This Statutory Instrument has been published in substitution of the S.I. of the same number which did not reflect the version signed by the Minister. It is therefore being issued free of charge to all known recipients of that Statutory Instrument.

STATUTORY INSTRUMENTS

2024 No. 842 (L. 12)

SENIOR COURTS OF ENGLAND AND WALES

MAGISTRATES' COURTS, ENGLAND AND WALES

The Criminal Procedure (Amendment No. 2) Rules 2024

Made - - - - at 2.15 p.m. on 30th July 2024

Laid before Parliament at 3.50 p.m. on 30th July 2024

Coming into force in accordance with rule 2

The Criminal Procedure Rule Committee makes the following Rules under sections 67B(1), 69 and 86A(2) of the Courts Act 2003(**a**), sections 17ZA(2), 17ZB(2), 17ZC(2) and 24ZA(2) of the Magistrates' Courts Act 1980(**b**) and sections 51(2D), (2E), (3A), (3B) and 51A(3D), (3E), (4A), (4B) of the Crime and Disorder Act 1998(**c**), after consulting in accordance with section 72(1)(a) of the 2003 Act.

Citation and commencement

1. These Rules amend the Criminal Procedure Rules 2020(**d**) and may be cited as the Criminal Procedure (Amendment No. 2) Rules 2024.

2. These Rules come into force on 7th October 2024, save for—

(a) the following, which come into force on the date on which there come into force the amendments to and insertions of sections 17ZA(2), 17ZB(2), 17ZC(2) and 24ZA(2) of the Magistrates' Courts Act 1980 and sections 51(2D), (2E), (3A), (3B) and 51A(3D), (3E), (4A), (4B) of the Crime and Disorder Act 1998 effected by the Judicial Review and Courts Act 2022(**e**)—

(i) rule 6(d)(iii), (iv) and (v),

(ii) rule 7,

(**a**) 2003 c. 39; section 67B was inserted by section 3 of, and paragraph 32 of the Schedule to, the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018 (c. 33). Section 69 was amended by sections 15(1) and 146 of, and paragraphs 308 and 332 of Schedule 4 and Part 2 of Schedule 18 to, the Constitutional Reform Act 2005 (c. 4). Section 86A was inserted by section 162 of the Police, Crime, Sentencing and Courts Act 2022 (c. 32).

(**b**) 1980 c. 43; sections 17ZA, 17ZB and 17ZC are inserted by section 6, and section 24ZA by section 8, of the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

(**c**) 1998 c. 37; sections 51 and 51A are materially amended by section 10 of the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

(**d**) S.I. 2020/759; amended by S.I. 2021/40, 2021/849, 2022/45, 2022/815, 2023/44, 2023/786, 2024/62.

(**e**) 2022 c. 35.

(iii) rule 16, as far as that gives effect to paragraphs 2, 4, 5(a) and 7(a)(i) and (b) of Schedule 2, and

(iv) rule 17;

(b) rule 9, which comes into force on the date on which there comes into force section 46 of the Domestic Abuse Act 2021(**a**); and

(c) the following, which come into force on the date on which there come into force the amendments to and insertions of sections 6, 6A, 6B and 6C of the European Union (Withdrawal) Act 2018(**b**) effected by section 6 of the Retained EU Law (Revocation and Reform) Act 2023(**c**)—

(i) rule 10,

(ii) rule 12, and

(iii) rule 13.

Interpretation

3. In rules 4 to 17 beneath a reference to a Part or rule by number alone means the Part or rule so numbered in the Criminal Procedure Rules 2020.

Amendments to the Criminal Procedure Rules

4. In Part 2 (Understanding and applying the rules; powers of authorised court officers), in rule 2.7 (Exercise of functions of the Crown Court)—

(a) at the end of paragraph (2)(b) omit "and";

(b) at the end of paragraph (2)(c) insert "and"; and

(c) after paragraph (2)(c) insert—

"(d) issue a summons under section 80 of the Senior Courts Act 1981(**d**) in proceedings to which rule 32.2 applies (application, etc. in relation to the breach, revocation or amendment of a community or other order).".

5. In Part 4 (Service of documents) in rule 4.11 (Date of service) for paragraph (2)(d) substitute—

"(d) in the case of a document served by electronic means—

(i) on the day on which the document is sent under rule 4.6(2)(a) or on which notice of its deposit is given under rule 4.6(2)(b), if that day is a business day and if the document is so sent or that notice is given by no later than 2.30pm that day,

(ii) if the document is an application for permission to refer a sentencing case under rule 41.2 (Service of notice of reference and application for permission), on the day on which the document is so sent or on which notice of its deposit is so given if that day is a business day and if that document is sent or the notice given by no later than 5pm that day,

(iii) in an extradition appeal case in the High Court, on the day on which the document is so sent or on which notice of its deposit is so given if that day is a business day and if the document is sent or the notice given by no later than 4.30pm that day (or by no later than midnight at the end of that day if the

(**a**) 2021 c. 17; section 46 comes into force on a date to be appointed.

(**b**) 2018 c. 16; section 6 was amended by section 26 of the European Union (Withdrawal Agreement) Act 2020 (c. 1) and sections 4 and 22 of, and paragraph 8 of Schedule 2 to, the Retained EU Law (Revocation and Reform) Act 2023 (c. 28). It is further amended, and sections 6A, 6B and 6C are inserted, by section 6 of the 2023 Act with effect from a date to be appointed.

(**c**) 2023 c. 28.

(**d**) 1981 c. 54; section 80 was amended by section 41 of, and paragraph 54 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44).

document is an appeal notice served under rule 50.19 (Service of appeal notice)),

(iv) on the day of its deposit under rule 4.6(2)(b), if that day is a business day and if under rule 4.6(3)(b) no notice of deposit is required, or

(v) otherwise, on the next business day after it was sent, deposited or such notice was given; and".

6. In Part 5 (Forms and court records)—

(a) in rule 5.4 (Duty to make records)—

(i) at the end of paragraph (1)(m) omit "and",

(ii) at the end of paragraph (1)(n) insert "and", and

(iii) after paragraph (1)(n) insert—

"(o) any order made by the court on an application under rule 5.8(8) which prohibits a supply of information by the court officer without the court's permission.";

(b) in rule 5.8 (Request for information about a case)—

(i) at the end of paragraph (1)(a) for "but" substitute "and",

(ii) renumber paragraph (1)(b) as (1)(c),

(iii) after paragraph (1)(a) insert—

"(b) applies where a party or other person wants the court to prohibit a supply of information without the court's permission which affects that party or person and which otherwise would be required by this rule; but",

(iv) in paragraph (3) for "The request" substitute "A request for information",

(v) for paragraph (4)(b) substitute—

"(b) the statement of each alleged offence (but not the particulars of offence) and any plea entered;",

(vi) in paragraph(4)(c)(ii) after "bail condition" insert "(but not the terms of any such condition)",

(vii) for paragraph (5)(a) substitute—

"(a) the supply of that information is prohibited by—

(i) a reporting restriction, or

(ii) an order made on an application under paragraph (8);", and

(viii) after paragraph (7) insert—

"(8) Where a party or other person wants the court to prohibit a supply of information without the court's permission which affects that party or person and which otherwise would be required by this rule—

(a) that party or person must serve an application on the court officer;

(b) the application must—

(i) specify the information to which the applicant wants the prohibition to apply,

(ii) explain why that information affects that party or person, and

(iii) explain why the applicant wants the court to prohibit the supply of that information without the court's permission; and

(c) rule 5.10 applies.";

(c) in rule 5.10 (Request for information determined by the court)—

(i) for the heading to the rule substitute "Request or application determined by the court",

(ii) for paragraph (1) substitute—

"(1) This rule applies where—

(a) the court officer refers to the court a request for information under rule 5.8 (Request for information about a case) or rule 5.9. (Request for information by a party or person directly affected by a case); or

(b) a party or other person applies to the court under rule 5.8(8) to prohibit a supply of information without the court's permission.",

(iii) for paragraph (2)(a) substitute—

"(a) serve a request for information on a party or person likely to be affected by it, including—

(i) the applicant for any direction, order or warrant that the request concerns which was made or issued in the absence of the party or person making the request,

(ii) the applicant under rule 5.8(8) for a prohibition that affects the request (or may do so, where that application has yet to be determined), and

(iii) anyone else, and to such extent, as the court directs; and",

(iv) in paragraph (3) for the words before sub-paragraph (a) substitute "If a party or person served with a request for information objects to the supply of the information requested the objector must",

(v) in each of paragraphs (4), (5) and (8) after "notice of objection" insert "to a request for information",

(vi) in paragraph (6), in the words before sub-paragraph (a) for "the request" substitute "a request for information",

(vii) for paragraph (7) substitute—

"(7) The court may determine a request for information or an application under rule 5.8(8)—

(a) at a hearing in public or private, or without a hearing; but

(b) any hearing must be in private, unless the court otherwise directs—

(i) where a request for information concerns a direction, order or warrant made or issued in the absence of the party or person making the request, or

(ii) on an application under rule 5.8(8).",

(viii) in paragraph (9) for the words before sub-paragraph (a) substitute "In deciding whether to order a supply of information requested or to prohibit a supply of information by the court officer without the court's permission the court must have regard to", and

(ix) in paragraph (10) for "the information requested" substitute "information";

(d) in rule 5.11 (Publication of information about court hearings, etc.)—

(i) for paragraph (2)(d)(ii) substitute—

"(ii) the statement of each alleged offence (but not the particulars of offence)",

(ii) subject to sub-paragraph (iv) of this paragraph when it comes into force, for paragraph (4)(c) substitute—

"(c) the statement of each alleged offence (but not the particulars of offence); and",

(iii) renumber paragraph (5) as (6),

(iv) for paragraphs (3) and (4) substitute—

"(3) Paragraph (4) applies where—

(a) the defendant responds in writing to a notice under—

(i) rule 9.8 (Sending by written procedure for Crown Court trial), or

(ii) rule 9.10 (Request by written procedure for plea indication);

(b) the defendant is sent by written notice to the Crown Court for trial under—

(i) rule 9.8 (Sending by written procedure for Crown Court trial), or

(ii) rule 9.23 (Sending after allocation for Crown Court trial); or

(c) 15 business days have expired after service on the defendant of a written charge and other documents under rule 24.9 (Single justice procedure: special rules).

(4) The court officer must—

(a) publish the information listed in paragraph (5)—

(i) if that information is available to the court officer, and

(ii) unless the publication of that information is prohibited by a reporting restriction; and

(b) publish that information by such arrangements as the Lord Chancellor directs, including arrangements for publication by electronic means (but only to the extent needed to comply with the open justice principle)—

(i) until the case is sent to the Crown Court or allocated to a magistrates' court for trial, where paragraph (3)(a) applies, or

(ii) for no longer than 5 business days, in any other case.

(5) The information that paragraph (4) requires the court officer to publish is—

(a) in every case—

(i) the identity of the defendant,

(ii) the identity of the prosecutor,

(iii) the statement of each alleged offence (but not the particulars of offence), and

(iv) such information as it may be practicable to publish about any reporting restriction that applies;

(b) where paragraph (3)(a) applies (defendant participating by written procedure), the date and place of the public hearing at which the defendant is due to attend if the case is not sent to the Crown Court or allocated to a magistrates' court for trial by a written procedure; and

(c) where paragraph (3)(b) applies (defendant sent by written notice to the Crown Court)—

(i) the decision made, including any decision to grant or withhold bail and, if bail was granted, any decision to impose a condition or conditions (but not the terms of any such condition),

(ii) the identity of the court which made the decision, and

(iii) the date and place of the public hearing at which the decision requires the defendant to attend.", and

(v) at the end of the note to the rule insert—

"*Under section 52A of the Crime and Disorder Act 1998*(**a**)*, only the matters listed in that section may be contained in a report of allocation and sending proceedings unless the court otherwise directs. By section 52A(10) that restriction applies in addition to any other reporting restriction applicable. See also Part 6 (Reporting, etc. restrictions).*"; and

(e) amend the table of contents correspondingly.

7. For Part 9 (Allocation and sending for trial) substitute the Part set out in Schedule 1 to these Rules.

8. In Part 28 (Sentencing procedures in special cases and on committal for sentence, etc.)—

(**a**) 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).

(a) in rule 28.1 (Reasons for not following usual sentencing requirements)—

(i) at the beginning of paragraph (1)(d) insert "under section 74 or section 388 of the Sentencing Act 2020(**a**),", and

(ii) in the first paragraph of the note to the rule for "section 74 of the 2020 Act" substitute "sections 74 and 388 of the 2020 Act";

(b) in rule 28.11 (Application to review sentence because of assistance given or withheld)—

(i) for the heading to the rule substitute "Assistance to an investigator, etc.: applications under the Sentencing Act 2020", and

(ii) for paragraph (1) substitute—

"(1) This rule applies where on application by the prosecutor the Crown Court can—

(a) reduce a sentence that it passes, under section 74 or section 388 of the Sentencing Act 2020 (assistance or agreement to assist before or after sentence); or

(b) increase a sentence that it has passed, under section 387 of the Sentencing Act 2020(**b**) (failure after sentence to give agreed assistance).";

(c) renumber rule 28.12 (Sentencing, etc. after committal to the Crown Court) as 28.13;

(d) after rule 28.11 insert—

"**Assistance to an investigator, etc.: confidential information for the sentencing court**

28.12.—(1) This rule applies where in the exercise of its inherent power the court can reduce a sentence that it passes in a case in which the defendant has assisted an investigator or prosecutor before being sentenced.

(2) An officer who has not been involved in the investigation or prosecution in respect of which the defendant is to be sentenced must prepare a text for the sentencing court which—

(a) describes the capacity in which the defendant provided assistance, and in particular whether the defendant is a covert human intelligence source with the meaning of the Regulation of Investigatory Powers Act 2000(**c**);

(b) gives details of the assistance provided;

(c) describes the effort expended by the defendant in obtaining such information as has been supplied;

(d) gives an indication of whether the defendant is willing to give evidence in support of a prosecution;

(e) assesses the risk, if any, to the defendant or to the defendant's family or associates occasioned by the assistance provided;

(f) assesses the benefit already derived by investigating or prosecuting agencies in consequence of the assistance provided, and in particular give details of any related arrest, conviction or recovery or confiscation of property;

(g) gives details of any financial reward received by the defendant for the assistance;

(h) assesses the potential future use of assistance provided or expected from the defendant; and

(i) includes a statement of whether the defendant does or does not wish any legal representative or advocate acting for the defendant to be made aware of the existence of the text.

(3) Before the court passes sentence—

(a) the officer who prepared the text must—

(**a**) 2020 c. 17; section 74 was amended by section 10 of the Counter-Terrorism and Sentencing Act 2021 (c. 11) and is further amended by section 408 of, and paragraph 38B of Schedule 22 to, the 2020 Act with effect from a date to be appointed.
(**b**) 2020 c. 17.
(**c**) 2000 c. 23.

(i) arrange for its delivery in confidence to the sentencing court and for its subsequent return to the officer, and

(ii) ensure that the prosecution advocate is aware of the existence of the text and of its content; and

(b) the sentencing court—

(i) must consider the content of the text,

(ii) by signature, initial or other endorsement on the text must indicate that it has been considered, and

(iii) must not make, or allow to be made, any other court record of the receipt and consideration of the text.

(4) When passing sentence the court must not—

(a) refer, directly or indirectly, to the text; or

(b) include in the explanation of sentence required by rule 24.11(9) or rule 25.16(7) any indication of the extent, if any, of the effect on sentence of the content of the text.

(5) In the event of an appeal in which the defendant's sentence is or may be in issue—

(a) the officer who prepared the text must arrange for its delivery in confidence to the appeal court and for its subsequent return to the officer; and

(b) the appeal court must take such measures as may be required to maintain the confidentiality of the text.

[Note. Under section 26(8) of the Regulation of Investigatory Powers Act 2000 a person is a covert human intelligence source if that person (a) establishes or maintains a personal or other relationship with a person for the covert purpose of facilitating the doing of anything falling within (b) or (c); (b) covertly uses such a relationship to obtain information or to provide access to any information to another person; or (c) covertly discloses information obtained by the use of such a relationship, or as a consequence of the existence of such a relationship.]"; and

(e) amend the table of contents correspondingly.

9. In Part 34 (Appeal to the Crown Court), in rule 34.2 (Service of appeal and respondent's notices)—

(a) for paragraph (1) substitute—

"(1) An appellant must serve an appeal notice—

(a) in every case, on the magistrates' court officer;

(b) on the prosecutor, where the defendant is the appellant; and

(c) on the defendant, where the prosecutor is the appellant.";

(b) after paragraph (5) insert—

"(6) Where the appeal is about the variation or discharge of a domestic abuse protection order, the magistrates' court officer must serve the appeal notice on—

(a) the defendant, unless the defendant is the appellant;

(b) each relevant Chief Officer of Police who is not the appellant; and

(c) any other person if the court so directs."; and

(c) at the end of the note to the rule insert—

"*Section 47 of the Domestic Abuse Act 2021*(**a**) *lists those who are relevant Chief Officers of Police for the purposes of an appeal under section 46 of that Act.*".

(**a**) 2021 c. 17; section 47 comes into force on a date to be appointed.

10. In Part 36 (Appeal to the Court of Appeal: general rules)—

(a) in rule 36.6 (Hearings) in paragraph (1)(a) after "permission to appeal" insert "or to accept a reference of a point of law";

(b) for rule 36.12 (Declaration of incompatibility with a Convention right) substitute—

"**Notice of opportunity to intervene**

36.12.—(1) This rule applies where—

(a) a party—

(i) wants the court to make a declaration of incompatibility with a Convention right under section 4 of the Human Rights Act 1998(**a**), or

(ii) raises an issue that the Registrar thinks may lead the court to make such a declaration; or

(b) the court considers an argument that the court should depart from assimilated case law under section 6 of the European Union (Withdrawal) Act 2018(**b**)—

(i) on a reference by a magistrates' court or the Crown Court under rule 41.6 (Reference of point of law by a court), or

(ii) in any other case before the court to which neither the Attorney General nor the Counsel General for Wales already is a party.

(2) The Registrar must serve notice on—

(a) where paragraph (1)(a) applies—

(i) the relevant person named in the list published under section 17(1) of the Crown Proceedings Act 1947(**c**), or

(ii) the Treasury Solicitor, if it is not clear who is the relevant person; or

(b) where paragraph (1)(b) applies, those entitled to notice under section 6C(2) of the 2018 Act(**d**).

(3) That notice must include or attach details of—

(a) the legislation affected and the Convention right concerned where paragraph (1)(a) applies,

(b) the assimilated case law affected where paragraph (1)(b) applies;

(c) the parties to the case; and

(d) any other information or document that the Registrar thinks relevant.

(4) A person who has a right under section 5 of the 1998 Act(**e**) or under section 6C of the 2018 Act to become a party to the case must—

(a) serve notice on—

(i) the Registrar, and

(ii) the other parties,

if that person wants to exercise that right; and

(b) in that notice—

(**a**) 1998 c. 42; section 4 was amended by section 40 of, and paragraph 66 of Schedule 9 to, the Constitutional Reform Act 2005 (c. 4), section 67 of, and paragraph 43 of Schedule 6 to, the Mental Capacity Act 2005 (c. 9) and section 61 of, and paragraph 5 of Schedule 14 to, the Crime and Courts Act 2013 (c. 22).

