
STATUTORY INSTRUMENTS

2015 No. 1490

The Criminal Procedure Rules 2015

PART 9

ALLOCATION AND SENDING FOR TRIAL

GENERAL RULES

Exercise of magistrates' court's powers

9.2.—(1) This rule applies to the exercise of the powers to which rules 9.6 to 9.14 apply.

(2) The general rule is that the court must exercise its powers at a hearing in public, but it may exercise any power it has to—

- (a) withhold information from the public; or
- (b) order a hearing in private.

(3) The general rule is that the court must exercise its powers in the defendant's presence, but it may exercise the powers to which the following rules apply in the defendant's absence on the conditions specified—

- (a) where rule 9.8 (Adult defendant: request for plea), rule 9.9 (Adult defendant: guilty plea) or rule 9.13 (Young defendant) applies, if—
 - (i) the defendant is represented, and
 - (ii) the defendant's disorderly conduct makes his or her presence in the courtroom impracticable;
- (b) where rule 9.10 (Adult defendant: not guilty plea) or rule 9.11 (Adult defendant: allocation for magistrates' court trial) applies, if—
 - (i) the defendant is represented and waives the right to be present, or
 - (ii) the defendant's disorderly conduct makes his or her presence in the courtroom impracticable.

(4) The court may exercise its power to adjourn—

- (a) if either party asks; or
- (b) on its own initiative.

(5) Where the court on the same occasion deals with two or more offences alleged against the same defendant, the court must deal with those offences in the following sequence—

- (a) any to which rule 9.6 applies (Prosecutor's notice requiring Crown Court trial);
- (b) any to which rule 9.7 applies (sending for Crown Court trial, without allocation there), in this sequence—
 - (i) any the court must send for trial, then
 - (ii) any the court can send for trial; and

- (c) any to which rule 9.14 applies (Allocation and sending for Crown Court trial).
- (6) Where the court on the same occasion deals with two or more defendants charged jointly with an offence that can be tried in the Crown Court then in the following sequence—
- (a) the court must explain, in terms each defendant can understand (with help, if necessary), that if the court sends one of them to the Crown Court for trial then the court must send for trial in the Crown Court, too, any other of them—
- (i) who is charged with the same offence as the defendant sent for trial, or with an offence which the court decides is related to that offence,
- (ii) who does not wish to plead guilty to each offence with which he or she is charged, and
- (iii) (if that other defendant is under 18, and the court would not otherwise have sent him or her for Crown Court trial) where the court decides that sending is necessary in the interests of justice
- even if the court by then has decided to allocate that other defendant for magistrates' court trial; and
- (b) the court may ask the defendants questions to help it decide in what order to deal with them.
- (7) After following paragraph (5), if it applies, where the court on the same occasion—
- (a) deals with two or more defendants charged jointly with an offence that can be tried in the Crown Court;
- (b) allocates any of them to a magistrates' court for trial; and
- (c) then sends another one of them to the Crown Court for trial,

the court must deal again with each one whom, on that occasion, it has allocated for magistrates' court trial.

[Note. See sections 50A, 51, 51A and 52 of the Crime and Disorder Act 1998(1) and sections 17A, 17B, 17C, 18, 23, 24A, 24B and 24C of the Magistrates' Courts Act 1980(2).

Under sections 57A to 57E of the 1998 Act(3), the court may require a defendant to attend by live link a hearing to which this Part applies.

Where a defendant waives the right to be present then the court may nonetheless require his or her attendance by summons or warrant: see section 26 of the 1980 Act(4).

Under section 52A of the 1998 Act(5), reporting restrictions apply to the proceedings to which rules 9.6 to 9.14 apply.

Part 46 contains rules allowing a representative to act on a defendant's behalf for the purposes of these Rules.

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- (1) 1998 c. 37; section 52 was amended by paragraphs 68 and 69 of Schedule 3 to the Criminal Justice Act 2003 (c. 44).
- (2) 1980 c. 43; sections 17A, 17B and 17C were inserted by section 49 of the Criminal Procedure and Investigations Act 1996 (c. 25). Section 17A was amended by paragraph 62 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) and paragraphs 1 and 2 of Schedule 3 to the Criminal Justice Act 2003 (c. 44). Section 23 was amended by section 125 of, and paragraph 25 of Schedule 18 to, the Courts and Legal Services Act 1990 (c. 41) and paragraphs 1 and 8 of Schedule 3 to the Criminal Justice Act 2003 (c. 44). Sections 24A, 24B and 24C were inserted by paragraphs 1 and 10 of Schedule 3 to the Criminal Justice Act 2003 (c. 44).
- (3) 1998 c. 37; sections 57A to 57E were substituted for section 57 as originally enacted by section 45 of the Police and Justice Act 2006 (c. 48), and amended by sections 106, 109 and 178 of, and Part 3 of Schedule 23 to, the Coroners and Justice Act 2009 (c. 25). Section 57A was further amended by paragraphs 36 and 39 of Schedule 12 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).
- (4) 1980 c. 43; section 26 was amended by paragraphs 1 and 12 of Schedule 3 to the Criminal Justice Act 2003 (c. 44).
- (5) 1998 c. 37; section 52A was inserted by paragraphs 15 and 19 of Schedule 3 to the Criminal Justice Act 2003 (c. 44) and amended by paragraphs 46 and 47 of Schedule 5 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).

Part 3 contains rules about the court's powers of case management.]