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STATUTORY INSTRUMENTS

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**2020 No. 759**

**The Criminal Procedure Rules 2020**

**PART 9 E+W**

**ALLOCATION AND SENDING FOR TRIAL**

*GENERAL RULES*

**When this Part applies E+W**

**9.1.**—<sup>F1</sup>(1) This Part applies to—

- (a) the allocation and sending of cases to the Crown Court for trial under—
  - (i) sections 17A to 26 of the Magistrates' Courts Act 1980, and
  - (ii) sections 50A to 52 of the Crime and Disorder Act 1998; and
- (b) the sending back or referring of cases to a magistrates' court for trial under—
  - (i) section 46ZA of the Senior Courts Act 1981, and
  - (ii) paragraph 6 of Schedule 3 to the Crime and Disorder Act 1998.]

(2) Rules 9.6 and 9.7 apply in a magistrates' court where the court must, or can, send a defendant to the Crown Court for trial, without allocating the case for trial there.

(3) Rules 9.8 to 9.14 apply in a magistrates' court where the court must allocate the case to a magistrates' court or to the Crown Court for trial.

<sup>F2</sup>(4) Rule 9.15 applies in a magistrates' court where, after applying other rules in this Part, the court can commit for sentence to the Crown Court a defendant who pleads guilty to an offence related to one sent for trial there.]

<sup>F3</sup>(5) Rule 9.16 applies in the Crown Court where the court can send back or refer a defendant to a magistrates' court for trial.]

<sup>F4</sup>[*Note. At the first hearing in a magistrates' court the court may (and in some cases must) order trial in that court, or may (and in some cases must) send the defendant to the Crown Court for trial under section 51 or 51A of the Crime and Disorder Act 1998.*

*The decision depends upon—*

- (a) *the classification of the offence (and the general rule, subject to exceptions, is that an offence classified as triable only on indictment must be sent to the Crown Court for trial; an offence classified as triable only summarily must be tried in a magistrates' court; and an offence classified as triable either way, on indictment or summarily, must be allocated to one or the other court for trial, subject to the defendant's right to choose Crown Court trial : see in particular sections 50A, 51 and 51A of the 1998 Act and section 19 of the Magistrates' Courts Act 1980 );*

**Status:** Point in time view as at 15/08/2022.

**Changes to legislation:** There are currently no known outstanding effects for the Criminal Procedure Rules 2020, Section 9.1. (See end of Document for details)

- (b) *the defendant's age (and the general rule, subject to exceptions, is that an offence alleged against a defendant under 18 must be tried in a magistrates' court sitting as a youth court: see in particular sections 24 and 24A of the 1980 Act );*
- (c) *whether the defendant is awaiting Crown Court trial for another offence;*
- (d) *whether another defendant, charged with the same offence, is awaiting Crown Court trial for that offence;*
- (e) *in some cases (destroying or damaging property; aggravated vehicle taking), whether the value involved is more or less than £5,000; and*
- (f) *in a case of low-value shoplifting, whether the defendant chooses Crown Court trial: see section 22A of the 1980 Act .]*

*[<sup>F5</sup>A magistrates' court's powers] of sending and allocation, including its powers (i) to receive a defendant's indication of an intention to plead guilty (see rules 9.7, 9.8 and 9.13) and (ii) to give an indication of likely sentence (see rule 9.11), may be exercised by a single justice: see sections 51 and 51A(11) of the 1998 Act, and sections 17E, 18(5) and 24D of the 1980 Act(1).]*

*[<sup>F6</sup>The circumstances in which the Crown Court can send back or refer a case for magistrates' court trial are summarised in the note to rule 9.16.]*

#### Textual Amendments

- F1** Rule 9.1(1) substituted (15.8.2022) by The Criminal Procedure (Amendment No. 2) Rules 2022 (S.I. 2022/815), rules 2(e), **9(a)(i)**
- F2** Rule 9.1(4) inserted (4.4.2022) by The Criminal Procedure (Amendment) Rules 2022 (S.I. 2022/45), rules 1, **6(a)**
- F3** Rule 9.1(5) inserted (15.8.2022) by The Criminal Procedure (Amendment No. 2) Rules 2022 (S.I. 2022/815), rules 2(e), **9(a)(ii)**
- F4** Words in rule 9.1 Note substituted (4.10.2021) by The Criminal Procedure (Amendment No. 2) Rules 2021 (S.I. 2021/849), rules 1, **6(a)**
- F5** Words in rule 9.1 substituted (15.8.2022) by The Criminal Procedure (Amendment No. 2) Rules 2022 (S.I. 2022/815), rules 2(e), **9(a)(iii)**
- F6** Words in rule 9.1 inserted (15.8.2022) by The Criminal Procedure (Amendment No. 2) Rules 2022 (S.I. 2022/815), rules 2(e), **9(a)(iv)**

#### Commencement Information

- I1** Rule 9.1 in force at 5.10.2020, see Preamble

(1) 1980 c. 43; section 17E was inserted by paragraphs 1 and 3 of Schedule 3 to the Criminal Justice Act 2003 (c. 44). Section 18 was amended by section 59 of, and paragraph 1 of Schedule 9 to, the Criminal Justice Act 1982 (c. 48), section 68 of, and paragraph 6 of Schedule 8 to, the Criminal Justice Act 1991 (c. 53), section 49 of the Criminal Procedure and Investigations Act 1996 (c. 25), and paragraphs 1 and 4 of Schedule 3 to the Criminal Justice Act 2003 (c. 44). Section 24D was inserted by paragraphs 1 and 10 of Schedule 3 to the Criminal Justice Act 2003 (c. 44).

**Status:**

Point in time view as at 15/08/2022.

**Changes to legislation:**

There are currently no known outstanding effects for the The Criminal Procedure Rules 2020, Section 9.1.