(**b**) 2018 c. 16; section 6 was amended by section 26 of the European Union (Withdrawal Agreement) Act 2020 (c. 1) and sections 4 and 22 of, and paragraph 8 of Schedule 2 to, the Retained EU Law (Revocation and Reform) Act 2023 (c. 28). It is further amended by section 6 of the 2023 Act with effect from a date to be appointed.

(**c**) 1947 c. 44; section 17 was amended by article 3(2) of S.I. 1968/1656.

(**d**) 2018 c. 16; section 6C is inserted by section 6 of the Retained EU Law (Revocation and Reform) Act 2023 (c. 28) with effect from a date to be appointed.

(**e**) 1998 c. 42; section 5 was amended by section 40 of, and paragraph 66 of Schedule 9 to, the Constitutional Reform Act 2005 (c. 4).

(i) indicate the conclusion that that person invites the court to reach on the matter raised, and

(ii) identify each ground for that invitation, concisely outlining the arguments in support.

(5) The court must not reach a conclusion on the matter raised—

(a) less than—

(i) 15 business days after the Registrar serves notice under paragraph (2)(a), or

(ii) 20 business days after the Registrar serves notice under paragraph (2)(b); and

(b) without giving a person who serves a notice under paragraph (4) an opportunity to make representations at a hearing."; and

(c) amend the table of contents correspondingly.

11. In Part 37 (Appeal to the Court of Appeal against ruling at preparatory hearing) for the title to the Part substitute "Appeal to the Court of Appeal against ruling at preparatory hearing or in response to jury tampering".

12. In Part 41 (Reference to the Court of Appeal of point of law or unduly lenient sentencing)—

(a) in rule 41.1 (When this Part applies)—

(i) for the words of the rule substitute—

"**41.1.** This Part applies where—

(a) the Attorney General wants to refer to the Court of Appeal—

(i) a point of law under section 36 of the Criminal Justice Act 1972(**a**), or

(ii) a sentencing case under section 36 of the Criminal Justice Act 1988(**b**);

(b) the Attorney General or the Counsel General for Wales wants to refer to the Court of Appeal a point of law under section 6B of the European Union (Withdrawal) Act 2018(**c**); or

(c) a magistrates' court or the Crown Court decides to refer to the Court of Appeal a point of law under section 6A of the European Union (Withdrawal) Act 2018(**d**).", and

(ii) after the second paragraph of the note to the rule insert—

"*Under section 6A of the European Union (Withdrawal) Act 2018, where a magistrates' court or the Crown Court must apply assimilated case law, as defined in section 6 of that Act, then unless that assimilated case law is case law of the Supreme Court the court can refer to the Court of Appeal for decision one or more points of law (i) which arise on the interpretation or application of that case law, (ii) which are relevant to a case proceeding in the referring court, and (iii) which the referring court considers to be of general public importance. (Assimilated case law of the Supreme Court must be referred direct to that court.)*

(**a**) 1972 c. 71; section 36 was amended by section 31 of, and paragraph 8 of Schedule 1 to, the Prosecution of Offences Act 1985 (c. 23), section 148 of, and paragraph 23 of Schedule 9 to, the Constitutional Reform Act 2005 (c. 4) and section 151 of, and paragraph 9 of Schedule 7 to, the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).

(**b**) 1988 c. 33; section 36 was amended by section 272 of, and paragraphs 45 and 46 of Schedule 32 and paragraph 96 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44), section 40 of, and paragraph 48 of Schedule 9 to, the Constitutional Reform Act 2005 (c. 4), sections 49 and 65 of, and paragraph 3 of Schedule 1 and Schedule 5 to, the Violent Crime Reduction Act 2006 (c. 38), sections 46, 148 and 149 of, and paragraphs 22 and 23 of Schedule 26 and Part 3 of Schedule 28 to, the Criminal Justice and Immigration Act 2008 (c. 4), paragraph 2 of Schedule 19 and paragraphs 4 and 5 of Schedule 26 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), section 28 of, and paragraph 2 of Schedule 5 to, the Criminal Justice and Courts Act 2015 (c. 2) and section 416 of, and paragraphs 89 and 267 of Schedule 24 to, the Sentencing Act 2020 (c. 17).

(**c**) 2018 c. 16; section 6B is inserted by section 6 of the Retained EU Law (Revocation and Reform) Act 2023 (c. 28) with effect from a date to be appointed.

(**d**) 2018 c. 16; section 6A is inserted by section 6 of the Retained EU Law (Revocation and Reform) Act 2023 (c. 28) with effect from a date to be appointed.

Under section 6B of the 2018 Act the Attorney General can refer such a point of law which arose in a case in a magistrates' court or the Crown Court which has ended.";

(b) in rule 41.2 (Service of notice of reference and application for permission)—

(i) in paragraph (1) after "notice" insert "of reference of a point of law under section 36 of the Criminal Justice Act 1972" and after "sentencing case" insert "under section 36 of the Criminal Justice Act 1988",

(ii) in paragraph (2) after "refers" insert "such",

(iii) in paragraph (3) and in paragraph (4) after "permission to refer" insert "such",

(iv) after paragraph (4) insert—

"(5) The Attorney General or the Counsel General for Wales must serve any notice of reference of a point of law under section 6B of the European Union (Withdrawal) Act 2018 on—

(a) the Registrar;

(b) the defendant; and

(c) each other law officer listed in section 6B(2).

(6) A reference to which paragraph (5) applies must be served not more than 6 months after—

(a) the last day on which an appeal in the case could have been made, if there has been no appeal; or

(b) the day on which any such appeal finally was dealt with.", and

(v) for the note to the rule substitute—

"*[Note. The time limit for serving an application for permission to refer a sentencing case is prescribed by paragraph 1 of Schedule 3 to the Criminal Justice Act 1988*(**a**)*. The time limit for serving a reference of a point of law under section 6B of the European Union (Withdrawal) Act 2018 is prescribed by section 6B(3). Neither time limit may be extended or shortened.]*";

(c) in rule 41.3 (Form of notice and reference and application for permission)—

(i) in paragraph (1) after "sentencing case" insert "under rule 41.2",

(ii) in paragraph (2), in the words before sub-paragraph (a), after "point of law" insert "under section 36 of the Criminal Justice Act 1972",

(iii) in paragraph (2)(a) for "opinion" substitute "conclusion on the matter raised" and for "give" substitute "reach",

(iv) in paragraph (3) after "sentencing case" insert "under section 36 of the Criminal Justice Act 1988",

(v) in paragraph (6) after "notice of reference" insert "under paragraph (2) or (4)", and

(vi) after paragraph (6) insert—

"(7) A notice of reference of a point of law under section 6B of the European Union (Withdrawal) Act 2018 must—

(a) confirm that the conditions for making a reference listed in section 6B(1) are met;

(b) specify the point of law in issue and explain the relevance of that point of law to the proceedings which have ended;

(c) indicate the conclusion on the matter raised that the Attorney General or the Counsel General for Wales (as the case may be) invites the court to reach;

(d) identify each ground for that invitation, numbering them consecutively (if there is more than one) and concisely outlining each argument in support;

(**a**) 1988 c. 33.

(e) summarise the relevant facts; and

(f) identify any relevant authorities.";

(d) in rule 41.4 (Respondent's notice) in paragraph (1) after "defendant on whom" insert "under rule 41.2" and after "point of law" insert "under section 36 of the Criminal Justice Act 1972";

(e) in rule 41.5 (Variation or withdrawal of notice of reference or application for permission) in paragraph (1) after "notice of reference" insert "under rule 41.2";

(f) renumber rules 41.6 (Right to attend hearing) and 41.7 (Anonymity of defendant on reference of point of law) as 41.7 and 41.8 respectively;

(g) after rule 41.5 insert—

"**Reference of point of law by a court**

41.6.—(1) A magistrates' court or the Crown Court—

(a) may refer to the Court of Appeal a point of law arising on assimilated case law, other than case law of the Supreme Court, under section 6A of the European Union (Withdrawal) Act 2018—

(i) on application by a party, or

(ii) on the referring court's own initiative; and

(b) may direct the preparation of the reference by a party.

(2) Such a reference must—

(a) specify—

(i) the assimilated case law concerned, and

(ii) the point or points of law referred;

(b) identify the referring court and the prosecutor in the case;

(c) summarise—

(i) the nature and history of the case,

(ii) the relevant facts, and

(iii) the relevant contentions of the parties;

(d) explain why the referring court—

(i) considers the point or points of law referred to be relevant to the case proceeding in that court, and

(ii) why that court considers that point or those points of law to be of general public importance; and

(e) exclude any reference to the defendant's name and any other information that may identify the defendant.

(3) The court officer for the referring court must—

(a) serve the reference on the Registrar; and

(b) give the Registrar details of the defendant affected.";

(h) in rule 41.7, as renumbered, for "respondent" substitute "defendant" in each place it occurs; and

(i) amend the table of contents correspondingly.

13. In Part 43 (Appeal or reference to the Supreme Court)—

(a) in rule 43.1 (When this Part applies)—

(i) at the end of paragraph (1)(a)(i) omit "or",

(ii) after paragraph (1)(a)(ii) insert—

"(iii) a reference to the Court of Appeal to which Part 41 applies (Reference to the Court of Appeal of point of law or unduly lenient sentencing) made under section 6A or 6B of the European Union (Withdrawal) Act 2018(**a**); or",

(iii) in paragraph (1)(b) for "(Reference to the Court of Appeal of point of law or unduly lenient sentencing)" substitute "made under section 36 of the Criminal Justice Act 1972(**b**) or section 36 of the Criminal Justice Act 1988(**c**)", and

(iv) after the seventh paragraph of the note to the rule insert—

(v) for the note to the rule substitute—

"*Under section 6A(8) or section 6B(7) of the European Union (Withdrawal) Act 2018 a party may appeal to the Supreme Court from a decision of the Court of Appeal on a reference to that court under either of those sections. See also Part 41.*"; and

(b) in rule 43.2 (Application for permission or reference)—

(i) in the second paragraph of the note to the rule, in the second sentence, for "Under those provisions," substitute "Under each of those provisions, except for section 6A(8) or section 6B(7) of the European Union (Withdrawal) Act 2018,", and

(ii) in the third paragraph of the note to the rule after "certificate" insert ", where required,".

14. In Part 47 (Investigation orders and warrants), in Section 5: Orders for the retention of fingerprints, etc.—

(a) in rule 47.42 (When this Section applies)—

(i) in paragraph (a) before "a District Judge (Magistrates' Courts)" insert "a magistrates' court consisting of",

(ii) at the end of paragraph (a)(i) omit "or",

(iii) at the end of paragraph (a)(ii) for "and" substitute "or",

(iv) after paragraph (a)(ii) insert—

"(iii) paragraph 20(6) or 25(9) of Schedule 6 to the National Security Act 2023(**d**); and",

(v) at the end of paragraph (b)(i) omit "or",

(vi) at the end of paragraph (b)(ii) insert "or",

(vii) after paragraph (b)(ii) insert—

"(iii) paragraph 20(9) of Schedule 6 to the National Security Act 2023.", and

(viii) in the note to the rule for "or under the Terrorism Act 2000(**e**)" substitute ", under the Terrorism Act 2000 or under the National Security Act 2023";

(b) in rule 47.44 (Application to extend retention period)—

(i) at the end of paragraph (1)(a)(ii) omit "or",

(ii) at the end of paragraph (1)(a)(iii) insert "or",

(**a**) 2018 c. 16; sections 6A and 6B are inserted by section 6 of the Retained EU Law (Revocation and Reform) Act 2023 (c. 28) with effect from a date to be appointed.

(**b**) 1972 c. 71; section 36 was amended by section 31 of, and paragraph 8 of Schedule 1 to, the Prosecution of Offences Act 1985 (c. 23), section 148 of, and paragraph 23 of Schedule 9 to, the Constitutional Reform Act 2005 (c. 4) and section 151 of, and paragraph 9 of Schedule 7 to, the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).

(**c**) 1988 c. 33; section 36 was amended by section 272 of, and paragraphs 45 and 46 of Schedule 32 and paragraph 96 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44), section 40 of, and paragraph 48 of Schedule 9 to, the Constitutional Reform Act 2005 (c. 4), sections 49 and 65 of, and paragraph 3 of Schedule 1 and Schedule 5 to, the Violent Crime Reduction Act 2006 (c. 38), sections 46, 148 and 149 of, and paragraphs 22 and 23 of Schedule 26 and Part 3 of Schedule 28 to, the Criminal Justice and Immigration Act 2008 (c. 4), paragraph 2 of Schedule 19 and paragraphs 4 and 5 of Schedule 26 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), section 28 of, and paragraph 2 of Schedule 5 to, the Criminal Justice and Courts Act 2015 (c. 2) and section 416 of, and paragraphs 89 and 267 of Schedule 24 to, the Sentencing Act 2020 (c. 17).

(**d**) 2023 c. 32.

(**e**) 2000 c. 11.

(iii) after paragraph (1)(a)(iii) insert—

"(iv) under a power conferred by Schedule 6 to the National Security Act 2023 in relation to a person detained under section 27 of that Act(**a**);",

(iv) in the second paragraph of the note to the rule omit "and", in the second place it occurs, and after "Schedule 8 to the Terrorism Act 2000" insert "and by paragraphs 20(7) and 25(8) of Schedule 6 to the National Security Act 2023",

(v) in the third paragraph of the note to the rule omit "and", in the second place it occurs, and after "Schedule 8 to the 2000 Act" insert "and paragraphs 19 and 24 of Schedule 6 to the 2023 Act",

(vi) in the fourth paragraph of the note to the rule in the first sentence omit "and", in the first place it occurs, and after "Schedule 8 to the 2000 Act" insert "and paragraph 20 of Schedule 6 to the 2023 Act",

(vii) in the fourth paragraph of the note to the rule for the second sentence substitute "Under section 63F(7) of the 1984 Act(**b**), paragraph 20B(5) of Schedule 8 to the 2000 Act(**c**) and paragraph 20(6) of Schedule 6 to the 2023 Act a chief officer of police to whom those provisions apply may apply for an order extending the statutory retention period of 3 years by up to another 2 years.",

(viii) in the fifth paragraph of the note to the rule in the first sentence omit "and" and after "Schedule 8 to the 2000 Act" insert "and paragraph 25 of Schedule 6 to the 2023 Act",

(ix) in the fifth paragraph of the note to the rule in the second sentence omit "and" and after "Schedule 8 to the 2000 Act" insert "and paragraph 25(6) of Schedule 6 to the 2023 Act", and

(x) in the fifth paragraph of the note to the rule for the third sentence substitute "Under section 63R(9) of the 1984 Act(**d**), paragraph 20G(9) of Schedule 8 to the 2000 Act(**e**) and paragraph 25(9)(b) of Schedule 6 to the 2023 Act such an order may be renewed, on one or more occasions, for a further period of not more than 12 months from the end of the period when the order would otherwise cease to have effect."; and

(c) in rule 47.45 (Appeal) in the note to the rule omit "and", in the second place it occurs, and after "Schedule 8 to the Terrorism Act 2000" insert "and under paragraph 20(9) of Schedule 6 to the National Security Act 2023".

15. In Part 50 (Extradition), in Section 3: Appeal to the High Court—

(a) in rule 50.19 (Service of appeal notice), in the first paragraph of the note to the rule—

(i) at the end of sub-paragraph (a) omit "and",

(ii) at the end of sub-paragraph (b) insert "and", and

(iii) after sub-paragraph (b) insert—

"*(c) where the time for appeal otherwise would expire at a weekend or on a public holiday it is treated as expiring at the end of the next business day.*"; and

(b) in rule 50.20 (Form of appeal notice), for paragraphs (2) and (3) substitute—

"(2) In every case, the appeal notice must—

(**a**) 2023 c. 32.

(**b**) 1984 c. 60; section 63F was inserted by section 3 of the Protection of Freedoms Act 2012 (c. 9) and amended by section 70 of the Policing and Crime Act 2017 (c. 3), paragraph 2 of Schedule 2 to the Counter-Terrorism and Border Security Act 2019 (c. 3) and paragraph 4 of Schedule 18 to the National Security Act 2023 (c. 32).

(**c**) 2000 c. 11; paragraph 20B of Schedule 8 was inserted by section 19 of, and paragraph 1 of Schedule 1 to, the Protection of Freedoms Act 2012 (c. 9) and amended by section 181 of, and paragraph 125 of Schedule 11 to, the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12) and section 71 of the Policing and Crime Act 2017 (c. 3).

(**d**) 1984 c. 60; section 63R was inserted by section 14 of the Protection of Freedoms Act 2012 (c. 9).

(**e**) 2000 c. 11; paragraph 20G of Schedule 8 was inserted by section 19 of, and paragraph 1 of Schedule 1 to, the Protection of Freedoms Act 2012 (c. 9).

(a) specify—

(i) the date of the defendant's arrest under Part 1 or Part 2 of the Extradition Act 2003, and

(ii) the decision about which the appellant wants to appeal, including the date of that decision;

(b) identify each ground of appeal on which the appellant relies;

(c) summarise the relevant facts;

(d) include or attach a copy of—

(i) the warrant or the request for the defendant's extradition,

(ii) any material served by the authority or territory requesting the defendant's extradition in support of the warrant or the request,

(iii) the reasons for the decision about which the appellant wants to appeal, or a note of those reasons agreed between the parties and approved by the magistrates' court, and

(iv) any other document or material on which the appellant relies; and

(e) include or attach a list of those on whom the appellant has served the appeal notice.

(3) If an appeal notice omits information, a document or material required by paragraph (2), then unless the High Court otherwise directs—

(a) the High Court officer must serve on the appellant a notice—

(i) identifying the omission or omissions, and

(ii) requiring the supply of the missing information, document or material within a period specified in the notice;

(b) the appellant must comply with that requirement; and

(c) if within the period specified in the notice the missing information, document or material has not been supplied, the High Court may exercise its power—

(i) to reject the appeal notice, and

(ii) to dismiss the application for permission to appeal in consequence of that rejection.".

Consequential amendments and corrections

16. Schedule 2 to these Rules, which makes amendments in consequence of those made by rules 6(c), 7, 8(c) and 11 of these Rules and which makes other corrections, has effect.

Amendments to the preamble to the Criminal Procedure Rules

17. In the preamble to the Criminal Procedure Rules 2020, in sub-paragraph (b)—

(a) in the first column, headed "Rule", beginning immediately beneath the entry for rule 9.2 insert successive entries for rules 9.8, 9.10, 9.11, 9.12, 9.19 and 9.23; and

(b) in the second column, headed "Power"—

(i) for the entry corresponding with rule 9.2 substitute "Sections 51(3A), (3B) and 51A(4A), (4B) of the Crime and Disorder Act 1998(**a**) and section 86A(2) of the Courts Act 2003(**b**)",

(ii) in the position corresponding with rule 9.8 insert "Sections 51(2D), (2E) and 51A(3D), (3E) of the Crime and Disorder Act 1998",

(**a**) 1998 c. 37; sections 51 and 51A are materially amended by section 10 of the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

(**b**) 2003 c. 39; section 86A was inserted by section 162 of the Policing and Crime Act 2017 (c. 3).

(iii) in the position corresponding with rule 9.10 insert "Section 17ZA(2) of the Magistrates' Courts Act 1980(**a**)",

(iv) in the position corresponding with rule 9.11 insert "Sections 17ZA(2) and 17ZB(2) of the Magistrates' Courts Act 1980(**b**)",

(v) in the position corresponding with rule 9.12 insert "Sections 17ZA(2) and 17ZC(2) of the Magistrates' Courts Act 1980(**c**)",

(vi) in the position corresponding with rule 9.19 insert "Section 24ZA(2) of the Magistrates' Courts Act 1980(**d**)", and

(vii) in the position corresponding with rule 9.23 insert "Sections 51(2D), (2E) and 51A(3D), (3E) of the Crime and Disorder Act 1998.".

