STATUTORY INSTRUMENTS

2015 No. 646 (L. 8)

SENIOR COURTS OF ENGLAND AND WALES MAGISTRATES' COURTS, ENGLAND AND WALES

The Criminal Procedure (Amendment No. 2) Rules 2015

Made - - - -	*9th March 2015*
Laid before Parliament	*12th March 2015*
Coming into force - -	*6th April 2015*

The Criminal Procedure Rule Committee makes the following Rules under section 69 of the Courts Act 2003(**1**), after consulting in accordance with section 72(1)(a) of that Act.

Citation, commencement and interpretation

1. These Rules may be cited as the Criminal Procedure (Amendment No. 2) Rules 2015 and shall come into force on 6th April 2015.

2. In these Rules, a reference to a Part or rule by number alone means the Part or rule so numbered in the Criminal Procedure Rules 2014(**2**).

Amendments to the Criminal Procedure Rules 2014

3. In rule 3.9 (Case preparation and progression), in the third paragraph of the note to the rule for 'rule 37.13' substitute 'rule 37.14'.

4. In rule 4.7(2)(g) (Documents that must be served by specified methods), for 'rule 37.15(a)' substitute 'rule 37.16(a)'.

5. In Part 7 (Starting a prosecution in a magistrates' court)—

(a) in rule 7.1 (When this Part applies)—

(i) for paragraph (1)(b) substitute—

"(b) a prosecutor with the power to do so issues—

(i) a written charge and requisition, or

(**1**) 2003 c. 39; 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).

(**2**) S.I. 2014/1610; amended by S.I. 2015/13.

(ii) a written charge and single justice procedure notice

under section 29 of the Criminal Justice Act 2003(**3**);",

(ii) for paragraph (2) substitute—

"(2) In this Part, 'authorised prosecutor' means a prosecutor authorised under section 29 of the Criminal Justice Act 2003 to issue a written charge and requisition or single justice procedure notice.", and

(iii) for the third paragraph of the note to the rule substitute—

"Under section 29 of the Criminal Justice Act 2003, a prosecutor authorised under that section may issue a written charge alleging that someone has committed an offence, and either—

(a) *a requisition requiring that person to attend court; or*

(b) *a notice that the single justice procedure under section 16A of the Magistrates' Courts Act 1980*(**4**) *and rule 37.9 of these Rules applies.*

Section 30 of the 2003 Act(**5**) *contains other provisions about written charges, requisitions and single justice procedure notices.";*

(b) in rule 7.2 (Information and written charge), for 'public prosecutor' substitute 'authorised prosecutor' in each place it occurs; and

(c) in rule 7.4 (Summons, warrant and requisition), in paragraph (7) for 'public prosecutor' substitute 'authorised prosecutor'.

6. In Part 9 (Allocation and sending for trial), for 'rule 37.10' substitute 'rule 37.11' in each of—

(a) rule 9.9(2)(b) (Adult defendant: guilty plea);

(b) rule 9.11(3)(b)(ii) (Adult defendant: allocation for magistrates' court trial); and

(c) rule 9.13(5)(b) (Young defendant).

7. In Part 37 (Trial and sentence in a magistrates' court)—

(a) in rule 37.1 (When this Part applies)—

(i) in paragraph (1)(c), for 'section 14 of the Magistrates' Courts Act 1980' substitute 'section 14 or section 16E of the Magistrates' Courts Act 1980(**6**)',

(ii) in sub-paragraph (b) of the fourth paragraph of the note to the rule, for 'rule 37.11(3)(e)' substitute 'rule 37.17',

(iii) in the eighth paragraph of the note to the rule, for 'rule 37.16' substitute 'rule 37.17',

(iv) in the ninth paragraph of the note to the rule, for 'rule 37.17' substitute 'rule 37.18', and

(v) after the fourth paragraph of the note to the rule, insert—

(**3**) 2003 c. 44; section 29 has been brought into force for certain purposes only (see S.I. 2007/1999, S.I. 2008/1424 and S.I. 2009/2879). It was amended by section 50 of, and paragraph 130 of Schedule 4 to, the Commissioners for Revenue and Customs Act 2005 (c. 11) and section 59 of, and paragraph 196 of Schedule 4 to, the Serious Organised Crime and Police Act 2005 (c. 15). It is further amended by section 46 of the Criminal Justice and Courts Act 2015 (c. 2), with effect from a date to be appointed.

(**4**) 1980 c. 43; section 16A is inserted by section 48 of the Criminal Justice and Courts Act 2015 (c. 2), with effect from a date to be appointed.

(**5**) 2003 c. 44; section 30 was amended by article 3 of, and paragraphs 45 and 46 of the Schedule to S.I. 2004/2035. It is further amended by section 47 of the Criminal Justice and Courts Act 2015 (c. 2), with effect from a date to be appointed.

(**6**) 1980 c. 43; section 14 was amended by section 109 of, and paragraph 205 of Schedule 8 to, the Courts Act 2003 (c. 39). Section 16E is inserted by section 48 of the Criminal Justice and Courts Act 2015 (c. 2), with effect from a date to be appointed.

