
STATUTORY INSTRUMENTS

2010 No. 60

The Criminal Procedure Rules 2010

PART 37

TRIAL AND SENTENCE IN A MAGISTRATES' COURT

Procedure on plea of not guilty

- 37.3.**—(1) This rule applies—
- (a) if the defendant has—
 - (i) entered a plea of not guilty, or
 - (ii) not entered a plea; or
 - (b) if, in either case, it appears to the court that there may be grounds for making a hospital order without convicting the defendant.
- (2) If a not guilty plea was taken on a previous occasion, the justices' legal adviser or the court must ask the defendant to confirm that plea.
- (3) In the following sequence—
- (a) the prosecutor may summarise the prosecution case, identifying the relevant law and facts;
 - (b) the prosecutor must introduce the evidence on which the prosecution case relies;
 - (c) at the conclusion of the prosecution case, on the defendant's application or on its own initiative, the court—
 - (i) may acquit on the ground that the prosecution evidence is insufficient for any reasonable court properly to convict, but
 - (ii) must not do so unless the prosecutor has had an opportunity to make representations;
 - (d) the justices' legal adviser or the court must explain, in terms the defendant can understand (with help, if necessary)—
 - (i) the right to give evidence, and
 - (ii) the potential effect of not doing so at all, or of refusing to answer a question while doing so;
 - (e) the defendant may introduce evidence;
 - (f) a party may introduce further evidence if it is then admissible (for example, because it is in rebuttal of evidence already introduced);
 - (g) the prosecutor may make final representations in support of the prosecution case, where—
 - (i) the defendant is represented by a legal representative, or
 - (ii) whether represented or not, the defendant has introduced evidence other than his or her own; and
 - (h) the defendant may make final representations in support of the defence case.

(4) Where a party wants to introduce evidence or make representations after that party's opportunity to do so under paragraph (3), the court—

- (a) may refuse to receive any such evidence or representations; and
- (b) must not receive any such evidence or representations after it has announced its verdict.

(5) If the court—

- (a) convicts the defendant; or
- (b) makes a hospital order instead of doing so,

it must give sufficient reasons to explain its decision.

(6) If the court acquits the defendant, it may—

- (a) give an explanation of its decision; and
- (b) exercise any power it has to make—
 - (i) a civil behaviour order,
 - (ii) a costs order.

[Note. See section 9 of the Magistrates' Courts Act 1980(1).

Under section 37(3) of the Mental Health Act 1983(2), if the court is satisfied that the defendant did the act or made the omission alleged, then it may make a hospital order without convicting the defendant.

Under section 35 of the Criminal Justice and Public Order Act 1994(3), the court may draw such inferences as appear proper from a defendant's failure to give evidence, or refusal without good cause to answer a question while doing so. The procedure set out in rule 37.3(3)(d) is prescribed by that section.

The admissibility of evidence that a party introduces is governed by rules of evidence.

Section 2 of the Criminal Procedure Act 1865(4) and section 3 of the Criminal Evidence Act 1898(5) restrict the circumstances in which the prosecutor may make final representations without the court's permission.

See rule 37.10 for the procedure if the court convicts the defendant.

Part 50 contains rules about civil behaviour orders after verdict or finding.]

(1) 1980 c. 43.
 (2) 1983 c. 20; section 37(3) was amended by sections 1 and 55 of, and paragraphs 1 and 7 of Schedule 1 and Schedule 11 to, the Mental Health Act 2007 (c. 12). 37(3) was amended by sections 1 and 55 of, and paragraphs 1 and 7 of Schedule 1 and Schedule 11 to, the Mental Health Act 2007 (c. 12).
 (3) 1994 c. 33; section 35 was amended by sections 35 and 120 of, and Schedule 10 to, the Crime and Disorder Act 1998 (c. 37). The Criminal Justice Act 2003 (c. 44) amendment to section 35 is not relevant to procedure in magistrates' courts.
 (4) 1865 c. 18; section 2 was amended by section 10(2) of, and Part III of Schedule 3 to, the Criminal Law Act 1967 (c. 58).
 (5) 1898 c. 36; section 3 was amended by section 1(2) of the Criminal Procedure (Right of Reply) Act 1964 (c. 34).