Carr of Walton-on-the-Hill, C.J.
Holroyde, L.J.
William Davis, L.J.
Foster, J.
Patrick Field
Heather Norton
Michael Snow
David Barrand
Amy McEvoy
Ed Lidington
Stephen Parkinson
Alison Pople
Paul Jarvis
Folashade Abiodun
Edmund Smyth
Rob Nixon
Rebecca White
Robert Thomas

I allow these Rules, which shall come into force on 7th October 2024.

Shabana Mahmood
Lord Chancellor
Ministry of Justice

At 2.15 p.m. on 30th July 2024

(**a**) 1980 c. 43; section 17ZA is inserted by section 6 of the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.
(**b**) 1980 c. 43; section 17ZB is inserted by section 6 of the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.
(**c**) 1980 c. 43; section 17ZC is inserted by section 6 of the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.
(**d**) 1980 c. 43; section 24ZA is inserted by section 8 of the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

SCHEDULE 1

Rule 7

"PART 9

ALLOCATION AND SENDING FOR TRIAL

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Sending back, etc. for magistrates' court trial

Sending back or referring case for magistrates' court trial — rule 9.25

When this Part applies

9.1.—(1) This Part applies to—

(a) the allocation and sending of cases for trial under—

(i) sections 17ZA to 26 of the Magistrates' Courts Act 1980(**a**), and

(ii) sections 50A to 52 of the Crime and Disorder Act 1998(**b**); 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(**c**), and

(ii) paragraph 6 of Schedule 3 to the Crime and Disorder Act 1998(**d**).

(2) Rules 9.7 to 9.9 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 9.10 to 9.23 apply in a magistrates' court where the court must allocate the case to a magistrates' court or to the Crown Court for trial.

(4) Rule 9.24 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.

(5) Rule 9.25 applies in the Crown Court where the court can send back or refer a defendant to a magistrates' court for trial.

[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(**e**)*. 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

(**a**) 1980 c. 43; sections 17ZA, 17ZB and 17ZC are inserted by section 6 of the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed. Sections 17A to 17C were inserted by section 49 of the Criminal Procedure and Investigations Act 1996 (c. 25). Section 17BA is inserted by section 7 of the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed. Sections 17D and 17E were inserted by section 336 of, and paragraph 3 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44). Section 20A was inserted by section 336 of, and paragraph 6 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44). Section 22A was inserted by sections 176 and 185 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12). Sections 24ZA and 24ZB are inserted by section 8 of the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed. Sections 24A, 24B, 24C and 24D were inserted by section 336 of, and paragraph 10 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44). Section 24BA is inserted by section 9 of the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed. For amendments to these provisions, see subsequent footnotes.

(**b**) 1998 c. 37; sections 50A, 51A, 51B, 51C, 51D and 51E were inserted by paragraphs 15, 17 and 18 of Schedule 3 to the Criminal Justice Act 2003 (c. 44). For amendments to these provisions, see subsequent footnotes.

(**c**) 1981 c. 54; section 46ZA was inserted by section 11 of the Judicial Review and Courts Act 2022 (c. 35).

(**d**) 1998 c. 37; paragraph 6 of Schedule 3 was amended by sections 90 and 106 of, and paragraph 179 of Schedule 13 and Schedule 15 to, the Access to Justice Act 1999 (c. 22), sections 41 of, and paragraphs 15 and 20 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44), S.I. 2005/886 and paragraphs 20 and 23 of the Schedule to the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018 (c. 33). It is further amended by paragraph 15 of Schedule 2 to the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

(**e**) 1998 c. 37; section 51 was substituted by paragraphs 15 and 18 of Schedule 3 to the Criminal Justice Act 2003 (c. 44) and amended by section 52 of the Criminal Justice and Courts Act 2015 (c. 2). Section 51A was inserted by paragraphs 15 and 18 of Schedule 3 to the Criminal Justice Act 2003 (c. 44) and amended by section 49 of, and paragraph 5 of Schedule 1 to, the Violent Crime Reduction Act 2006 (c. 38), paragraph 6 of Schedule 21 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), and paragraph 156 of Schedule 24 to the Sentencing Act 2020 (c. 17). Each is further amended by section 10 of the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

defendant's right to choose Crown Court trial: see in particular sections 50A, 51 and 51A of the 1998 Act(**a**) *and section 19 of the Magistrates' Courts Act 1980*(**b**)*);*

(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**)*);*

(c) whether the defendant is awaiting Crown Court trial for another offence;

(d) whether another defendant, charged with the same or a connected 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(**d**)*.*

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 and (ii) to give an indication of likely sentence, may be exercised by a single justice: see sections 51(13) and 51A(11) of the 1998 Act, and sections 17E, 18(5) and 24D of the 1980 Act(**e**)*.*

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 9.25.]

Exercise of magistrates' court's powers

9.2.—(1) This rule applies to the exercise of a magistrates' court's powers to which this Part applies.

(2) Where the court considers the case of a defendant charged with two or more offences the court must deal with those offences in the following sequence (and the court may ask the defendant questions to help it decide with which offence to begin)—

(a) any to which rule 9.7 applies (Prosecutor's notice requiring Crown Court trial);

(**a**) 1998 c. 37; section 50A was inserted by paragraphs 15 and 17 of Schedule 3 to the Criminal Justice Act 2003 (c. 44). It is amended by paragraphs 8 and 11 of Schedule 2 to the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

(**b**) 1980 c. 43; section 19 was amended by section 336 of, and paragraph 5 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44), section 182 of, and paragraph 4 of Schedule 17 to, the Coroners and Justice Act 2009 (c. 25), and S.I. 2019/780. It is further amended by paragraph 10 of Schedule 2 to the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

(**c**) 1980 c. 43; section 24 was amended by section 77 of, and paragraph 47 of Schedule 14 to, the Criminal Justice Act 1982 (c. 48), sections 17, 68 and 101 of, and paragraph 6 of Schedule 8, paragraphs 6 and 22 of Schedule 12 and Schedule 13 to, the Criminal Justice Act 1991 (c. 53), sections 47, 119 and 121 of, and paragraph 40 of Schedule 8 to, the Crime and Disorder Act 1998 (c. 37), sections 42 and 336 of, and paragraph 9 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44), sections 49, 65 and 66 of, and paragraph 1 of Schedule 1 and Schedule 5 to, the Violent Crime Reduction Act 2006 (c. 38) and section 416 of, and paragraph 48 of Schedule 24 to, the Sentencing Act 2020 (c. 17). Section 24A was inserted by section 336 of, and paragraph 10 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44) and amended by section 416 of, and paragraph 49 of Schedule 24 to, the Sentencing Act 2020 (c. 17) and section 50 of, and paragraph 14 of Schedule 13 to, the Counter-Terrorism and Sentencing Act 2021 (c. 11). Section 24 is further amended by paragraph 9, and section 24A by paragraphs 6, 9 and 10, of Schedule 2 to the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

(**d**) 1980 c. 43; section 22A was inserted by section 176 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12) and amended by section 52 of the Criminal Justice and Courts Act 2015 (c. 2). It is further amended by section 6 of, and paragraph 10 of Schedule 2 to, the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

(**e**) 1980 c. 43; section 17E was inserted by section 336 of, and paragraph 3 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44). It is amended by paragraph 6 of Schedule 2 to the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed. Section 18 was amended by section 59 of, and paragraph 1 of Schedule 9 to, the Criminal Justice Act 1982 (c. 48), sections 68 and 101 of, and paragraph 6 of Schedule 8 and paragraph 22 of Schedule 12 to, the Criminal Justice Act 1991 (c. 53), section 49 of the Criminal Procedure and Investigations Act 1996 (c. 25) and section 336 of, and paragraph 4 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44). It is further amended by section 9 of, and paragraphs 6 and 9 of Schedule 2 to, the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed. Section 24D was inserted by section 336 of, and paragraph 10 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44).

(b) any to which rule 9.8 or rule 9.9 applies (sending for Crown Court trial without allocation there), in this sequence—

(i) any one or more that the court must send for trial because of section 51(1) or section 51A(A1) of the Crime and Disorder Act 1998 (which set out the principal conditions for sending for trial an adult or a young defendant respectively),

(ii) any the court must send for trial under paragraph (3) or (4) of this rule, and

(iii) any the court may send for trial under paragraph (4) of this rule; and

(c) any to which rule 9.23 applies (Sending after allocation for Crown Court trial).

(3) Where the court on the same or separate occasions considers the cases of two or more defendants charged jointly with an offence, if the court sends one of those defendants to the Crown Court for trial for that offence—

(a) on the same occasion the court must so send each other defendant so charged even if by then the court has decided to allocate that other defendant for magistrates' court trial; and

(b) on a subsequent occasion the court may so send another defendant so charged; but

(c) where a jointly charged defendant is under 18—

(i) unless the jointly charged offence is one that falls within section 51A(12) of the Crime and Disorder Act 1998 (homicide and certain offences involving weapons), before the court sends that defendant to the Crown Court for that offence the court must take a plea indication from that defendant under section 24A of the Magistrates' Courts Act 1980 (or section 24B of that Act, where that applies) and deal with the defendant accordingly, and

(ii) if the defendant indicates a not guilty plea then the court may send that defendant for Crown Court trial only if the court considers it necessary in the interests of justice to do so.

(4) Subject to paragraph (3) (jointly charged defendants), where the court sends a defendant whose case it is considering to the Crown Court for trial for an offence because of section 51(1) or section 51A(A1) of the Crime and Disorder Act 1998 (in this rule, 'a lead offence')—

(a) on the same occasion as that sending the court must send that defendant to the Crown Court for trial for any other indictable or summary offence with which that defendant is charged (in this rule, 'a connected offence')—

(i) if the circumstances of that other offence appear to the court to be the same as, or connected with, those giving rise to a lead offence, and

(ii) where the connected offence is a summary offence, if it is one to which section 40 of the Criminal Justice Act 1988 applies (specified summary offences founded on the prosecution evidence), or one which is punishable with imprisonment, or one which involves obligatory or discretionary disqualification from driving, but

(iii) where the defendant is under 18, only if the court considers it necessary in the interests of justice to do so;

(b) on the same occasion as that sending, if another defendant whose case the court is considering is charged with a connected offence then the court must send that other defendant to the Crown Court for trial for that offence, subject to paragraph (4)(d) if it applies;

(c) on an occasion subsequent to that sending the court may send any defendant whose case it is considering to the Crown Court for trial for a connected offence with which that defendant is charged, subject to paragraph (4)(d) if it applies; and

(d) where a defendant to whom paragraph (4)(b) or (4)(c) refers is under 18 then—

(i) a connected offence for which that defendant is sent for trial must be an indictable offence,

(ii) unless the connected offence is one that falls within section 51A(12) of the Crime and Disorder Act 1998 (homicide and certain offences involving weapons), before the court sends that defendant to the Crown Court for that offence the court must take a plea indication from that defendant under section 24A of the Magistrates' Courts Act 1980 (or section 24B of that Act, where that applies) and deal with the defendant accordingly, and

(iii) if the defendant indicates a not guilty plea then the court may send that defendant for Crown Court trial only if the court considers it necessary in the interests of justice to do so.

(5) The court must require the defendant to provide or confirm the defendant's name and date of birth in response to a notice served on the defendant under—

(a) rule 9.8(3) (Sending by written procedure for Crown Court trial);

(b) rule 9.10(2) (Request by written procedure for plea indication); or

(c) rule 9.19(2) (Allocation by written procedure for youth court or Crown Court trial).

(6) At a hearing, the court—

(a) must, as a general rule, exercise its powers in public, but it may exercise any power it has to—

(i) withhold information from the public, or

(ii) order a hearing in private; and

(b) may exercise its power to adjourn—

(i) if either party asks, or

(ii) on its own initiative.

(7) At a hearing the general rule is that the court must exercise its powers in the defendant's presence (which presence may be by live link or through a legal representative), but it may exercise the powers to which the following rules apply in the defendant's absence on the conditions specified—

(a) where rule 9.9 (Sending at a hearing for Crown Court trial) applies, after following the procedure in rule 9.8 (Sending by written procedure for Crown Court trial);

(b) where rule 9.14 (Request at a hearing for plea indication), rule 9.16 (Not guilty plea indication at a hearing) or rule 9.17 (Allocation for magistrates' court trial at a hearing) applies, if the court is satisfied that it is not contrary to the interests of justice to proceed in the defendant's absence and—

(i) the defendant's legal representative is present and either that representative tells the court that the defendant agrees to it proceeding in the defendant's absence or the court does not consider that there is an acceptable reason for the defendant's failure to attend,

(ii) either the court is satisfied that the defendant had reasonable notice of the hearing or the defendant has attended a previous hearing in the case and in either case the court does not consider that there is an acceptable reason for the defendant's failure to attend, or

(iii) the defendant's disorderly conduct at the hearing makes it impracticable to proceed in the defendant's presence;

(c) where rule 9.21 (Allocation at a hearing for youth court or Crown Court trial) applies, when the court asks the defendant for a plea indication, guilty or not guilty, if—

(i) the defendant's legal representative is present,

(ii) the defendant's disorderly conduct at the hearing makes it impracticable to proceed in the defendant's presence, and

(iii) the court considers that it should proceed in the defendant's absence;

(d) where rule 9.21 (Allocation at a hearing for youth court or Crown Court trial) applies, after the court asks the defendant for a plea indication if—

(i) the defendant has given no notice of plea indication under rule 9.19 (Allocation by written procedure for youth court or Crown Court trial),

(ii) either the court is satisfied that the defendant had reasonable notice of the hearing or the defendant has attended a previous hearing in the case and in either case the court does not consider that there is an acceptable reason for the defendant's failure to attend, and

(iii) the court is satisfied that it is not contrary to the interests of justice to proceed in the defendant's absence; and

(e) where rule 9.24 (Committal for sentence for offence related to an offence sent for trial) applies, unless—

(i) it appears to the court to be contrary to the interests of justice to do so, and

(ii) the court considers that there is an acceptable reason for the defendant's absence.

(8) Where the defendant is under 18—

(a) if rule 9.8 or rule 9.19 applies (Sending by written procedure for Crown Court trial; Allocation by written procedure for youth court or Crown Court trial), unless the court is satisfied that it would be unreasonable to do so having regard to the circumstances of the case the court may, in any case, and where the defendant is under 16 the court must—

(i) ask whether a parent or guardian of the defendant is aware of the written proceedings, and

(ii) if that may not be so then serve on at least one such person the notices, explanations and requests required by whichever of those rules applies;

(b) if the defendant gives notice of a guilty or not guilty plea under rule 9.19, unless the court is satisfied that it would be unreasonable to do so having regard to the circumstances of the case the court may, in any case, and where the defendant is under 16 the court must—

(i) ask whether a parent or guardian of the defendant is aware of that, and

(ii) if that may not be so then serve on at least one such person notice that the defendant has given that plea indication; and

(c) if there is to be a hearing, unless the court is satisfied that it would be unreasonable to do so having regard to the circumstances of the case—

(i) the court must require a parent or guardian of the defendant to attend where the defendant is under 16, and

(ii) may require such a person to attend where the defendant is over 16.

[Note. See sections 47, 50A, 51, 51A and 52 of the Crime and Disorder Act 1998(**a**) *and sections 17A, 17B, 17BA, 17C, 18, 23, 24A, 24B, 24BA and 24C of the Magistrates' Courts Act 1980*(**a**)*.*

(**a**) 1998 c. 37; section 47 was amended by sections 165 and 168 of, and Part I of Schedule 12 to, the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), section 336 of, and Part 4 of Schedule 37 to, the Criminal Justice Act 2003 (c. 44) and article 2 of, and paragraph 59 of the Schedule to, S.I. 2005/886. It is further amended by section 12 of the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed. Section 52 was amended by paragraphs 68 and 69 of Schedule 3 to the Criminal Justice Act 2003 (c. 44) and section 177 of, and paragraph 78 of Schedule 21 to, the Coroners and Justice Act 2009 (c. 25). It is further amended by section 10 of, and paragraph 15 of Schedule 2 to, the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

Under sections 51(3A), (3B) and 51A(4A), (4B) of the Crime and Disorder Act 1998(**b**)*, Criminal Procedure Rules may make provision about situations where a defendant is sent to the Crown Court for trial for an alleged offence and any other offence is, or appears to be, related (in such a way as is specified in the Rules) to that alleged offence.*

Under section 51 of the Criminal Justice Act 2003, the court may require a defendant to attend by live link a hearing to which this Part applies.

Part 46 contains rules allowing a representative to act on a defendant's behalf for the purposes of these Rules. Rules 9.8 and 9.17 set out procedures that apply where neither the defendant nor the defendant's legal representative attends a hearing to which those rules apply.

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(**c**)*.*

Under section 52A of the 1998 Act(**d**)*, reporting restrictions apply to the proceedings to which rules 9.7 to 9.23 apply.*

Under section 86A of the Courts Act 2003(**e**)*, Criminal Procedure Rules must specify stages of proceedings at which the court must require the information listed in rule 9.2(5) and may specify other stages of proceedings when such requirements may be imposed. A person commits an offence if, without reasonable excuse, that person fails to comply with such a requirement, whether by providing false or incomplete information or by providing no information.*

Section 34A of the Children and Young Persons Act 1933(**f**) *allows, and in some circumstances requires, the court to notify a parent or guardian and require their attendance.*

Section 40 of the Criminal Justice Act 1988 lists summary offences which may be included in an indictment if the charge—

(a) is founded on the same facts or evidence as a count charging an indictable offence; or

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(**a**) 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 section 336 of, and paragraph 2 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44) and section 416 of, and paragraph 44 of Schedule 24 to, the Sentencing Act 2020 (c. 17). It is further amended by paragraph 6 of Schedule 2 to the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed. Section 17B is amended by section 9 of, and paragraph 6 of Schedule 2 to, the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed. Section 17C is amended by paragraph 6 of Schedule 2 to the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed. Section 17BA is inserted by section 7 of the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed. 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 section 336 of, and paragraph 8 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44). It is further amended by paragraphs 6 and 10 of Schedule 2 to the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed. Sections 24A, 24B and 24C were inserted by section 336 of, and paragraph 10 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44). Section 24A was amended by section 416 of, and paragraph 49 of Schedule 24 to, the Sentencing Act 2020 (c. 17) and section 50 of, and paragraph 14 of Schedule 13 to, the Counter-Terrorism and Sentencing Act 2021 (c. 11). It is further amended by paragraphs 6, 9 and 10 of Schedule 2 to the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed. Section 24C is amended by paragraph 9 of Schedule 2 to the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed. Section 24BA is inserted by section 9 of the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

(**b**) 1998 c. 37; section 51(3A), (3B) are substituted for subsections (3) to (12) as originally enacted by section 10(1), (5) of the Judicial Review and Courts Act 2022 (c. 35) and section 51A(4A), (4B) are substituted for subsections (4) to (10) as originally enacted by section 10(6), (10) of the 2022 Act with effect from a date to be appointed.

(**c**) 1980 c. 43; section 26 was amended by section 336 of, and paragraph 12 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44).

(**d**) 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).

(**e**) 2003 c. 39; section 86A was inserted by section 162 of the Police, Crime, Sentencing and Courts Act 2022 (c. 32).

