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STATUTORY INSTRUMENTS

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**2020 No. 759**

**The Criminal Procedure Rules 2020**

**PART 24**

**TRIAL AND SENTENCE IN A MAGISTRATES' COURT**

**Single justice procedure: special rules**

**24.9.**—(1) This rule applies where—

- (a) the offence alleged—
    - (i) can be tried only in a magistrates' court, and
    - (ii) is not one punishable with imprisonment;
  - (b) the defendant is at least 18 years old;
  - (c) the prosecutor has served on the defendant—
    - (i) a written charge,
    - (ii) the material listed in paragraph (2) on which the prosecutor relies to set out the facts of the offence,
    - (iii) the material listed in paragraph (3) on which the prosecutor relies to provide the court with information relevant to sentence,
    - (iv) a notice that the procedure set out in this rule applies,
    - (v) a notice for the defendant's use if the defendant wants to plead guilty,
    - (vi) a notice for the defendant's use if the defendant wants to plead guilty but wants the case dealt with at a hearing by a court comprising more than one justice, and
    - (vii) a notice for the defendant's use if the defendant wants to plead not guilty; and
  - (d) the prosecutor has served on the court officer—
    - (i) copies of those documents, and
    - (ii) a certificate of service of those documents on the defendant.
- (2) The material that the prosecutor must serve to set out the facts of the offence is—
- (a) a summary of the evidence on which the prosecution case is based;
  - (b) any—
    - (i) written witness statement to which Part 16 (Written witness statements) applies, or
    - (ii) document or extract setting out facts; or
  - (c) any combination of such a summary, statement, document or extract.
- (3) The material that the prosecutor must serve to provide information relevant to sentence is—
- (a) details of any previous conviction of the defendant which the prosecutor considers relevant, other than any conviction listed in the defendant's driving record;

- (b) if applicable, a notice that the defendant's driving record will be made available to the court; and
  - (c) a notice containing or describing any other information about the defendant, relevant to sentence, which will be made available to the court.
- (4) Not more than 15 business days after service on the defendant of the documents listed in paragraph (1)(c)—
- (a) a defendant who wants to plead guilty must serve a notice to that effect on the court officer and include with that notice—
    - (i) any representations that the defendant wants the court to consider, and
    - (ii) a statement of the defendant's assets and other financial circumstances;
  - (b) a defendant who wants to plead guilty but wants the case dealt with at a hearing by a court comprising more than one justice must serve a notice to that effect on the court officer; and
  - (c) a defendant who wants to plead not guilty must serve a notice to that effect on the court officer.
- (5) If within 15 business days of service on the defendant of the documents listed in paragraph (1) (c) the defendant serves a notice to plead guilty under paragraph (4)(a)—
- (a) the court officer must arrange for the court to deal with the case in accordance with that notice; and
  - (b) the time for service of any other notice under paragraph (4) expires at once.
- (6) If within 15 business days of service on the defendant of the documents listed in paragraph (1) (c) the defendant wants to withdraw a notice which he or she has served under paragraph (4)(b) (notice to plead guilty at a hearing) or under paragraph (4)(c) (notice to plead not guilty), the defendant must—
- (a) serve notice of that withdrawal on the court officer; and
  - (b) serve any substitute notice under paragraph (4).
- (7) Paragraph (8) applies where by the date of trial the defendant has not—
- (a) served notice under paragraph (4)(b) or (c) of wanting to plead guilty at a hearing, or wanting to plead not guilty; or
  - (b) given notice to that effect under section 16B(2) of the Magistrates' Courts Act 1980<sup>(1)</sup>.
- (8) Where this paragraph applies—
- (a) the court may try the case in the parties' absence and without a hearing;
  - (b) the court may accept any guilty plea of which the defendant has given notice under paragraph (4)(a); and
  - (c) to establish the facts of the offence and other information about the defendant relevant to sentence, the court may take account only of—
    - (i) information contained in a document served by the prosecutor under paragraph (1),
    - (ii) any previous conviction listed in the defendant's driving record, where the offence is under the Road Traffic Regulation Act 1984, the Road Traffic Act 1988, the Road Traffic (Consequential Provisions) Act 1988 or the Road Traffic (Driver Licensing and Information Systems) Act 1989,
    - (iii) any other information about the defendant, relevant to sentence, of which the prosecutor served notice under paragraph (1), and

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(1) 1980 c. 43; section 16B was inserted by section 48 of the Criminal Justice and Courts Act 2015 (c. 2).

