphs 13 and 14 of Schedule 5 to the Crime (International Co-operation) Act 2003 (c. 32); both sections are repealed by section 136(a) of, and Part 6 of Schedule 37 to, the Criminal Justice Act 2003 (c. 44) with effect from a date to be appointed.
 - (11) 1976 c. 63; section 5 was amended by section 65(4) of, and Schedule 12 to, the Criminal Law Act 1977 (c. 45), section 60(2) and (3) of the Criminal Justice Act 1982 (c. 48), paragraph 1 of Schedule 3 to the Criminal Justice and Public Order Act 1994 (c. 33), paragraph 53 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), section 129(1) of the Criminal Justice and Police Act 2001 (c. 16), paragraph 182 of Schedule 8 to the Courts Act 2003 (c. 39) and Part 2 of Schedule 37 to the Criminal Justice Act 2003 (c. 44), and is further amended by paragraph 48 of Schedule 3, paragraphs 1 and 2 of Schedule 36 and Part 2 of Schedule 37 to the Criminal Justice Act 2003 (c. 44) with effect from a date to be appointed.
 - (12) S.I. 1986/1335.
 - (13) 1933 c. 12; section 39 was amended by sections 57(1) and 64(3) of, and Schedule 5 to, the Children and Young Persons Act 1963 (c. 37) and sections 37(2), 39 and 46 of, and Schedule 3 to, the Criminal Justice Act 1982 (c. 48), and is further amended by section 48 of, and paragraphs 1 and 2 of Schedule 2 to, the Youth Justice and Criminal Evidence Act 1999 (c. 23) with effect from a date to be appointed, when it will cease to have effect in relation to criminal proceedings.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