(**f**) 1933 c. 12; section 34A was inserted by section 56 of the Criminal Justice Act 1991 (c. 53) and amended by section 107 of, and paragraph 1 of Schedule 5 to, the Local Government Act 2000 (c. 22) and S.I. 2016/413.

(b) is part of a series of offences of the same or similar character as an indictable offence which is also charged.

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

Matters to be specified on sending for trial

9.3.—(1) Where the court sends a defendant to the Crown Court for trial, it must specify—

(a) each offence to be tried;

(b) in respect of each, the power exercised to send the defendant for trial for that offence; and

(c) the Crown Court centre at which the trial will take place.

(2) In a case in which the prosecutor serves a notice to which rule 9.7(1)(a) applies (notice requiring Crown Court trial in a case of serious or complex fraud), the court must specify the Crown Court centre identified by that notice.

(3) In any other case, in deciding the Crown Court centre at which the trial will take place, the court must take into account—

(a) the convenience of the parties and witnesses;

(b) how soon a suitable courtroom will be available; and

(c) the directions on the allocation of Crown Court business contained in the Practice Direction.

[Note. See section 51D of the Crime and Disorder Act 1998(**a**)*.]*

Duty of justices' legal adviser

9.4.—(1) This rule applies—

(a) only in a magistrates' court; and

(b) unless the court—

(i) includes a District Judge (Magistrates' Courts), and

(ii) otherwise directs.

(2) On the court's behalf, a justices' legal adviser may—

(a) read the allegation of the offence to the defendant; and

(b) give any explanation and ask any question required by the rules in this Part.

[Note. For the functions of a justices' legal adviser, see sections 28 and 29 of the Courts Act 2003(**b**)*. See also rule 2.12 (Duties of justices' legal adviser).]*

Duty of magistrates' court officer

9.5.—(1) The magistrates' court officer must—

(a) notify the prosecutor of the defendant's withdrawal of a notice given under rule 9.11, 9.12 or 9.19 (written notices of plea indication);

(b) make available to the Crown Court officer and give to or serve on the parties notice of a sending for Crown Court trial under rule 9.8, 9.9 or 9.23;

(**a**) 1998 c. 37; section 51D was inserted by paragraphs 15 and 18 of Schedule 3 to the Criminal Justice Act 2003 (c. 44) and amended by section 59 of, and paragraph 1 of Schedule 11 to, the Constitutional Reform Act 2005 (c. 4). It is further amended by paragraph 15 of Schedule 2 to the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

(**b**) 2003 c. 39; sections 28 and 29 were substituted by section 4 of, and paragraph 26 of the Schedule to, the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018 (c. 33).

(c) in such a notice of sending include—

(i) the matters specified by the court under rule 9.3 (Matters to be specified on sending for trial),

(ii) any decision by the defendant under rule 9.8 or 9.9 (sending without allocation for Crown Court trial) to require Crown Court trial for low-level shoplifting,

(iii) any indication given by the defendant under rule 9.8 or 9.9 of intended guilty plea,

(iv) any decision by the defendant under rule 9.12 or 9.16 to require Crown Court trial (not guilty plea indication by written procedure or at a hearing),

(v) any indication of likely sentence to which rule 9.11 or rule 9.13 applies,

(vi) any decision by the defendant under rule 9.13 or 9.17 to decline magistrates' court trial (allocation for magistrates' court trial by written procedure or at a hearing),

(vii) any opinion stated by the court under rule 9.24 (Committal for sentence of offence related to an offence sent for trial), and

(viii) the date on which any custody time limit will expire; and

(d) give the court such other assistance as it requires.

(2) The magistrates' court officer must make available to the Crown Court officer—

(a) the initial details of the prosecution case served by the prosecutor under rule 8.2;

(b) any information supplied by the parties for the purposes of case management by the court;

(c) a record of any—

(i) listing or case management direction affecting the Crown Court,

(ii) direction about reporting restrictions,

(iii) decision about bail, for the purposes of section 5 of the Bail Act 1976(**a**),

(iv) recognizance given by a surety, or

(v) representation order; and

(d) if relevant, any available details of any—

(i) interpreter,

(ii) intermediary, or

(iii) other supporting adult, where the defendant is assisted by such a person.

[Note. See sections 51, 51A and 51D of the Crime and Disorder Act 1998(**b**)*, and section 20A of the Magistrates' Courts Act 1980*(**c**)*.]*

(**a**) 1976 c. 63; section 5 was amended by section 65 of, and Schedule 12 to, the Criminal Law Act 1977 (c. 45), section 60 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), paragraph 48 of Schedule 3, paragraphs 1 and 2 of Schedule 36, and Parts 2, 4 and 12 of Schedule 37 to the Criminal Justice Act 2003 (c. 44) and section 208 of, and paragraphs 33 and 35 of Schedule 21 to, the Legal Services Act 2007 (c. 27).

(**b**) 1998 c. 37; section 51 was substituted and section 51A inserted by paragraphs 15 and 18 of Schedule 3 to the Criminal Justice Act 2003 (c. 44). Section 51 was amended by section 52 of the Criminal Justice and Courts Act 2015 (c. 2). Section 51A was amended by section 49 of, and paragraph 5 of Schedule 1 to, the Violent Crime Reduction Act 2006 (c. 38), paragraph 6 of Schedule 21 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), and paragraph 156 of Schedule 24 to the Sentencing Act 2020 (c. 17). Each is further amended by section 10 of the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

(**c**) 1980 c. 43; section 20A was inserted by section 336 of, and paragraph 6 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44) and amended by section 416 of, and paragraph 47 of Schedule 24 to, the Sentencing Act 2020 (c. 17).

Giving and service of written notices, etc.

9.6.—(1) In this rule "the written procedure rules" means rules 9.8, 9.10 to 9.13, 9.19 and 9.20.

(2) The notices, explanations and warnings required by the following rules must be served on the defendant—

(a) rule 9.8(3) (Sending by written procedure for Crown Court trial);

(b) rule 9.10(2) (Request by written procedure for plea indication); and

(c) rule 9.19(2) (Allocation by written procedure for youth court or Crown Court trial).

(3) Paragraph (4) applies to—

(a) notices, explanations, warnings and requests required, and responses invited, under the written procedure rules other than those to which paragraph (2) refers;

(b) any withdrawal by a defendant of a plea indication given under rule 9.11, 9.12 or 9.19; and

(c) any written notice, explanation, warning or request required, and any written response invited, under rule 9.23 (Sending after allocation for Crown Court trial).

(4) Where this paragraph applies the communication must be—

(a) given by means of such electronic arrangements as have been made for the purposes of rule 5.1 (Applications, etc. by forms or electronic means); or

(b) served if, but only if—

(i) no such electronic arrangements have been made, or

(ii) the recipient has not used such arrangements in response to an invitation to do so.

[Note. Each of rules 9.8(3), 9.10(2) and 9.19(2) requires a notice inviting the defendant to take part in a written procedure using electronic means.]

SENDING WITHOUT ALLOCATION FOR CROWN COURT TRIAL

Prosecutor's notice requiring Crown Court trial

9.7.—(1) This rule applies where a prosecutor with power to do so requires a magistrates' court to send for trial in the Crown Court—

(a) a case of serious or complex fraud; or

(b) a case which will involve a child witness.

(2) The prosecutor must serve notice of that requirement—

(a) on the magistrates' court officer and on the defendant; and

(b) before trial in a magistrates' court begins under Part 24 (Trial and sentence in a magistrates' court).

(3) The notice must identify—

(a) the power on which the prosecutor relies; and

(b) the Crown Court centre at which the prosecutor wants the trial to take place.

(4) The prosecutor—

(a) must, when choosing a Crown Court centre, take into account the matters listed in rule 9.3(3) (court deciding to which Crown Court centre to send a case); and

(b) may change the centre identified before the case is sent for trial.

[Note. Under section 51B of the Crime and Disorder Act 1998(**a**)*, the Director of Public Prosecutions or a Secretary of State may require the court to send a case for trial in the Crown Court if, in that prosecutor's opinion, the evidence of the offence charged—*

(a) is sufficient for the person charged to be put on trial for the offence; and

(b) reveals a case of fraud of such seriousness or complexity that it is appropriate that the management of the case should without delay be taken over by the Crown Court.

Under section 51C of the Crime and Disorder Act 1998(**b**)*, the Director of Public Prosecutions may require the court to send for trial in the Crown Court a case involving one of certain specified violent or sexual offences if, in the Director's opinion—*

(a) the evidence of the offence would be sufficient for the person charged to be put on trial for that offence;

(b) a child would be called as a witness at the trial; and

(c) for the purpose of avoiding any prejudice to the welfare of the child, the case should be taken over and proceeded with without delay by the Crown Court.

'Child' for these purposes is defined by section 51C(7) of the 1998 Act.]

Sending by written procedure for Crown Court trial

9.8.—(1) This rule—

(a) applies where the court must, or can, send a defendant to the Crown Court for trial without first allocating the case for trial there; but

(b) does not apply where the defendant is present at a hearing to which rule 9.9 applies (Sending at a hearing for Crown Court trial).

(2) Where this rule applies—

(a) paragraphs (3), (4) and (5) (about procedure before sending for trial by written notice) do not apply where—

(i) a hearing to which rule 9.9 applies is due to take place less than 15 business days after the notice, explanations and warning required by paragraph (3) otherwise would be served, or

(ii) such a hearing has taken place, or is taking place, in the defendant's absence; and

(b) if paragraphs (3), (4) and (5) apply then paragraphs (6), (7), (8) and (9) (about sending for trial by written notice) do not apply until the earlier of—

(i) the date specified under paragraph (3)(c), or

(ii) the receipt from both parties of responses to the requests under paragraph (5).

(3) The court officer must serve on the parties—

(a) notice—

(i) that the court is about to consider sending the defendant for Crown Court trial for the offence or offences of which the defendant is accused, with a statement of each offence,

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(**a**) 1998 c. 37; section 51B was inserted by paragraphs 15 and 18 of Schedule 3 to the Criminal Justice Act 2003 (c. 44) and amended by section 50 of, and paragraph 69 of Schedule 4 to, the Commissioners for Revenue and Customs Act 2005 (c. 11), section 39 of, and paragraphs 46 and 48 of Schedule 5 to, the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10) and article 1 of, and paragraph 15 of Schedule 2 to, S.I. 2014/834. It is further amended by paragraph 8 of Schedule 2 to the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

(**b**) 1998 c. 37; section 51C was inserted by section 336 of, and paragraph 18 of Schedul3 3 to, the Criminal Justice Act 2003 (c. 44) and amended by S.I. 2016/244 and section 186 of, and paragraph 7 of Schedule 16 to, the Health and Care Act 2022 (c. 31).

(ii) that a hearing for that purpose has been arranged, on a date and at a time and place specified in the notice, and

(iii) advising the defendant to consult a legal representative and giving information about how to find a representative if the defendant does not already have one;

(b) explanations that—

(i) because at least one offence of which the defendant is accused can only be tried in the Crown Court, or for some other reason must or can be sent for trial there, the court expects to send the defendant for Crown Court trial,

(ii) the court can send the defendant without a hearing for Crown Court trial,

(iii) if the court sends the defendant without a hearing for Crown Court trial it will be on bail, which will be without conditions if the defendant is already on unconditional bail or is not on bail at all, and will be on the same conditions if the defendant is already on conditional bail,

(iv) the parties may make any written representations they wish to make about the exercise of the court's powers and about any ancillary matters, including the preparation of the case for trial in the Crown Court, and may supply in writing such information as the court requires for the purposes of case management,

(v) the defendant may give a written indication of intended plea in the Crown Court, guilty or not guilty, to each offence of which the defendant is accused, and

(vi) only legal representatives have access to the electronic arrangements needed to make written representations, supply information and give a written indication of intended plea; and

(c) a warning that if the defendant does not respond using those electronic arrangements by a date specified in the notice then the hearing to which the notice refers will take place and—

(i) if the defendant fails to attend that hearing then the defendant may be arrested and, if the defendant is on bail, then as well as being arrested may be punished and bail may be withdrawn,

(ii) the defendant may be sent for Crown Court trial anyway without the court having been able to take account of any representations and information that the defendant might want to make or give.

(4) The date specified under paragraph (3)(c) must be not less than 10 business days after service of the notice, explanations and warning required by paragraph (3).

(5) If by the date specified under paragraph (3)(c) the parties respond by means of the electronic arrangements to which that paragraph refers then the court officer must give by those means—

(a) an explanation that an indication of intended plea in the Crown Court—

(i) does not of itself constitute a plea, there will be a court hearing for the defendant to confirm that plea, and the defendant will be able to withdraw that indication before the plea is taken in court, but

(ii) the defendant is likely to receive a reduced sentence as a result of indicating at once an intention to plead guilty and then pleading guilty in the Crown Court;

(b) a request that the parties—

(i) make such representations as the parties wish to make about the exercise of the court's powers and about any ancillary matters, including the preparation of the case for trial in the Crown Court, and

(ii) give such information as the court requires for the purposes of case management;

(c) a request that the defendant gives an indication of intended plea in the Crown Court to each offence of which the defendant is accused; and

(d) a warning that if after considering such responses as are received the court requires a hearing for the defendant to attend after all—

(i) the court officer will so notify the parties,

(ii) if the defendant fails to attend that hearing then the defendant may be arrested and, if the defendant is on bail, then as well as being arrested may be punished and bail may be withdrawn, and

(iii) with or without a hearing the defendant may be sent for trial.

(6) No sooner than the earlier of the date specified under paragraph (3)(c) or the receipt from both parties of responses to the requests under paragraph (5) the court must—

(a) consider any responses to those requests; and

(b) decide whether to—

(i) send the defendant by written notice to the Crown Court for trial, or

(ii) require a hearing, or further hearing, under rule 9.9 (Sending at a hearing for Crown Court trial).

(7) In deciding whether to require such a hearing, or further hearing, the court must have regard to—

(a) any need, in the court's opinion, for a hearing to—

(i) consider bail, or

(ii) collect or consider information required for the purposes of case management;

(b) any indication that the defendant has no legal representative; and

(c) any other circumstance which in the court's opinion makes such a hearing necessary.

(8) If the court decides to send the defendant by written notice to the Crown Court for trial—

(a) the court must give any ancillary directions; and

(b) the court officer must—

(i) issue a notice of sending under rule 9.5(1),

(ii) arrange for the Crown Court to take the defendant's plea as soon as possible, if the defendant has indicated an intention to plead guilty in the Crown Court,

(iii) if the defendant has given no such indication, arrange for a case management hearing in the Crown Court, and

(iv) warn the defendant that failure to attend at the Crown Court when required is an offence for which the defendant may be arrested and punished and bail may be withdrawn.

(9) If the court requires a hearing, or further hearing, under rule 9.9 (Sending at a hearing for Crown Court trial) the court officer must so notify the parties.

[Note. See sections 51, 51A and 52 of the Crime and Disorder Act 1998(**a**)*, and sections 22A and 24A of the Magistrates' Courts Act 1980*(**b**)*. Under sections 51(2A), (2B) and*

(**a**) 1998 c. 37; section 51 was substituted and section 51A inserted by paragraphs 15 and 18 of Schedule 3 to the Criminal Justice Act 2003 (c. 44). Section 51 was amended by section 52 of the Criminal Justice and Courts Act 2015 (c. 2). Section 51A was amended by section 49 of, and paragraph 5 of Schedule 1 to, the Violent Crime Reduction Act 2006 (c. 38), paragraph 6 of Schedule 21 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), and paragraph 156 of Schedule 24 to the Sentencing Act 2020 (c. 17). Each is further amended by section 10 of the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed. Section 52 was amended by paragraphs 68 and 69 of Schedule 3 to the Criminal Justice Act 2003 (c. 44) and section 177 of, and paragraph 78 of Schedule 21 to, the Coroners and Justice Act 2009 (c. 25). It is further amended by section 10 of, and paragraph 15 of Schedule 2 to, the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

(**b**) 1980 c. 43; section 22A was inserted by section 176 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12) and amended by section 52 of the Criminal Justice and Courts Act 2015 (c. 2). It is further amended by section 6 of, and paragraph 10 of Schedule 2 to, the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

51A(3A), (3B) of the 1998 Act, unless the defendant is present before the court a magistrates' court must follow the written procedure described in this rule except in circumstances for which Criminal Procedure Rules provide: see sections 51(2D), (2E) and 51A(3D), (3E).

A defendant will be present at a hearing to which rule 9.9 applies if arrested and brought to court in custody. A hearing to which rule 9.9 will apply will have been arranged if a defendant is not in custody but has been required to attend court for such a hearing.

Rule 9.5 (Duty of magistrates' court officer) prescribes the content of a record of sending.]

Sending at a hearing for Crown Court trial

9.9.—(1) This rule applies at a hearing where a magistrates' court must, or can, send a defendant to the Crown Court for trial without first allocating the case for trial there.

(2) The court must read the allegation of the offence to the defendant.

(3) The court must explain, in terms the defendant can understand (with help, if necessary)—

(a) the allegation, unless it is self-explanatory;

(b) that the offence is one for which the court, as appropriate—

(i) must send the defendant to the Crown Court for trial, or

(ii) may send the defendant to the Crown Court for trial if the court decides that the offence is connected with one already sent for trial there; and

(c) that reporting restrictions apply, which the defendant may ask the court to vary or remove.

(4) In the following sequence, the court must then—

(a) invite the prosecutor to—

(i) identify the court's power to send the defendant to the Crown Court for trial for the offence, and

(ii) make representations about any ancillary matters, including bail and directions for the management of the case in the Crown Court;

(b) invite the defendant to make representations about—

(i) the court's power to send the defendant to the Crown Court, and

(ii) any ancillary matters;

(c) invite the parties to supply such information as the court requires for the purposes of case management; and

(d) send the defendant to the Crown Court for trial, in custody or on bail.

(5) If the court sends the defendant to the Crown Court for trial, it must—

(a) ask whether the defendant intends to plead guilty in the Crown Court and—

(i) if the answer is 'yes', make arrangements for the Crown Court to take the defendant's plea as soon as possible, or

(ii) if the defendant does not answer, or the answer is 'no', make arrangements for a case management hearing in the Crown Court; and

(b) give any other ancillary directions.

Section 24A was inserted by section 336 of, and paragraph 10 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44) and amended by section 416 of, and paragraph 49 of Schedule 24 to, the Sentencing Act 2020 (c. 17) and section 50 of, and paragraph 14 of Schedule 13 to, the Counter-Terrorism and Sentencing Act 2021 (c. 11). It is further amended by paragraphs 6, 9 and 10 of Schedule 2 to the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

(6) Where the court decides to exercise the powers to which this rule applies in the defendant's absence—

(a) paragraphs (2) to (5) do not apply; and

(b) rule 9.8 applies instead (Sending by written procedure for Crown Court trial).

[Note. See sections 51, 51A and 52 of the Crime and Disorder Act 1998, and sections 22A and 24A of the Magistrates' Courts Act 1980. Under section 51(2B) of the 1998 Act, if the defendant is absent the court must serve specified documents before sending for trial: see rule 9.8.

Rule 9.5 (Duty of magistrates' court officer) prescribes the content of a record of sending.

See also Part 6 (Reporting, etc. restrictions).]

ALLOCATION FOR TRIAL: ADULT DEFENDANTS

Request by written procedure for plea indication

9.10.—(1) This rule—

(a) applies where—

(i) the defendant is 18 or over, and

(ii) the court must decide whether a case should be tried in a magistrates' court or in the Crown Court; but

(b) does not apply where—

(i) the defendant is present at a hearing to which rule 9.14 applies (Request at a hearing for plea indication), or

(ii) such a hearing is due to take place less than 15 business days after the notice, explanations and warning required by paragraph (2) otherwise would be served.