(iv) any representations and any other information served by the defendant under paragraph (4)(a)

and rule 24.11(3) to (9) inclusive must be read accordingly.

(9) Paragraph (10) applies where—

- (a) the defendant serves on the court officer a notice under paragraph (4)(b) or (c); or
- (b) the court which tries the defendant under paragraph (8) adjourns the trial for the defendant to attend a hearing by a court comprising more than one justice.

(10) Where this paragraph applies, the court must exercise its power to issue a summons and—

- (a) the rules in Part 7 apply (Starting a prosecution in a magistrates' court) as if the prosecutor had just served an application for a summons to be issued in the same terms as the written charge;
- (b) the rules in Part 8 (Initial details of the prosecution case) apply as if the documents served by the prosecutor under paragraph (1) had been served under that Part; and
- (c) except for rule 24.8 (Written guilty plea: special rules) and this rule, the rules in this Part apply.

*[Note. The procedure set out in this rule is prescribed by sections 16A to 16D of the Magistrates' Courts Act 1980(2) and section 29 of the Criminal Justice Act 2003(3). Under section 16A of the 1980 Act, the court may comprise a single justice. Under section 29 of the 2003 Act, a prosecutor authorised under that section may issue a written charge alleging an offence and a single justice procedure notice. Part 7 contains relevant rules.*

*Under section 1 of the Magistrates' Courts Act 1980(4) a justice of the peace may issue a summons requiring a defendant to attend court to answer an allegation of an offence. Under sections 16C and 16D of the 1980 Act, a justice may issue a summons requiring a defendant to attend court in the circumstances listed in rule 24.9(9).*

*For the court's power, where this rule applies, to take account of—*

- (a) *information contained or described in a document served by the prosecutor under rule 24.9(1), see section 16F of the Magistrates' Courts Act 1980(5);*
- (b) *a previous conviction listed in a defendant's driving record, see section 13(3A) of the Road Traffic Offenders Act 1988(6).*

*The Practice Direction sets out forms of notice for use in connection with this rule.]*

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(2) 1980 c. 43; sections 16A to 16D were inserted by section 48 of the Criminal Justice and Courts Act 2015 (c. 2).

(3) 2003 c. 44; section 29 has been brought into force for certain purposes only (see S.I. 2007/1999, 2008/1424, 2009/2879, 2010/3005, 2011/2188, 2012/825 and 2014/633). It was amended by section 50 of, and paragraph 130 of Schedule 4 to, the Commissioners for Revenue and Customs Act 2005 (c. 11), section 59 of, and paragraph 196 of Schedule 4 to, the Serious Organised Crime and Police Act 2005 (c. 15), section 15 of, and paragraph 187 of Schedule 8 to, the Crime and Courts Act 2013 (c. 22), S.I. 2014/834 and section 46 of the Criminal Justice and Courts Act 2015 (c. 2).

(4) 1980 c. 43; section 1 was amended by section 68 of, and paragraph 6 of Schedule 8 to, the Criminal Justice Act 1991 (c. 53), sections 43 and 109 of, and Schedule 10 to, the Courts Act 2003 (c. 39), section 31 of, and paragraph 12 of Schedule 7 to, the Criminal Justice Act 2003 (c. 44) and section 153 of the Police Reform and Social Responsibility Act 2011. It is further amended by paragraphs 7 and 8 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44), with effect from a date to be appointed.

(5) 1980 c. 43; section 16F was inserted by section 48 of the Criminal Justice and Courts Act 2015 (c. 2).

(6) 1988 c. 53; section 13(3A) was inserted by section 2 of the Magistrates' Courts (Procedure) Act 1998 (c. 15).