(2) The court officer must serve on the parties—

(a) notice—

(i) that the court will consider the offence or offences of which the defendant is accused on a date and at a time and place specified in the notice, with a statement of each offence, and

(ii) advising the defendant to consult a legal representative and giving information about how to find a representative if the defendant does not already have one;

(b) explanations that—

(i) because the court must decide whether the defendant's case should be tried in a magistrates' court or in the Crown Court a hearing for that purpose has been arranged,

(ii) instead of attending that hearing the defendant may give a written plea indication, guilty or not guilty, to each offence of which the defendant is accused,

(iii) only legal representatives have access to the electronic arrangements needed to give a written plea indication, and

(iv) if the defendant uses those electronic arrangements then the court officer will provide more information about the procedure; and

(c) a warning that if the defendant gives no plea indication using those electronic arrangements by a date specified in the notice then the hearing to which the notice refers will take place and—

(i) if the defendant fails to attend that hearing then the defendant may be arrested and, if the defendant is on bail, then as well as being arrested may be punished and bail may be withdrawn,

(ii) the case may proceed anyway without the court having been able to take account of any representations and information that the defendant might want to make or give.

(3) The date specified under paragraph (2)(c) must be not less than 8 business days after service of the notice, explanations and warning required by paragraph (2).

(4) If by the date specified under paragraph (2)(c) the defendant uses the electronic arrangements to which that paragraph refers then the court officer must give the defendant by those means—

(a) explanations that—

(i) a plea indication does not of itself constitute a plea, there will be a court hearing for the defendant to confirm that plea, and the defendant will be able to withdraw the plea indication before the case is sent for trial or the plea is taken in court,

(ii) if the defendant indicates an intention to plead guilty then the court officer will arrange a hearing at which the plea will be taken in court, and if the defendant then pleads guilty the court will pass sentence or commit the defendant for sentence to the Crown Court,

(iii) if the defendant indicates an intention to plead not guilty and the court then, without a hearing, sends the defendant for trial in the Crown Court it will be on bail, which will be without conditions if the defendant is already on unconditional bail or is not on bail at all, or will be subject to the same conditions if the defendant is already on conditional bail,

(iv) if the defendant is sent for trial on bail, failure to attend at the Crown Court when required is an offence for which the defendant may be arrested and punished and bail may be withdrawn, and

(v) if the defendant gives a plea indication then the court officer will provide more information about the procedure and will ask for more information from the defendant;

(b) a request that the defendant gives a plea indication; and

(c) a warning that if the defendant gives a plea indication but later withdraws it, or during the written procedure asks for a hearing, the hearing to which the paragraph (2) notice refers will take place and—

(i) if the defendant fails to attend that hearing then the defendant may be arrested and, if the defendant is on bail, then as well as being arrested may be punished and bail may be withdrawn,

(ii) the case may proceed anyway without the court having been able to take account of any representations and information that the defendant might want to make or give.

[Note. See section 17ZA of the Magistrates' Courts Act 1980(**a**)*. Under section 17ZA(3) of the Act, a magistrates' court must offer the procedure set out in this rule except in circumstances for which Criminal Procedure Rules provide: see section 17ZA(2).*

A defendant will be present at a hearing to which rule 9.14 applies if arrested and brought to court in custody. A hearing to which rule 9.14 will apply will have been arranged if a defendant is not in custody but has been required to attend court for such a hearing.]

(**a**) 1980 c. 43; section 17ZA is inserted by section 6 of the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

Guilty plea indication by written procedure

9.11.—(1) This rule—

(a) applies where—

(i) rule 9.10 applied (Request by written procedure for plea indication), and

(ii) in response to a request under rule 9.10(4)(b) the defendant indicates an intention to plead guilty; but

(b) ceases to apply if the defendant withdraws that plea indication before the court completes the procedure under this rule, in which event the court officer must arrange a hearing for the purposes of rule 9.14 (Request at a hearing for plea indication).

(2) As soon as practicable after that guilty plea indication the court may decide whether it would have been highly likely to commit the defendant to the Crown Court for sentence—

(a) if that guilty plea indication had constituted a guilty plea; and

(b) taking into account only such information as is then available to the court.

(3) Where the court decides that it would have been highly likely to commit the defendant to the Crown Court for sentence then as soon as practicable after that decision the court officer must give the parties explanations that—

(a) the court has decided that it would have been highly likely to commit the defendant to the Crown Court for sentence if the guilty plea indication had constituted a guilty plea;

(b) if neither party objects then the court will send the defendant to the Crown Court for trial in the expectation that the defendant will plead guilty as indicated and will be sentenced there; but

(c) if either party objects within 5 business days then the court will not send the defendant to the Crown Court but instead a magistrates' court trial will be arranged.

(4) Where within 5 business days of giving the explanations required by paragraph (3) neither party objects to the court sending the defendant to the Crown Court then rule 9.23 applies (Sending after allocation for Crown Court trial).

(5) Paragraph (6) applies where any of the following occurs—

(a) the court chooses to make no decision whether or not it would have been highly likely to commit the defendant to the Crown Court for sentence if the guilty plea indication had constituted a guilty plea;

(b) the court decides that it would not have been highly likely to commit the defendant to the Crown Court for sentence; or

(c) within 5 business days of giving the explanations required by paragraph (3) either party objects to the court sending the defendant to the Crown Court.

(6) Where this paragraph applies—

(a) the court officer must arrange a hearing for the purposes of Part 24 (Trial and sentence in a magistrates' court);

(b) if at that hearing the defendant pleads guilty the court must deal with the case in accordance with rule 24.11 (Procedure if the court convicts); and

(c) if at that hearing the defendant pleads not guilty the court must deal with the case in accordance with rule 9.16 (Not guilty plea indication at a hearing).

*[Note. See sections 17ZA and 17ZB of the Magistrates' Courts Act 1980(**a**). Under sections 17ZA(2) and 17ZB(2), Criminal Procedure Rules may provide for circumstances in which the procedure set out in this rule does not apply.]*

Not guilty plea indication by written procedure

9.12.—(1) This rule—

(a) applies where—

(i) rule 9.10 applied (Request by written procedure for plea indication), and

(ii) in response to a request under rule 9.10(4)(b) the defendant indicates an intention to plead not guilty; but

(b) ceases to apply if the defendant withdraws that plea indication before the court completes the procedure under this rule, in which event the court officer must arrange a hearing for the purposes of rule 9.14 (Request at a hearing for plea indication).

(2) As soon as practicable after that not guilty plea indication the court officer must give the parties explanations that—

(a) because the defendant has indicated an intention to plead not guilty the court must decide whether the case should be tried in a magistrates' court or in the Crown Court;

(b) (if applicable) the offence is one to which section 22 of the Magistrates' Courts Act 1980(**b**) applies (Certain offences triable either way to be tried summarily if value involved is small) and for that reason—

(i) the court must first assess the value involved, and the parties will be invited to make representations about that value,

(ii) if the court decides that that value clearly is less than £5,000 then the court will order trial in a magistrates' court, and

(iii) if the court decides that the value involved is not clearly less than £5,000, before deciding whether the case should be tried in a magistrates' court or in the Crown Court the court will ask whether the defendant wants to be tried in the Crown Court;

(c) (if applicable) the offence is one to which section 22A of the Magistrates' Courts Act 1980(**c**) may apply (Low-value shoplifting to be a summary offence) and for that reason—

(i) the court must first assess the value and circumstances involved, and the parties will be invited to make representations about that,

(ii) if the court decides that the offence is low-value shoplifting then the case must be tried in a magistrates' court unless the defendant requires Crown Court trial and the court will ask whether the defendant wants to be tried in the Crown Court; and

(d) (in any other case) the court will decide by written procedure whether the case should be tried in a magistrates' court or in the Crown Court unless—

(**a**) 1980 c. 43; section 17ZB is inserted by section 6 of the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

(**b**) 1980 c. 43; section 22 was amended by sections 38, 123 and 170 of, and paragraph 16 of Schedule 8 and Schedule 16 to, the Criminal Justice Act 1988 (c. 33), sections 68 and 101 of, and paragraph 6 of Schedule 8 and paragraph 22 of Schedule 12 to, the Criminal Justice Act 1991 (c. 53), section 2 of the Aggravated Vehicle-Taking Act 1992 (c. 11) and sections 46 and 168 of, and Schedule 11 to, the Criminal Justice and Public Order Act 1994 (c. 33). It is further is amended by paragraph 6 of Schedule 2 to the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

(**c**) 1980 c. 43; section 22A was inserted by section 176 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12) and amended by section 52 of the Criminal Justice and Courts Act 2015 (c. 2). It is further amended by section 6 of, and paragraph 10 of Schedule 2 to, the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

(i) the defendant requires Crown Court trial, in which case the court must send the defendant for such a trial without asking for representations about that decision and without offering any indication of likely magistrates' court sentence, or

(ii) the defendant gives notice requiring the court to decide at a hearing whether the case should be tried in a magistrates' court or in the Crown Court, in which case a hearing will be arranged for the purposes of rule 9.16 (Not guilty plea indication at a hearing).

(3) At the same time as giving the explanations required by paragraph (2) the court officer must request that not more than 5 business days later—

(a) the prosecutor identifies any previous convictions of which the court can take account;

(b) the parties make representations about—

(i) the value and circumstances of the offence, if relevant, and

(ii) whether the court should order trial in a magistrates' court or send the defendant for Crown Court trial; and

(c) the defendant, as applicable—

(i) requires Crown Court trial, or

(ii) requires the court to decide at a hearing whether the case should be tried in a magistrates' court or in the Crown Court.

(4) If within 5 business days of service of the requests under paragraph (3) the defendant requires Crown Court trial then rule 9.23 applies (Sending after allocation for Crown Court trial).

(5) If within 5 business days of service of the requests under paragraph (3) the defendant requires the court to decide at a hearing whether the case should be tried in a magistrates' court or in the Crown Court then the court officer must arrange a hearing for the purposes of rule 9.16 (Not guilty plea indication at a hearing).

(6) The court must order trial in a magistrates' court where—

(a) the offence is one to which section 22 of the Magistrates' Courts Act 1980 applies and the court decides that the value involved clearly is less than £5,000; or

(b) the court decides that section 22A of the 1980 Act applies (low-value shoplifting) and the defendant does not require Crown Court trial.

(7) Where none of paragraphs (4), (5) or (6) applies the court must decide whether the case should be tried in a magistrates' court or in the Crown Court, taking into account—

(a) the adequacy of a magistrates' court's sentencing powers;

(b) any representations by the parties, and

(c) any allocation guidelines issued by the Sentencing Council.

(8) If the court decides that the case should be tried in the Crown Court then rule 9.23 applies (Sending after allocation for Crown Court trial).

[Note. See sections 17ZA, 17ZC, 18, 19 and 22 of the Magistrates' Courts Act 1980(**a**)*. Under sections 17ZA(2) and 17ZC(2), Criminal Procedure Rules may provide for circumstances in which the procedure set out in this rule does not apply.*

(**a**) 1980 c. 43; section 17ZC is inserted by section 6 of the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed. Section 18 was amended by section 59 of, and paragraph 1 of Schedule 9 to, the Criminal Justice Act 1982 (c. 48), sections 68 and 101 of, and paragraph 6 of Schedule 8 and paragraph 22 of Schedule 12 to, the Criminal Justice Act 1991 (c. 53), section 49 of the Criminal Procedure and Investigations Act 1996 (c. 25) and section 336 of, and paragraph 4 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44). It is further amended by section 9 of, and paragraphs 6 and 9 of Schedule 2 to, the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed. Section 19 was amended by section 336 of, and paragraph 5 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44), section 182 of, and

Under section 22 of the 1980 Act, some offences, which otherwise could be tried in a magistrates' court or in the Crown Court, must be tried in a magistrates' court in the circumstances described in this rule.

Under section 22A of the 1980 Act, an offence of theft, which otherwise could be tried in a magistrates' court or in the Crown Court, must be tried in a magistrates' court as low-value shoplifting if—

(a) the value of stolen goods does not exceed £200;

(b) the goods were being offered for sale in a shop or any other premises, stall, vehicle or place from which a trade or business is carried on; and

(c) at the time of the offence the defendant was, or was purporting to be, a customer or potential customer,

unless the defendant requires Crown Court trial.

The convictions of which the court may take account are those specified by section 19 of the 1980 Act.

The Sentencing Council may issue allocation guidelines under section 122 of the Coroners and Justice Act 2009(**a**)*. The definitive allocation guideline which took effect on 1st March, 2016 provides:*

(1) In general, either way offences should be tried summarily unless—

(a) the outcome would clearly be a sentence in excess of the court's powers for the offence(s) concerned after taking into account personal mitigation and any potential reduction for a guilty plea; or

(b) for reasons of unusual legal, procedural or factual complexity, the case should be tried in the Crown Court. This exception may apply in cases where a very substantial fine is the likely sentence. Other circumstances where this exception will apply are likely to be rare and case specific; the court will rely on the submissions of the parties to identify relevant cases.

(2) In cases with no factual or legal complications the court should bear in mind its power to commit for sentence after a trial and may retain jurisdiction notwithstanding that the likely sentence might exceed its powers.

(3) Cases may be tried summarily even where the defendant is subject to a Crown Court Suspended Sentence Order or Community Order.

(4) All parties should be asked by the court to make representations as to whether the case is suitable for summary trial. The court should refer to definitive guidelines (if any) to assess the likely sentence for the offence in the light of the facts alleged by the prosecution case, taking into account all aspects of the case including those advanced by the defence, including any personal mitigation to which the defence wish to refer.

Where the court decides that the case is suitable to be dealt with in the magistrates' court, it must warn the defendant that all sentencing options remain open and, if the defendant consents to summary trial and is convicted by the court or pleads guilty, the defendant may be committed to the Crown Court for sentence.]

Allocation by written procedure for magistrates' court trial

9.13.—(1) This rule—

(a) applies where—

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paragraph 4 of Schedule 17 to, the Coroners and Justice Act 2009 (c. 25), and S.I. 2019/780. It is further amended by paragraph 10 of Schedule 2 to the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

(**a**) 2009 c. 25; section 122 was amended by section 51 of, and paragraph 13 of Schedule 2 to, the Judicial Review and Courts Act 2022 (c. 35).

(i) rule 9.12 applied (Not guilty plea indication by written procedure), and

(ii) under rule 9.12(7) the court decides that the case should be tried in a magistrates' court; but

(b) ceases to apply if the defendant withdraws the not guilty plea indication before the court completes the procedure under this rule, in which event the court officer must arrange a hearing for the purposes of rule 9.14 (Request at a hearing for plea indication).

(2) As soon as practicable after the court decides that the case should be tried in a magistrates' court the court officer must give the defendant explanations that—

(a) the court has decided that the case should be tried in a magistrates' court;

(b) if the defendant is convicted at a trial in a magistrates' court then in some circumstances the court may commit the defendant to the Crown Court for sentence;

(c) if the defendant agrees to a magistrates' court trial then such a trial will be arranged;

(d) if the defendant does not agree to such a trial then the court will send the defendant to the Crown Court for trial;

(e) before deciding whether to agree to a magistrates' court trial the defendant may ask the court for an indication of whether a custodial or non-custodial sentence is more likely in the event of a guilty plea at such a trial ("a sentencing indication") but the court need not give such an indication; and

(f) if the defendant asks for and the court gives a sentencing indication then a magistrates' court trial will be arranged if the defendant then either—

(i) indicates an intention to plead guilty instead of not guilty, or

(ii) without changing the not guilty plea indication agrees to magistrates' court trial.

(3) At the same time as giving the explanations required by paragraph (2) the court officer must request that not more than 5 business days later the defendant either—

(a) agrees to trial in a magistrates' court; or

(b) asks for a sentencing indication.

(4) If within 5 business days of the request under paragraph (3) the defendant asks for a sentencing indication—

(a) as soon as practicable the court must decide whether to give such an indication and if so in what terms;

(b) as soon as practicable after the court makes those decisions the court officer must notify the defendant accordingly; and

(c) at the same time as notifying the defendant of the court's decisions the court officer must request that not more than 3 business days later the defendant either—

(i) gives a guilty plea indication, or

(ii) without giving such an indication agrees to trial in a magistrates' court.

(5) If within the time allowed under paragraph (3) or paragraph (4) the defendant gives a guilty plea indication or agrees to trial in a magistrates' court—

(a) the court must give such directions, if any, as are required for an effective trial and may require further information from the parties for that purpose;

(b) the court officer must arrange a hearing for the purposes of Part 24 (Trial and sentence in a magistrates' court);

(c) if at that hearing the defendant pleads guilty the court must deal with the case in accordance with rule 24.11 (Procedure if the court convicts); and

(d) if at that hearing the defendant pleads not guilty the court must deal with the case in accordance with rule 9.17(4) (opportunity at a hearing for the defendant to agree or withhold agreement to trial in a magistrates' court).

(6) If within the time allowed under paragraph (3) or paragraph (4) the defendant neither indicates an intention to plead guilty nor agrees to trial in a magistrates' court then rule 9.23 applies (Sending after allocation for Crown Court trial).

[Note. See sections 20 and 23 of the Magistrates' Courts Act 1980(**a**)*.*

For the circumstances in which a magistrates' court may (and, in some cases, must) commit a defendant to the Crown Court for sentence after that defendant has been convicted at a magistrates' court trial, see sections 14, 15 and 20 of the Sentencing Act 2020(**b**)*.*

For the circumstances in which an indication of sentence to which this rule applies restricts the sentencing powers of a court, see section 20A of the 1980 Act(**c**)*.*

Where the court orders trial in a magistrates' court, see also rules 3.16 to 3.18 about preparation for trial.]

Request at a hearing for plea indication

9.14.—(1) This rule applies at a hearing where—

(a) the defendant is 18 or over; and

(b) the court must decide whether a case should be tried in a magistrates' court or in the Crown Court.

(2) The court must read the allegation of the offence to the defendant.

(3) The court must explain, in terms the defendant can understand (with help, if necessary)—

(a) the allegation, unless it is self-explanatory;

(b) that the offence is one which can be tried in a magistrates' court or in the Crown Court;

(c) that the court is about to ask whether the defendant intends to plead guilty or not guilty;

(d) that if the answer is 'guilty', then the court must treat that as a guilty plea and must sentence the defendant, or commit the defendant to the Crown Court for sentence;

(e) that if the defendant does not answer, or the answer is 'not guilty', then—

(i) (where the offence is one to which section 22 or section 22A of the Magistrates' Courts Act 1980 applies) the value involved may require the court to order trial in a magistrates' court,

(ii) (in any other case) the court must decide whether the case should be tried in a magistrates' court or in the Crown Court and the parties will be invited to make representations about that, and

(iii) even if the court orders trial in a magistrates' court then (unless under section 22 of the 1980 Act the value involved requires magistrates' court trial) the defendant will be able to require Crown Court trial; and

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(**a**) 1980 c. 43; section 20 was amended by section 336 of, and paragraph 6 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44) and section 416 of, and paragraph 46 of Schedule 24 to, the Sentencing Act 2020 (c. 17). 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 section 336 of, and paragraph 8 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44). Each is further amended by paragraphs 6 and 10 of Schedule 2 to the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

(**b**) 2020 c. 17; section 15 was amended by section 50 of, and paragraph 11 of Schedule 13 to, the Counter-Terrorism and Sentencing Act 2021 (c. 11).

(**c**) 1980 c. 43; section 20A was inserted by section 336 of, and paragraph 6 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44) and amended by section 416 of, and paragraph 47 of Schedule 24 to, the Sentencing Act 2020 (c. 17).

(f) that reporting restrictions apply, which the defendant may ask the court to vary or remove.

(4) The court must then ask whether the defendant intends to plead guilty or not guilty.

(5) Where neither the defendant nor the defendant's legal representative is present when this rule otherwise would apply—

(a) paragraphs (2), (3) and (4) do not apply; and

(b) rule 9.16 applies as if the defendant had indicated an intention to plead not guilty.

[Note. See sections 17A, 17B and 17BA of the Magistrates' Courts Act 1980(**a**)*.*

For the circumstances in which a magistrates' court may (and, in some cases, must) commit a defendant to the Crown Court for sentence after that defendant has indicated an intention to plead guilty where this rule applies, see sections 18 and 20 of the Sentencing Act 2020(**b**)*.*

See also Part 6 (Reporting, etc. restrictions).]

Guilty plea indication at a hearing

9.15.—(1) This rule applies at a hearing where—

(a) rule 9.14 applies;

(b) the defendant is present; and

(c) the defendant indicates an intention to plead guilty.

(2) The court must deal with the case—

(a) as if the defendant had just pleaded guilty at a trial in a magistrates' court; and

(b) in accordance with rule 24.11 (Procedure if the court convicts).

[Note. See section 17A of the Magistrates' Courts Act 1980.]

Not guilty plea indication at a hearing

9.16.—(1) This rule applies at a hearing where—

(a) rule 9.12 applied (Not guilty plea indication by written procedure) and under rule 9.12(5) the defendant required the court to decide at a hearing whether the case should be tried in a magistrates' court or in the Crown Court; or

(b) rule 9.14 applies (Request at a hearing for plea indication) and the defendant—

(i) indicates an intention to plead not guilty, or

(ii) gives no indication of intended plea.

(2) Where the offence is one to which section 22 of the Magistrates' Courts Act 1980(**c**) applies (Certain offences triable either way to be tried summarily if value involved is small), in the following sequence the court must—

(**a**) 1980 c. 43; sections 17A and 17B were inserted by section 49 of the Criminal Procedure and Investigations Act 1996 (c. 25). Section 17A was amended by section 336 of, and paragraph 2 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44) and section 416 of, and paragraph 44 of Schedule 24 to, the Sentencing Act 2020 (c. 17). It is further amended by paragraph 6 of Schedule 2 to the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed. Section 17B is amended by section 9 of, and paragraph 6 of Schedule 2 to, the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed. Section 17BA is inserted by section 7 of the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

(**b**) 2020 c. 17.

(**c**) 1980 c. 43; section 22 was amended by sections 38, 123 and 170 of, and paragraph 16 of Schedule 8 and Schedule 16 to, the Criminal Justice Act 1988 (c. 33), sections 68 and 101 of, and paragraph 6 of Schedule 8 and paragraph 22 of Schedule 12 to, the Criminal Justice Act 1991 (c. 53), section 2 of the Aggravated Vehicle-Taking Act 1992 (c. 11) and sections 46 and 168 of, and Schedule 11 to, the Criminal Justice and Public Order Act 1994 (c. 33). It is further is amended by paragraph 6 of Schedule 2 to the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

(a) explain in terms the defendant, if present, can understand (with help, if necessary) that that section applies and if the court decides that—

(i) the value involved clearly is less than £5,000 then the trial must be in a magistrates' court, or

(ii) the value involved is not clearly less than £5,000 then before deciding whether the case should be tried in a magistrates' court or in the Crown Court the court will ask whether the defendant wants to be tried in the Crown Court;

(b) invite the parties to make representations about the value involved; and

(c) if the court decides that the value involved—

(i) clearly is less than £5,000 then the court must order trial in a magistrates' court, or

(ii) is not clearly less than £5,000 then paragraph (5) applies.

(3) Where the offence is one to which section 22A of the 1980 Act(**a**) may apply (Low-value shoplifting to be a summary offence), in the following sequence the court must—

(a) explain in terms the defendant, if present, can understand (with help, if necessary) that that section may apply and if the court decides that the offence is low-value shoplifting then—

(i) the trial must be in a magistrates' court unless the defendant requires Crown Court trial,

(ii) the court will ask whether the defendant wants to be tried in the Crown Court, and

(iii) if the answer to that question is 'yes' then the court must send the defendant to the Crown Court for trial without asking for representations about that decision and without offering any indication of likely magistrates' court sentence;

(b) invite the parties to make representations about the value and circumstances of the offence; and

(c) if the court decides that the offence is low-value shoplifting, ask whether the defendant wants to be tried in the Crown Court and—

(i) if the answer to that question is 'yes' then rule 9.23 applies (Sending after allocation for Crown Court trial), or

(ii) if the answer to that question is 'no', or the defendant does not answer, order trial in a magistrates' court.

(4) Paragraph (5) applies where—

(a) the offence is—

(i) one to which section 22 of the 1980 Act applies and the court decides that the value involved is not clearly less than £5,000, or

(ii) not one to which section 22 of the 1980 Act applies; and

(b) the court decides that the offence is not one to which section 22A of the 1980 Act applies.

(5) Where this paragraph applies the court must—

(a) explain in terms the defendant, if present, can understand (with help, if necessary) that—

(i) the court must decide whether the case should be tried in a magistrates' court or in the Crown Court,

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(**a**) 1980 c. 43; section 22A was inserted by section 176 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12) and amended by section 52 of the Criminal Justice and Courts Act 2015 (c. 2). It is further amended by section 6 of, and paragraph 10 of Schedule 2 to, the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

(ii) before making that decision the court will ask whether the defendant wants to be tried in the Crown Court, and

(iii) if the answer to that question is 'yes' then the court must send the defendant to the Crown Court for trial without asking for representations about that decision and without offering any indication of likely magistrates' court sentence;

(b) ask whether the defendant wants to be tried in the Crown Court and—

(i) if the defendant's answer to that question is 'yes' then rule 9.23 applies (Sending after allocation for Crown Court trial) and sub-paragraphs (c), (d) and (e) of this rule do not apply,

(ii) if the defendant does not answer that question, or the answer is 'no', sub-paragraphs (c), (d) and (e) apply;

(c) invite the prosecutor to—

(i) identify any previous convictions of which the court can take account, and

(ii) make representations about how the court should allocate the case for trial;

(d) invite the defendant to make such representations; and

(e) decide whether the case should be tried in a magistrates' court or in the Crown Court, taking into account—

(i) the adequacy of a magistrates' court's sentencing powers,

(ii) any representations by the parties, and

(iii) any allocation guidelines issued by the Sentencing Council.

(6) If the court decides that the case should be tried in the Crown Court then rule 9.23 applies (Sending after allocation for Crown Court trial).

[Note. See sections 17A, 17BA, 18, 19 and 22 of the Magistrates' Courts Act 1980(**a**)*.*

Under section 22 of the 1980 Act, some offences, which otherwise could be tried in a magistrates' court or in the Crown Court, must be tried in a magistrates' court in the circumstances described in this rule.

Under section 22A of the 1980 Act, an offence of theft, which otherwise could be tried in a magistrates' court or in the Crown Court, must be tried in a magistrates' court as low-value shoplifting if—

(a) the value of stolen goods does not exceed £200;

(b) the goods were being offered for sale in a shop or any other premises, stall, vehicle or place from which a trade or business is carried on; and

(c) at the time of the offence the defendant was, or was purporting to be, a customer or potential customer,

unless the defendant requires Crown Court trial.

The convictions of which the court may take account are those specified by section 19 of the 1980 Act.

(**a**) 1980 c. 43; section 18 was amended by section 59 of, and paragraph 1 of Schedule 9 to, the Criminal Justice Act 1982 (c. 48), sections 68 and 101 of, and paragraph 6 of Schedule 8 and paragraph 22 of Schedule 12 to, the Criminal Justice Act 1991 (c. 53), section 49 of the Criminal Procedure and Investigations Act 1996 (c. 25) and section 336 of, and paragraph 4 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44). It is further amended by section 9 of, and paragraphs 6 and 9 of Schedule 2 to, the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed. Section 19 was amended by section 336 of, and paragraph 5 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44), section 182 of, and paragraph 4 of Schedule 17 to, the Coroners and Justice Act 2009 (c. 25), and S.I. 2019/780. It is further amended by paragraph 10 of Schedule 2 to the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

The Sentencing Council may issue allocation guidelines under section 122 of the Coroners and Justice Act 2009(**a**)*. The definitive allocation guideline which took effect on 1st March, 2016 provides:*

(1) In general, either way offences should be tried summarily unless—

(a) the outcome would clearly be a sentence in excess of the court's powers for the offence(s) concerned after taking into account personal mitigation and any potential reduction for a guilty plea; or

(b) for reasons of unusual legal, procedural or factual complexity, the case should be tried in the Crown Court. This exception may apply in cases where a very substantial fine is the likely sentence. Other circumstances where this exception will apply are likely to be rare and case specific; the court will rely on the submissions of the parties to identify relevant cases.

(2) In cases with no factual or legal complications the court should bear in mind its power to commit for sentence after a trial and may retain jurisdiction notwithstanding that the likely sentence might exceed its powers.

(3) Cases may be tried summarily even where the defendant is subject to a Crown Court Suspended Sentence Order or Community Order.

(4) All parties should be asked by the court to make representations as to whether the case is suitable for summary trial. The court should refer to definitive guidelines (if any) to assess the likely sentence for the offence in the light of the facts alleged by the prosecution case, taking into account all aspects of the case including those advanced by the defence, including any personal mitigation to which the defence wish to refer.

Where the court decides that the case is suitable to be dealt with in the magistrates' court, it must warn the defendant that all sentencing options remain open and, if the defendant consents to summary trial and is convicted by the court or pleads guilty, the defendant may be committed to the Crown Court for sentence.

Where the court orders trial in a magistrates' court, see also rules 3.16 to 3.18 about preparation for trial.]

Allocation at a hearing for magistrates' court trial

9.17.—(1) This rule applies at a hearing where—

(a) rule 9.16 applies; and

(b) under rule 9.16(5)(e) the court decides that the case should be tried in a magistrates' court.

(2) The court must explain, in terms the defendant can understand (with help, if necessary) that—

(a) the court has decided that the case should be tried in a magistrates' court;

(b) if the defendant is convicted at a trial in a magistrates' court then in some circumstances the court may commit the defendant to the Crown Court for sentence;

(c) if the defendant agrees to a magistrates' court trial then such a trial will be arranged;

(d) if the defendant does not agree to such a trial then the court will send the defendant to the Crown Court for trial; and

(e) before deciding whether to agree to a magistrates' court trial the defendant may ask the court for an indication of whether a custodial or non-custodial sentence is

(**a**) 2009 c. 25; section 122 was amended by section 51 of, and paragraph 13 of Schedule 2 to, the Judicial Review and Courts Act 2022 (c. 35).

more likely in the event of a guilty plea at such a trial ("a sentencing indication") but the court need not give such an indication.

(3) If the defendant asks for a sentencing indication and the court gives such an indication—

(a) the court must then ask again whether the defendant intends to plead guilty;

(b) if, in answer to that question, the defendant indicates an intention to plead guilty then the court must deal with the case—

(i) as if the defendant had just pleaded guilty to an offence that can be tried only in a magistrates' court, and

(ii) in accordance with rule 24.11 (Procedure if the court convicts); and

(c) if, in answer to that question, the defendant indicates an intention to plead not guilty, or gives no indication of intended plea, in the following sequence the court must then—

(i) ask whether the defendant agrees to trial in a magistrates' court,

(ii) if the defendant's answer to that question is 'yes', order such a trial, and

(iii) if the defendant does not answer that question, or the answer is 'no', then rule 9.23 applies (Sending after allocation for Crown Court trial).

(4) If the defendant asks for a sentencing indication but the court gives none, or if the defendant does not ask for such an indication, in the following sequence the court must then—

(a) ask whether the defendant agrees to trial in a magistrates' court;

(b) if the defendant's answer to that question is 'yes', order such a trial; and

(c) if the defendant does not answer that question, or the answer is 'no', then rule 9.23 applies (Sending after allocation for Crown Court trial).

(5) Where neither the defendant nor the defendant's legal representative is present when this rule applies—

(a) paragraphs (2), (3) and (4) do not apply;

(b) the court must order trial in a magistrates' court; but

(c) the court may direct a fresh hearing under this rule if—

(i) before pleading guilty or not guilty at that trial the defendant asks for such a fresh hearing and gives an explanation for the absence, and

(ii) the court thinks it in the interests of justice so to direct, having regard to that explanation.

[Note. See sections 20 and 23 of the Magistrates' Courts Act 1980(**a**).

For the circumstances in which a magistrates' court may (and, in some cases, must) commit a defendant to the Crown Court for sentence after that defendant has been convicted at a magistrates' court trial, see sections 14, 15, 17 and 20 of the Sentencing Act 2020(**b**).

For the circumstances in which an indication of sentence to which this rule applies restricts the sentencing powers of a court, see section 20A of the 1980 Act(**c**).

(**a**) 1980 c. 43; section 20 was amended by section 336 of, and paragraph 6 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44) and section 416 of, and paragraph 46 of Schedule 24 to, the Sentencing Act 2020 (c. 17). 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 section 336 of, and paragraph 8 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44). Each is further amended by paragraphs 6 and 10 of Schedule 2 to the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

(**b**) 2020 c. 17; sections 15 and 17 were amended by section 50 of, and paragraphs 11 and 26 of Schedule 13 to, the Counter-Terrorism and Sentencing Act 2021 (c. 11).

(**c**) 1980 c. 43; section 20A was inserted by section 336 of, and paragraph 6 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44) and amended by section 416 of, and paragraph 47 of Schedule 24 to, the Sentencing Act 2020 (c. 17).

Where the court orders trial in a magistrates' court, see also rules 3.16 to 3.18 about preparation for trial.]

Prosecutor's application for Crown Court trial

9.18.—(1) This rule applies where—

(a) rule 9.13 or 9.17 applies and the defendant agrees to trial in a magistrates' court; but

(b) the prosecutor wants the court to send the defendant to the Crown Court for trial instead.

(2) The prosecutor must—

(a) apply before trial in a magistrates' court begins under Part 24 (Trial and sentence in a magistrates' court); and

(b) notify—

(i) the defendant, and

(ii) the magistrates' court officer.

(3) The court must determine an application to which this rule applies before it deals with any other pre-trial application.

(4) If the court grants the application then rule 9.23 applies (Sending after allocation for Crown Court trial).

[Note. See sections 8A and 25 of the Magistrates' Courts Act 1980(**a**)*. Under section 25(2B), the court may grant an application to which this rule applies only if it is satisfied that the sentence which a magistrates' court would have power to impose would be inadequate.]*

ALLOCATION FOR TRIAL: YOUNG DEFENDANTS

Allocation by written procedure for youth court or Crown Court trial

9.19.—(1) This rule—

(a) applies where—

(i) the defendant is under 18, and

(ii) the court must decide whether to send the defendant for Crown Court trial instead of ordering trial in a youth court; but

(b) does not apply where—

(i) the defendant is present at a hearing to which rule 9.21 applies (Allocation at a hearing for youth court or Crown Court trial), or

(ii) such a hearing is due to take place less than 15 business days after the notice, explanations and warning required by paragraph (2) otherwise would be served; and

(c) ceases to apply if, before the court completes the procedure under this rule, the defendant withdraws a plea indication given under paragraph (6), in which event

(**a**) 1980 c. 43; section 8A was inserted by section 45 of, and Schedule 3 to, the Courts Act 2003 (c. 39) and amended by S.I. 2006/2493 and section 151 of, and paragraph 14 of Schedule 5 to, the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10). Section 25 was amended by section 31 of, and paragraph 3 of Schedule 1 and Schedule 2 to, the Prosecution of Offences Act 1985 (c. 23), sections 68 and 101 of, and paragraph 6 of Schedule 8 and paragraph 22 of Schedule 12 to, the Criminal Justice Act 1991 (c. 53), section 47 of, and paragraph 5 of Schedule 1 to, the Criminal Procedure and Investigations Act 1996 (c. 25) and sections 42 and 336 of, and paragraph 11 of Schedule 3 and Part 4 of Schedule 37 to, the Criminal Justice Act 2003 (c. 44). It is further amended by paragraph 10 of Schedule 2 to the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

the court officer must arrange a hearing for the purposes of rule 9.21 (Allocation at a hearing for youth court or Crown Court trial).

(2) The court officer must serve on the parties—

(a) notice—

(i) that the court will consider the offence or offences of which the defendant is accused on a date and at a time and place specified in the notice, with a statement of each offence, and

(ii) advising the defendant to consult a legal representative and giving information about how to find a representative if the defendant does not already have one;

(b) explanations that—

(i) because the court must decide whether the defendant's case should be tried in the Crown Court instead of in a youth court a hearing for that purpose has been arranged,

(ii) instead of attending that hearing the parties may make written representations about whether the court should order trial in a youth court or send the defendant for Crown Court trial,

(iii) instead of attending that hearing the defendant may give a written plea indication, guilty or not guilty, to each offence of which the defendant is accused,

(iv) only legal representatives have access to the electronic arrangements needed to make written representations or give a written plea indication, and

(v) if the defendant uses those electronic arrangements to respond then the court officer will provide more information about the procedure; and

(c) a warning that if the defendant does not respond using those electronic arrangements by a date specified in the notice then the hearing to which the notice refers will take place and—

(i) if the defendant fails to attend that hearing then the defendant may be arrested and, if the defendant is on bail, then as well as being arrested may be punished and bail may be withdrawn,

(ii) the case may proceed anyway without the court having been able to take account of any representations and information that the defendant might want to make or give.

(3) The date specified under paragraph (2)(c) must be not less than 8 business days after service of the notice, explanations and warning required by paragraph (2).

(4) If by the date specified under paragraph (2)(c) the defendant uses the electronic arrangements to which that paragraph refers then the court officer must give the defendant by those means—

(a) explanations that—

(i) a plea indication does not of itself constitute a plea, there will be a court hearing for the defendant to confirm that plea, and the defendant will be able to withdraw the plea indication before the case is sent for trial or the plea is taken in court,

(ii) before giving a plea indication the defendant may ask the court for an indication of whether a custodial or non-custodial sentence is more likely in the event of a guilty plea at a trial in a youth court ("a sentencing indication") but the court need not give such an indication,

(iii) if the defendant indicates an intention to plead guilty then the court officer will arrange a hearing at which the plea will be taken in court, and if the defendant then pleads guilty the court will pass sentence or commit the defendant for sentence to the Crown Court,

(iv) if the defendant indicates an intention to plead not guilty and the court then, without a hearing, sends the defendant for trial in the Crown Court it will be on bail, which will be without conditions if the defendant is already on unconditional bail or is not on bail at all, or will be subject to the same conditions if the defendant is already on conditional bail,

(v) if the defendant is sent for trial on bail, failure to attend at the Crown Court when required is an offence for which the defendant may be arrested and punished and bail may be withdrawn, and

(vi) if the defendant gives a plea indication then the court officer will provide more information about the procedure and will ask for more information from the defendant;

(b) a request that the defendant gives a plea indication or asks for a sentencing indication; and

(c) a warning that if the defendant gives a plea indication but later withdraws it the hearing to which the paragraph (2) notice refers will take place and—

(i) if the defendant fails to attend that hearing then the defendant may be arrested and, if the defendant is on bail, then as well as being arrested may be punished and bail may be withdrawn,

(ii) the case may proceed anyway without the court having been able to take account of any representations and information that the defendant might want to make or give.

(5) If in response to the request under paragraph (4) the defendant asks for a sentencing indication—

(a) the court must as soon as practicable decide whether to give such an indication, and if so in what terms; and

(b) as soon as practicable after the court makes those decisions, the court officer must—

(i) notify the defendant accordingly, and

(ii) request that the defendant gives a plea indication not more than 3 business days later.

(6) If by the date specified under paragraph (2)(c) or within the time allowed under paragraph (5) the defendant indicates an intention to plead guilty then—

(a) the court officer must arrange a hearing for the purposes of Part 24 (Trial and sentence in a magistrates' court);

(b) if at that hearing the defendant pleads guilty the court must deal with the case in accordance with rule 24.11 (Procedure if the court convicts); and

(c) if at that hearing the defendant pleads not guilty the court must deal with the case in accordance with rule 9.21(7) (procedure where defendant pleads not guilty under that rule).

(7) If by the date specified under paragraph (2)(c) or within the time allowed under paragraph (5) the defendant indicates an intention to plead not guilty then—

(a) the court officer must request that not more than 5 business days later the parties should make representations about whether the court should send the defendant for Crown Court trial instead of ordering trial in a youth court; and

(b) no sooner than the earlier of the receipt from both parties of responses to that request or the expiry of 5 business days the court must consider any response and must decide whether the case should be tried in a youth court or in the Crown Court, taking into account—

(i) any representations by the parties, and

(ii) any guidelines affecting the court's decision issued by the Sentencing Council.

(8) If the court decides that the case should be tried in a youth court—

(a) the court must give such directions as are required for an effective trial and may require further information from the parties for that purpose; and

(b) the court officer must arrange a hearing for the purposes of Part 24 (Trial and sentence in a magistrates' court).

(9) If the court decides that the case should be tried in the Crown Court then rule 9.23 applies (Sending after allocation for Crown Court trial).

[Note. See sections 24ZA and 24ZB of the Magistrates' Courts Act 1980(**a**) *and section 51A of the Crime and Disorder Act 1998*(**b**)*. Under section 24ZA(3) of the 1980 Act, a magistrates' court must offer the procedure set out in this rule except in circumstances for which Criminal Procedure Rules provide: see section 24ZA(2).*

A defendant will be present at a hearing to which rule 9.21 applies if arrested and brought to court in custody. A hearing to which rule 9.21 will apply will have been arranged if a defendant is not in custody but has been required to attend court for such a hearing.

The Sentencing Council may issue sentencing guidelines under section 120 of the Coroners and Justice Act 2009(**c**)*. The definitive guideline on sentencing children and young people which took effect on 1st June, 2017, in Section two: Allocation provides, "Subject to the exceptions noted below, cases involving children and young people should be tried in the youth court. It is the court which is best designed to meet their specific needs. A trial in the Crown Court with the inevitably greater formality and greatly increased number of people involved (including a jury and the public) should be reserved for the most serious cases." The guideline includes further detailed guidance.*

For the circumstances in which a magistrates' court may (and, in some cases, must) commit a defendant who is under 18 to the Crown Court for sentence after that defendant has indicated a guilty plea, see sections 16, 16A, 17, 19 and 20 of the Sentencing Act 2020(**d**)*.*

Where the court orders trial in a youth court, see also rules 3.16 to 3.18 about preparation for trial.

In the circumstances for which this rule provides section 34A of the Children and Young Persons Act 1933(**e**) *allows, and in some circumstances requires, the court to ensure that a parent or guardian is aware of the proceedings.]*

Young defendant becoming an adult during written procedure

9.20.—(1) This rule applies where the defendant becomes 18 before the court completes the procedure under rule 9.19 (Allocation by written procedure for youth court or Crown Court trial).

(2) Instead of that procedure—

(a) where the defendant becomes 18 without having indicated an intention to plead guilty or not guilty under rule 9.19(6) and before the time for such an indication expires then the request for that indication constitutes a request under rule 9.10

(**a**) 1980 c. 43; sections 24ZA and 24ZB are inserted by section 8 of the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

(**b**) 1998 c. 37; section 51A was inserted by paragraphs 15 and 18 of Schedule 3 to the Criminal Justice Act 2003 (c. 44) and amended by section 49 of, and paragraph 5 of Schedule 1 to, the Violent Crime Reduction Act 2006 (c. 38), paragraph 6 of Schedule 21 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), and paragraph 156 of Schedule 24 to the Sentencing Act 2020 (c. 17). It is further amended by section 10 of the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

(**c**) 2009 c. 25; section 120 was amended by section 416 of, and paragraph 277 of Schedule 24 to, the Sentencing Act 2020 (c. 17).

(**d**) 2020 c. 17; section 16A was inserted, and sections 17 and 19 amended, by section 50 of, and paragraph 26 of Schedule 13 to, the Counter-Terrorism and Sentencing Act 2021 (c. 11).

(**e**) 1933 c. 12; section 34A was inserted by section 56 of the Criminal Justice Act 1991 (c. 53) and amended by section 107 of, and paragraph 1 of Schedule 5 to, the Local Government Act 2000 (c. 22) and S.I. 2016/413.

(request by written procedure for plea indication by an adult) and rules 9.11 to 9.13 apply accordingly (the rules about written procedures in respect of an adult defendant);

(b) where the defendant becomes 18 after indicating an intention to plead guilty or not guilty under rule 9.19(6) but before the court decides whether the case should be tried in a youth court or in the Crown Court and before the defendant enters a plea at a hearing then paragraph (3) applies;

(c) where the defendant becomes 18 without having indicated an intention to plead guilty or not guilty under rule 9.19(6), after the time for such an indication expires and before the hearing under rule 9.21 (Allocation at a hearing for youth court or Crown Court trial), then that hearing constitutes a hearing under rule 9.14 (request at a hearing for plea indication by an adult); and

(d) where the defendant becomes 18 after withdrawing a notice of intention to plead guilty or not guilty under rule 9.19(6) but before the hearing under rule 9.21 then paragraph (3) applies.

(3) Where this paragraph applies (plea indication but no allocation yet, or withdrawal of plea indication)—

(a) the court must decide whether to continue as if the defendant were still under 18, taking into account—

(i) any representations by the parties, and

(ii) any guidelines affecting the court's decision issued by the Sentencing Council;

(b) if the court decides not to continue as if the defendant were still under 18 where the offence is one for which an adult defendant must be tried in the Crown Court (an offence triable only on indictment) then rule 9.8 applies (Sending by written procedure for Crown Court trial); and

(c) if the court decides not to continue as if the defendant were still under 18 where the offence is one for which an adult defendant can be tried in a magistrates' court or the Crown Court (an offence triable either way)—

(i) rule 9.11(6) or rule 9.12 applies accordingly (the rules about written indications by an adult defendant of intention to plead guilty or not guilty), and

(ii) a hearing under rule 9.21 constitutes a hearing under rule 9.14 (request at a hearing for plea indication by an adult).

[Note. See section 24ZB of the Magistrates' Courts Act 1980 and section 47 of the Crime and Disorder Act 1998(**a**)*.*

See also the note to rule 9.19 (Allocation by written procedure for youth court or Crown Court trial).]

Allocation at a hearing for youth court or Crown Court trial

9.21.—(1) This rule applies at a hearing where—

(a) the defendant is under 18 and

(b) the court must decide whether to send the defendant for Crown Court trial instead of ordering trial in a youth court.

(2) The court must read the allegation of the offence to the defendant.

(**a**) 1998 c. 37; section 47 was amended by sections 165 and 168 of, and Part I of Schedule 12 to, the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), section 336 of, and Part 4 of Schedule 37 to, the Criminal Justice Act 2003 (c. 44) and article 2 of, and paragraph 59 of the Schedule to, S.I. 2005/886. It is further amended by section 12 of the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

(3) The court must explain, in terms the defendant can understand (with help, if necessary)—

(a) the allegation, unless it is self-explanatory;

(b) that the offence is one which can be tried in the Crown Court instead of in a youth court;

(c) that the court is about to ask whether the defendant intends to plead guilty;

(d) that if the answer is 'yes', then the court must treat that as a guilty plea and must sentence the defendant, or commit the defendant to the Crown Court for sentence;

(e) that if the defendant does not answer, or the answer is 'no', then the court must decide whether to send the defendant for Crown Court trial instead of ordering trial in a youth court;

(f) that before answering and at any time until the court decides whether to send the defendant for Crown Court trial or order trial in a youth court—

(i) the defendant may ask the court for an indication of whether a custodial or non-custodial sentence is more likely in the event of a guilty plea there and then, but

(ii) the court need not give such an indication; and

(g) that reporting restrictions apply, which the defendant may ask the court to vary or remove.

(4) The defendant may then ask the court for such an indication of sentence.

(5) Whether the defendant asks for and the court gives such an indication or not, the court must then ask whether the defendant intends to plead guilty.

(6) If the defendant's answer to that question is 'yes', the court must deal with the case—

(a) as if the defendant had just pleaded guilty at a trial in a youth court; and

(b) in accordance with rule 24.11 (Procedure if the court convicts).

(7) If the defendant does not answer that question, or the answer is 'no', in the following sequence the court must then—

(a) invite the prosecutor to make representations about whether the court should send the defendant for Crown Court trial instead of ordering trial in a youth court;

(b) invite the defendant to make such representations; and

(c) decide whether the case should be tried in a youth court or in the Crown Court, taking into account—

(i) any representations by the parties, and

(ii) any guidelines affecting the court's decision issued by the Sentencing Council.

(8) If the court decides that the case should be tried in a youth court—

(a) the court must give such directions as are required for an effective trial and may require further information from the parties for that purpose; and

(b) the court officer must arrange a hearing for the purposes of Part 24 (Trial and sentence in a magistrates' court).

(9) If the court decides that the case should be tried in the Crown Court then rule 9.23 applies (Sending after allocation for Crown Court trial).

(10) Where the court decides to exercise the powers to which this rule applies in the defendant's absence—

(a) paragraphs (2) to (6) and (7)(b) do not apply; and

(b) the rest of paragraph (7) and paragraphs (8) and (9) apply as if the defendant were present and had indicated an intention to plead not guilty.

[Note. See sections 24A, 24B and 24BA of the Magistrates' Courts Act 1980(**a**) *and sections 47 and 51A of the Crime and Disorder Act 1998.*

The Sentencing Council may issue sentencing guidelines under section 120 of the Coroners and Justice Act 2009. The definitive guideline on sentencing children and young people which took effect on 1st June, 2017, in Section two: Allocation provides, "Subject to the exceptions noted below, cases involving children and young people should be tried in the youth court. It is the court which is best designed to meet their specific needs. A trial in the Crown Court with the inevitably greater formality and greatly increased number of people involved (including a jury and the public) should be reserved for the most serious cases." The guideline includes further detailed guidance.

For the circumstances in which a magistrates' court may (and, in some cases, must) commit a defendant who is under 18 to the Crown Court for sentence after that defendant has indicated a guilty plea, see sections 16, 16A, 17, 19 and 20 of the Sentencing Act 2020.

Where the court orders trial in a youth court, see also rules 3.16 to 3.18 about preparation for trial.]

Young defendant becoming an adult after allocation for youth court trial

9.22.—(1) This rule applies where—

(a) under rule 9.19 (Allocation by written procedure for youth court or Crown Court trial) or rule 9.21 (Allocation at a hearing for youth court or Crown Court trial) the court decides that the case should be tried in a youth court; and

(b) the defendant becomes 18 before that trial begins.

(2) The court must decide, at a hearing or without a hearing, whether the case should be tried in the Crown Court or in a magistrates' court instead of allowing youth court trial to take place, taking into account—

(a) any representations made by the parties under rule 9.19 or under rule 9.21, as applicable, and

(b) any guidelines affecting the court's decision issued by the Sentencing Council.

(3) If the court decides that the case should not now be tried in the youth court—

(a) where the offence is one for which an adult defendant must be tried in the Crown Court (an offence triable only on indictment) and the court decides to send the defendant to the Crown Court for trial—

(i) rule 9.8 applies (Sending by written procedure for Crown Court trial) unless the defendant is present at a hearing, and

(ii) if the defendant is present at a hearing, rule 9.9 applies (Sending at a hearing for Crown Court trial);

(b) where the offence is one for which an adult defendant can be tried in a magistrates' court or in the Crown Court (an offence triable either way) and the court decides to send the defendant to the Crown Court then rule 9.23 applies (Sending after allocation for Crown Court trial);

(c) where the offence is one for which an adult defendant can be tried in a magistrates' court or in the Crown Court (an offence triable either way) and the court is inclined to order trial in a magistrates' court—

(i) paragraph (4) applies if the defendant is present at a hearing; and

(**a**) 1980 c. 43; sections 24A and 24B were inserted by section 336 of, and paragraph 10 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44). Section 24A was amended by section 416 of, and paragraph 49 of Schedule 24 to, the Sentencing Act 2020 (c. 17) and section 50 of, and paragraph 14 of Schedule 13 to, the Counter-Terrorism and Sentencing Act 2021 (c. 11). It is further amended by paragraphs 6, 9 and 10 of Schedule 2 to the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed. Section 24BA is inserted by section 9 of the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

(ii) otherwise paragraphs (6) and (7) apply; and

(d) where the offence is one for which an adult defendant can be tried only in a magistrates' court (a summary offence) and the court is inclined to order trial in a magistrates' court—

(i) paragraph (5) applies if the defendant is present at a hearing; and

(ii) otherwise paragraphs (6) and (7) apply.

(4) Where this paragraph applies (offence triable either way; court inclined to order trial in a magistrates' court; defendant present at a hearing) the court must—

(a) explain, in terms the defendant can understand (with help, if necessary) that the court is inclined to order a magistrates' court trial but before making a final decision the court will ask whether the defendant wants to be tried in the Crown Court and if the answer is 'yes' then the court must send the defendant for such a trial; and

(b) ask whether the defendant wants to be tried in the Crown Court and—

(i) if the defendant's answer to that question is 'yes' then rule 9.23 applies (Sending after allocation for Crown Court trial),

(ii) if the defendant does not answer that question, or the answer is 'no', order trial in a magistrates' court.

(5) Where this paragraph applies (summary offence; court inclined to order trial in a magistrates' court; defendant present at a hearing) the court must—

(a) explain, in terms the defendant can understand (with help, if necessary) that the court is inclined to order a magistrates' court trial but before making a final decision the court will invite the parties to make representations;

(b) invite the parties to make any representations they wish to make about the court's proposed decision and about any ancillary matters, including directions for the management of the case in the magistrates' court, and

(c) decide whether the trial should take place in the youth court or in a magistrates' court.

(6) Where this paragraph applies (court inclined to order trial in a magistrates' court; no hearing, or defendant absent) the court officer must—

(a) serve on or give to the parties—

(i) a statement of each offence for which the court is inclined to order trial in a magistrates' court, and

(ii) the same explanations as would have been required at a hearing under paragraph (4) or paragraph (5), as applicable;

(b) request that not more than 5 business days later—

(i) the defendant requires Crown Court trial, if applicable, and

(ii) the parties make any representations they wish to make about the court's proposed decision and about any ancillary matters, including directions for the management of the case.

(7) No sooner than the earlier of the receipt of responses from both parties to the requests under paragraph (6) or the expiry of 5 business days the court must consider any response and, as applicable—

(a) send the defendant to the Crown Court for trial and rule 9.23 applies (Sending after allocation for Crown Court trial); or

(b) decide whether the trial should take place in the youth court or in a magistrates' court, taking into account—

(i) any representations by the parties, and

(ii) any guidelines affecting the court's decision issued by the Sentencing Council.

[Note. See section 47 of the Crime and Disorder Act 1998.

See also the notes to rules 9.19 and 9.21.]

SENDING AFTER ALLOCATION FOR CROWN COURT TRIAL

Sending after allocation for Crown Court trial

9.23.—(1) This rule applies where—

(a) under rule 9.11(4) (Guilty plea indication by written procedure) neither party objects to the defendant being sent for Crown Court trial;

(b) under rule 9.12 (Not guilty plea indication by written procedure)—

(i) the defendant requires Crown Court trial (see rule 9.12(4)), or

(ii) the court decides that the case should be tried in the Crown Court (see rule 9.12(8));

(c) under rule 9.13(6) (Allocation by written procedure for magistrates' court trial) the defendant neither indicates an intention to plead guilty nor agrees to trial in a magistrates' court;

(d) under rule 9.16 (Not guilty plea indication at a hearing)—

(i) the defendant requires Crown Court trial (see rule 9.16(3)(c) and (5)(b)), or

(ii) the court decides that the case should be tried in the Crown Court (see rule 9.16(6));

(e) under rule 9.17 (Allocation at a hearing for magistrates' court trial) the defendant does not agree to trial in a magistrates' court (see rule 9.17(3)(c) and (4)(c));

(f) under rule 9.18(4) (Prosecutor's application for Crown Court trial) the court grants the prosecutor's application for Crown Court trial;

(g) under rule 9.19(9) (Allocation by written procedure for youth court or Crown Court trial) the court decides that the case should be tried in the Crown Court;

(h) under rule 9.21(9) (Allocation at a hearing for youth court or Crown Court trial) the court decides that the case should be tried in the Crown Court; or

(i) under rule 9.22 (Young defendant becoming an adult after allocation for youth court trial)—

(i) the court decides that the case should be tried in the Crown Court (see rule 9.22(3)(b)); or

(ii) the defendant requires Crown Court trial (see rule 9.22(4)(b)(i) or (7)(a)).

(2) Where this rule applies—

(a) paragraphs (3) to (9) apply unless the defendant is present at a hearing; and

(b) if the defendant is present at a hearing then paragraph (10) applies.

(3) The court must decide whether to—

(a) send the defendant by written notice to the Crown Court for trial; or

(b) require a hearing for that purpose.

(4) In deciding whether to require such a hearing the court must have regard to—

(a) any need, in the court's opinion, for a hearing to—

(i) consider bail, or

(ii) collect or consider information required for the purposes of case management;

(b) any indication that the defendant has no legal representative; and

(c) any other circumstance which in the court's opinion makes such a hearing necessary.

(5) If the court decides to send the defendant by written notice to the Crown Court for trial the court officer must give to or serve on the parties—

(a) notice—

(i) that the court is about to send the defendant for Crown Court trial for the offence or offences of which the defendant is accused, with a statement of each offence, and

(ii) (where the notice is served on the defendant) advising the defendant to consult a legal representative and giving information about how to find a representative if the defendant does not already have one;

(b) explanations that—

(i) the court can send the defendant without a hearing for Crown Court trial,

(ii) if the court sends the defendant without a hearing for Crown Court trial it will be on bail, which will be without conditions if the defendant is already on unconditional bail or is not on bail at all, and will be on the same conditions if the defendant is already on conditional bail,

(iii) the parties may make any written representations they wish to make about the exercise of the court's powers and about any ancillary matters, including the preparation of the case for trial in the Crown Court, and may supply in writing such information as the court requires for the purposes of case management,

(iv) (where the notice is served on the defendant) only legal representatives have access to the electronic arrangements needed to make written representations and supply such information; and

(c) a warning that if the defendant does not respond using those electronic arrangements by a date specified in the notice then the defendant will be sent for Crown Court trial without the court having been able to take account of any representations and information that the defendant might want to make or give.

(6) The date specified under paragraph (5)(c) must be not less than 5 business days after service of the notice, explanations and warning required by paragraph (5).

(7) If by the date specified under paragraph (5)(c) the parties respond by means of the electronic arrangements to which that paragraph refers then the court officer must request by those means—

(a) such representations as the parties wish to make about the exercise of the court's powers and about any ancillary matters, including the preparation of the case for trial in the Crown Court; and

(b) such information as the court requires for the purposes of case management.

(8) No sooner than the earlier of the date specified under paragraph (5)(c) or the receipt from both parties of responses to the requests under paragraph (7) the court must—

(a) consider any responses to those requests; and

(b) send the defendant by written notice to the Crown Court for trial on bail.

(9) On sending the defendant to the Crown Court for trial—

(a) the court must give any ancillary directions; and

(b) the court officer must—

(i) issue a notice of sending under rule 9.5(1),

(ii) arrange for a case management hearing in the Crown Court, and

(iii) warn the defendant that failure to attend at the Crown Court when required is an offence for which the defendant may be arrested and punished and bail may be withdrawn.

(10) If the court decides to send the defendant to the Crown Court for trial at a hearing—

(a) at that hearing the court must—

(i) explain, in terms the defendant can understand (with help, if necessary), that the court is about to send the defendant for Crown Court trial for the offence or offences of which the defendant is accused;

(ii) invite such representations as the parties wish to make about the exercise of the court's powers and about any ancillary matters, including the preparation of the case for trial in the Crown Court,

(iii) invite the parties to supply such information as the court requires for the purposes of case management, and

(iv) send the defendant to the Crown Court for trial, in custody or on bail, and give any ancillary directions; and

(b) after that hearing the court officer must issue a notice of sending under rule 9.5(1).

[Note. See sections 21 and 24A of the Magistrates' Courts Act 1980(**a**) *and sections 51, 51A and 52 of the Crime and Disorder 1998*(**b**)*. See also rule 9.3 (matters to be specified on sending for trial).*

Under sections 51(2A), (2B) and 51A(3A), (3B) of the 1998 Act, unless the defendant is present before the court a magistrates' court must follow the procedure described in paragraphs (4) and (5) of this rule except in circumstances for which Criminal Procedure Rules provide: see sections 51(2D), (2E) and 51A(3D), (3E).]

COMMITTAL FOR SENTENCE IN CONNECTION WITH SENDING FOR TRIAL

Committal for sentence for offence related to an offence sent for trial

9.24.—(1) This rule applies where—

(a) the court has sent the defendant to the Crown Court for trial for an offence;

(b) the defendant indicates an intention to plead guilty to, and is convicted of, an offence which the court decides is related to the offence for which the defendant was sent for trial;

(c) the court decides to commit the defendant to the Crown Court for sentence for the related offence under—

(i) section 18 of the Sentencing Act 2020(**c**), if the defendant is 18 or over, or

(ii) section 19 of the 2020 Act(**d**), if the defendant is under 18; and

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(**a**) 1980 c. 43; section 21 was amended by section 336 of, and paragraph 7 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44). It is further amended by paragraph 10 of Schedule 2 to the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed. Section 24A was inserted by section 336 of, and paragraph 10 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44) and amended by section 416 of, and paragraph 49 of Schedule 24 to, the Sentencing Act 2020 (c. 17) and section 50 of, and paragraph 14 of Schedule 13 to, the Counter-Terrorism and Sentencing Act 2021 (c. 11). It is further amended by paragraphs 6, 9 and 10 of Schedule 2 to the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

(**b**) 1998 c. 37; section 51 was substituted by paragraphs 15 and 18 of Schedule 3 to the Criminal Justice Act 2003 (c. 44) and amended by section 52 of the Criminal Justice and Courts Act 2015 (c. 2). Section 51A was inserted by paragraphs 15 and 18 of Schedule 3 to the Criminal Justice Act 2003 (c. 44) and amended by section 49 of, and paragraph 5 of Schedule 1 to, the Violent Crime Reduction Act 2006 (c. 38), paragraph 6 of Schedule 21 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), and paragraph 156 of Schedule 24 to the Sentencing Act 2020 (c. 17). Each is further amended by section 10 of the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed. Section 52 was amended by paragraphs 68 and 69 of Schedule 3 to the Criminal Justice Act 2003 (c. 44) and section 177 of, and paragraph 78 of Schedule 21 to, the Coroners and Justice Act 2009 (c. 25). It is further amended by section 10 of, and paragraph 15 of Schedule 2 to, the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

(**c**) 2020 c. 17.

(**d**) 2020 c. 17; section 19 was amended by section 50 of, and paragraph 26 of Schedule 13 to, the Counter-Terrorism and Sentencing Act 2021 (c. 11).

(d) in the court's opinion, if it were not committing the defendant for sentence under section 18 or 19 of the 2020 Act then it could, or would be required to, commit the defendant to the Crown Court for sentence for the related offence under—

(i) section 14 or 15 of the Act(**a**), if the defendant is 18 or over, or

(ii) section 16, 16A or 17 of the Act(**b**), if the defendant is under 18.

(2) The court must state that opinion for the Crown Court.

[Note. See sections 18(4) and 19(3) of the Sentencing Act 2020 for the court's powers to state the opinion to which this rule refers.

Under sections 18(7) and 19(6) of the 2020 Act, for the purposes of those sections one offence is related to another if, were they both to be prosecuted on indictment, the charges for them could be joined in the same indictment.

For the circumstances in which a magistrates' court may (and, in some cases, must) commit a defendant to the Crown Court for sentence or for the making of other orders beyond a magistrates' court's powers, see sections 14, 15, 16, 16A, 17, 18, 19, 20 and 24 of the Sentencing Act 2020(**c**) *and paragraph 11 of Schedule 16 to that Act*(**d**)*. See also rules 24.11 (Procedure if the court convicts) and 28.13 (Sentencing, etc. after committal to the Crown Court). The note to rule 28.13 summarises the statutory provisions that apply.]*

SENDING BACK, ETC. FOR MAGISTRATES' COURT TRIAL

Sending back or referring case for magistrates' court trial

9.25.—(1) This rule applies where a magistrates' court sends the defendant to the Crown Court for trial and—

(a) under section 46ZA of the Senior Courts Act 1981(**e**), the Crown Court can send the defendant back to a magistrates' court for trial for a summary offence or for an offence triable either way; or

(b) under paragraph 6 of Schedule 3 to the Crime and Disorder Act 1998(**f**), where a summary offence remains outstanding the Crown Court must so inform the magistrates' court.

(2) Where paragraph (1)(a) applies—

(a) the Crown Court may exercise its power to send back—

(i) at a hearing, in public or in private, or without a hearing,

(ii) in the defendant's absence, but only if the defendant consents to being absent on its exercise, and

(iii) in the prosecutor's absence, but only if the prosecutor has had at least 5 business days in which to make representations; and

(b) if the defendant is under 18, the Crown Court must—

(i) consider sending the defendant back, and

(**a**) 2020 c. 17; section 15 was amended by section 50 of, and paragraph 11 of Schedule 13 to, the Counter-Terrorism and Sentencing Act 2021 (c. 11).

(**b**) 2020 c. 17; section 16A was inserted, and section 17 amended, by section 50 of, and paragraph 26 of Schedule 13 to, the Counter-Terrorism and Sentencing Act 2021 (c. 11).

(**c**) 2020 c. 17.

(**d**) 2020 c. 17; paragraph 11 of Schedule 16 was amended by section 208 of, and paragraph 8 of Schedule 21 to, the Police, Crime, Sentencing and Courts Act 2022 (c. 32).

(**e**) 1981 c. 54; section 46ZA was inserted by section 11 of the Judicial Review and Courts Act 2022 (c. 35).

(**f**) 1998 c. 37; paragraph 6 of Schedule 3 was amended by sections 90 and 106 of, and paragraph 179 of Schedule 13 and Schedule 15 to, the Access to Justice Act 1999 (c. 22), sections 41 of, and paragraphs 15 and 20 of Schedule 3 to, the Criminal Justice Act 2003 (c. 44), S.I. 2005/886 and paragraphs 20 and 23 of the Schedule to the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018 (c. 33). It is further amended by paragraph 15 of Schedule 2 to the Judicial Review and Courts Act 2022 (c. 35) with effect from a date to be appointed.

(ii) explain why, if it does not do so.

(3) Where paragraph (1)(a) applies and the Crown Court sends the defendant back—

(a) the Crown Court must—

(i) specify the date on which the defendant must attend at or be taken to the magistrates' court, and

(ii) decide whether to grant or withhold bail;

(b) the Crown Court officer must make available to the magistrates' court officer a record of the Crown Court's order under paragraph (3)(a) and details of any—

(i) case management direction affecting the magistrates' court,

(ii) direction about reporting restrictions,

(iii) period for which the defendant was in custody during proceedings in the Crown Court,

(iv) decision about bail, for the purposes of section 5 of the Bail Act 1976(**a**),

(v) recognizance given by a surety,

(vi) representation order,

(vii) interpreter, intermediary, or supporting adult, and

(viii) information supplied by the parties for the purposes of case management by the court; and

(c) the Crown Court officer must at the same time serve on each party notice of the sending back and of the Crown Court's order, unless that party was present when the order was made.

(4) Where paragraph (1)(b) applies—

(a) the Crown Court must exercise its power at a hearing; and

(b) unless the defendant pleads guilty to the summary offence, the Crown Court officer must notify the magistrates' court officer of the outcome of the proceedings.

[Note. An offence may be classified as triable only on indictment; triable only summarily (a summary offence); or triable either way (on indictment or summarily). Offences classified either as triable only on indictment or as triable either way collectively are described as indictable offences.

Under section 46ZA(2) of the Senior Courts Act 1981 the Crown Court cannot send the defendant back to a magistrates' court for trial—

(a) where the defendant is 18 or over, or is a corporation, and the offence is triable only on indictment; or

(b) where the defendant is under 18 and the offence is homicide or one of the other offences listed in section 51A(12) of the Crime and Disorder Act 1998.

Under section 46ZA(3) of the 1981 Act the Crown Court cannot send an adult or corporate defendant back to a magistrates' court for trial for an offence triable either way unless the defendant consents.

Under section 46ZA(5) of the 1981 Act, in deciding whether to send a defendant back the Crown Court must take into account (a) any other related offence before the Crown Court

(**a**) 1976 c. 63; section 5 was amended by Schedule 12 to the Criminal Law Act 1977 (c. 45), section 60 of the Criminal Justice Act 1982 (c. 48), section 27 of, and paragraph 1 of Schedule 3 to, the Criminal Justice and Public Order Act 1994 (c. 33), sections 165 and 168 of, and paragraph 53 of Schedule 9 to, the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), section 129 of the Criminal Justice and Police Act 2001 (c. 16), paragraph 182 to Schedule 8 to the Courts Act 2003 (c. 39), section 336 of, and paragraph 48 of Schedule 3 and Parts 2 and 12 of Schedule 37 to, the Criminal Justice Act 2003 (c. 44), section 383 of, and paragraph 74 of Schedule 16 to, the Armed Forces Act 2006 (c. 52) and section 211 of, and paragraph 35 of Schedule 21 to, the Legal Services Act 2007 (c. 29).

(whether the same, or a different, person is accused or has been convicted of the other offence), and (b) any allocation guideline.

Under section 46ZA(6) of the 1981 Act, on sending a defendant back the Crown Court may give such directions as appear to be necessary with respect to the custody of the defendant or for the defendant's release on bail until the defendant can appear or be brought before the magistrates' court.

Under paragraph 6(7) of Schedule 3 to the Crime and Disorder Act 1998, the Crown Court must inform the magistrates' court of the outcome of the proceedings in the Crown Court where—

(a) the offences for which the defendant was sent for trial include a summary offence;

(b) that summary offence is not tried in the Crown Court under a power to do so;

(c) in the Crown Court the defendant is convicted of an indictable offence;

(d) the Crown Court considers that the summary offence is related to any indictable offence for which the defendant was sent for trial;

(e) under paragraph 6(4), the defendant does not plead guilty in the Crown Court to the summary offence; and

(f) under paragraph 6(6), the prosecutor does not wish to withdraw the prosecution for that offence.

Under paragraph 6(5) of Schedule 3 to the 1998 Act, the Crown Court then has no other powers, for example to send the defendant back to the magistrates' court on bail or in custody.

See also rule 28.10 (Committal or remission, etc. for sentence), which applies to the exercise of the Crown Court's powers under sections 25, 25A and 26 of the Sentencing Act 2020(**a**) *to remit a convicted defendant to a magistrates' court for sentence.]*"

(**a**) 2020 c. 17; section 25 was amended, and section 25A inserted, by section 11 of the Judicial Review and Courts Act 2022 (c. 35). Section 26 was amended by paragraph 14 of Schedule 2 to that latter Act.

SCHEDULE 2

Rule 16

1. In rule 2.8 (Exercise of functions of a magistrates' court), in paragraph (4)(g) for "Request for information determined by the court" substitute "Request or application determined by the court".

2. In rule 3.16 (Pre-trial hearings in a magistrates' court: general rules), in paragraph (1)(a)(i)—

(a) for "rule 9.11" substitute "rule 9.17"; and

(b) for "rule 9.13" substitute "rule 9.21".

3. In rule 4.1 (When this Part applies) in paragraph (3)(b) for "Queen's Bench Listing Office" substitute "King's Bench Listing Office".

4. In rule 5.4 (Duty to make records), in the fourth paragraph of the note to the rule—

(a) for "rule 9.11(3)" substitute "rule 9.17(3)"; and

(b) for "9.13" substitute "9.21".

5. In rule 24.11 (Procedure if the court convicts), in the final paragraph of the note to the rule—

(a) for "9.15" substitute "9.24"; and

(b) for "28.12", in each place it occurs, substitute "28.13".

6. In rule 25.10 (Defendant unfit to plead) in paragraph (3)(c)(iii) for "rule 25.9(2)(e)" substitute "rule 25.9(2)(f)".

7. In rule 28.10 (Committal or remission, etc. for sentence), in the note to the rule—

(a) in sub-paragraph (a) of the first paragraph—

(i) for "9.15" substitute "9.24", and

(ii) for "28.12", in each place it occurs, substitute "28.13"; and

(b) in the final paragraph for "rule 9.16" substitute "rule 9.25".

8. In rule 45.13 (Appeal to a High Court judge) in paragraph (3)(a) for "Queen's Bench Division" substitute "King's Bench Division".

9. For the heading to Part 37 substitute "Appeal to the Court of Appeal against ruling at preparatory hearing or in response to jury tampering" in each of the following references to that heading—

(a) in rule 45.4 (Costs out of central funds), in the second paragraph of the note to the rule in sub-paragraph (a)(v);

(b) in rule 43.1 (When this Part applies), in paragraph (1)(a)(ii);

(c) in rule 36.8 (Duty of Crown Court officer), in paragraph (3);

(d) in rule 36.14 (Grounds of appeal and opposition), in paragraph (4)(a); and

(e) in the table of contents of the Criminal Procedure Rules.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Criminal Procedure Rules 2020, S.I. 2020/759, as follows:

Rule	*Amendment*
Part 2	Rule 2.7 is amended to allow an authorised court officer in the Crown Court to issue a summons requiring a defendant to attend proceedings for the alleged breach of a community or other order.
Part 4	Rule 4.11 is amended explicitly to refer to the time limit for service of notice of an appeal to the High Court in an extradition case, as interpreted in case law.
Part 5	Rules 5.8 and 5.10 are amended explicitly to provide for an application to prohibit the supply of information by court staff on request otherwise required by rule 5.8 unless the court specifically permits that supply. Rule 5.4 is amended to require the recording of any such prohibition. Rule 5.11 is amended to require the publication of information about cases conducted in writing under the new rules in Part 9. Rules 5.8 and 5.11 are amended to clarify the extent of the information about alleged offences and about conditions of bail that must be supplied on request and published.
Part 9	The rules in Part 9 are replaced with rules that (a) maintain existing provision for allocation and sending for trial in the Crown Court done at a hearing in a magistrates' court, (b) supplement new written procedures for allocation and sending introduced by the Judicial Review and Courts Act 2022, and (c) define criteria for sending an offence for trial because of its connection with another offence under new powers conferred on the Criminal Procedure Rules by that Act. Rules in the present Part 9 are amended and renumbered as listed beneath, with the table of contents correspondingly amended.
Part 28	Rules 28.1 and 28.11 are amended and a new rule 28.12 is added (a) to provide for the established practice of courts considering for sentencing purposes confidential information about assistance given to investigators by a defendant, and (b) explicitly to distinguish between that practice and the comparable statutory procedure.
Part 34	Rule 34.2 is amended to require the magistrates' court officer, not the appellant, to serve the appeal notice in an appeal about a decision on the variation or discharge of a domestic abuse protection order.
Part 36	Rules 36.6 and 36.12 are amended to provide for intervention by HM Attorney General and others in cases in the Court of Appeal that involve points of law arising under the European Union (Withdrawal) Act 2018.
Part 41	Existing rules are amended and a new rule 41.6 is added to provide for references to the Court of Appeal of points of law arising under the European Union (Withdrawal) Act 2018.
Part 43	Rules 43.1 and 43.2 are amended to supply the initial procedure on an appeal to the Supreme Court from a decision of the Court of Appeal on a reference of a point of law arising under the European Union (Withdrawal) Act 2018.
Part 47	Rules 47.42, 47.44 and 47.45 are amended to accommodate new powers to extend the retention periods for fingerprints, DNA samples and DNA profiles taken under the National Security Act 2023.
Part 50	Rule 50.19 is amended to refer to the time limit for service of notice of an appeal to the High Court in an extradition case, as interpreted in case law. Rule 50.20 is amended to require the provision of supplementary information with notice of an appeal in an extradition case.

New Part 9 rules correspond with the rules they replace as follows:

Derivations	
New rule	*Former rule*
9.1	9.1
9.2	9.2
9.3	9.3
9.4	9.4
9.5	9.5
9.6	—
9.7	9.6
9.8	—
9.9	9.7
9.10	—
9.11	—
9.12	—
9.13	—
9.14	9.8
9.15	9.9
9.16	9.10
9.17	9.11
9.18	9.12
9.19	—
9.20	—
9.21	9.13
9.22	—
9.23	9.14
9.24	9.15
9.25	9.16

Destinations	
Former rule	*New rule*
9.1	9.1
9.2	9.2
9.3	9.3
9.4	9.4
9.5	9.5
9.6	9.7
9.7	9.9
9.8	9.14
9.9	9.15
9.10	9.16
9.11	9.17
9.12	9.18
9.13	9.21
9.14	9.23
9.15	9.24
9.16	9.25

Consequential amendments and corrections. Rules 4.1 and 45.13 are amended to bring up to date references to the King's Bench Division of the High Court. A cross-reference in rule 25.10 is corrected. The title to Part 37 is amended the better to describe the application of the rules in that Part. Other rules are amended in consequence of the principal amendments made by these Rules.

These Rules come into force in accordance with rule 2, so that—

(a) the following amendments take effect when the statutory provisions which they supplement come into force—

(i) the amendments in Part 5 about the publication of information concerning allocation and sending for trial by written procedure,

(ii) the replacement of Part 9,

(iii) the amendments to cross-references and to enabling powers in consequence of the replacement of Part 9,

(iv) the amendments in Part 34 about service of an appeal notice,

(v) the amendments in Part 36 about intervention in a Court of Appeal case,

(vi) the amendments in Part 41 about references to the Court of Appeal, and

(vii) the amendments in Part 43 about appeal from the Court of Appeal to the Supreme Court; and

(b) all the other amendments made by these Rules come into force on 7th October 2024.

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