"Under section 16A of the Magistrates' Courts Act 1980(**7**)*, the court may comprise a single justice where—*

(a) *the offence charged is a summary offence not punishable with imprisonment;*

(b) *the defendant was at least 18 years old when charged;*

(c) *the court is satisfied that specified documents giving notice of the procedure under that section and containing other specified information have been served on the defendant; and*

(d) *the defendant has not served notice of an intention to plead not guilty, or of a desire not to be tried in accordance with that section.";*

(b) in rule 37.2 (General rules)—

(i) after paragraph (3) insert—

"(4) Paragraphs (1) and (2) of this rule do not apply where the court tries a case under rule 37.9 (Single justice procedure: special rules).", and

(ii) in the first paragraph of the note to the rule, after 'sections 10' insert ', 16A';

(c) in rule 37.3 (Procedure on plea of not guilty), in the sixth paragraph of the note to the rule, for 'rule 37.10' substitute 'rule 37.11';

(d) for rule 37.8, substitute—

"**Written guilty plea: special rules**

37.8.—(1) This rule applies where—

(a) the offence alleged—

(i) can be tried only in a magistrates' court, and

(ii) is not one specified under section 12(1)(a) of the Magistrates' Courts Act 1980(**8**);

(b) the defendant is at least 16 years old;

(c) the prosecutor has served on the defendant—

(i) the summons or requisition,

(ii) the material listed in paragraph (2) on which the prosecutor relies to set out the facts of the offence,

(iii) the material listed in paragraph (3) on which the prosecutor relies to provide the court with information relevant to sentence,

(iv) a notice that the procedure set out in this rule applies, and

(v) a notice for the defendant's use if the defendant wants to plead guilty without attending court; and

(d) the prosecutor has served on the court officer—

(i) copies of those documents, and

(ii) a certificate of service of those documents on the defendant.

(**7**) 1980 c. 43; section 16A is inserted by section 48 of the Criminal Justice and Courts Act 2015 (c. 2), with effect from a date to be appointed.

(**8**) 1980 c. 43; section 12(1)(a) was amended by sections 308 and 332 of, and Part 12 of Schedule 37 to, the Criminal Justice Act 2003 (c. 44).

(2) The material that the prosecutor must serve to set out the facts of the offence is—

(a) a summary of the evidence on which the prosecution case is based;

(b) any—

(i) written witness statement to which Part 27 (Witness statements) applies, or

(ii) document or extract setting out facts; or

(c) any combination of such a summary, statement, document or extract.

(3) The material that the prosecutor must serve to provide information relevant to sentence is—

(a) details of any previous conviction of the defendant which the prosecutor considers relevant, other than any conviction listed in the defendant's driving record;

(b) if applicable, a notice that the defendant's driving record will be made available to the court;

(c) a notice containing or describing any other information about the defendant, relevant to sentence, which will be made available to the court.

(4) A defendant who wants to plead guilty without attending court must, before the hearing date specified in the summons or requisition—

(a) serve a notice of guilty plea on the court officer; and

(b) include with that notice—

(i) any representations that the defendant wants the court to consider, and

(ii) a statement of the defendant's assets and other financial circumstances.

(5) A defendant who wants to withdraw such a notice must notify the court officer in writing before the hearing date.

(6) If the defendant does not withdraw the notice before the hearing date, then on or after that date—

(a) to establish the facts of the offence and other information about the defendant relevant to sentence, the court may take account only of—

(i) information contained in a document served by the prosecutor under paragraph (1),

(ii) any previous conviction listed in the defendant's driving record, where the offence is under the Road Traffic Regulation Act 1984(**9**), the Road Traffic Act 1988(**10**), the Road Traffic (Consequential Provisions) Act 1988(**11**) or the Road Traffic (Driver Licensing and Information Systems) Act 1989(**12**),

(iii) any other information about the defendant, relevant to sentence, of which the prosecutor served notice under paragraph (1), and

(**9**) 1984 c. 27.
(**10**) 1988 c. 52.
(**11**) 1988 c. 54.
(**12**) 1989 c. 22.

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

and rule 37.11(3) to (9) inclusive must be read accordingly;

(b) unless the court otherwise directs, the prosecutor need not attend; and

(c) the court may accept such a guilty plea and pass sentence in the defendant's absence.

(7) With the defendant's agreement, the court may deal with the case in the same way as under paragraph (6) where the defendant is present and—

(a) has served a notice of guilty plea under paragraph (4); or

(b) pleads guilty there and then.

[Note. The procedure set out in this rule is prescribed by sections 12 and 12A of the Magistrates' Courts Act 1980(**13**)*. Under section 12(1)(a), the Secretary of State can specify offences to which the procedure will not apply. None has been specified.*

Under section 1 of the Magistrates' Courts Act 1980(**14**) *a justice of the peace may issue a summons requiring a defendant to attend court to answer an allegation of an offence. Under section 29 of the Criminal Justice Act 2003*(**15**)*a prosecutor authorised under that section may issue a written charge alleging an offence and a requisition requiring a defendant to attend court. Part 7 contains relevant rules.*

For the court's power, where this rule applies, to take account of a previous conviction listed in a defendant's driving record, see section 13(3A) of the Road Traffic Offenders Act 1988(**16**)*.*

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

(e) after rule 37.8, insert—

"**Single justice procedure: special rules**

37.9.—(1) This rule applies where—

(a) the offence alleged—

(i) can be tried only in a magistrates' court, and

(ii) is not one punishable with imprisonment;

(b) the defendant is at least 18 years old;

(**13**) 1980 c. 43; section 12 was amended by section 45 of, and paragraph 1 of Schedule 5 to, the Criminal Justice and Public Order Act 1994 (c. 33), section 1 of the Magistrates' Courts (Procedure) Act 1998 (c. 15), section 109 of, and paragraph 203 of Schedule 8 to, the Courts Act 2003 (c. 39) and sections 308 and 332 of, and Part 12 of Schedule 37 to, the Criminal Justice Act 2003 (c. 44). Section 12A was inserted by section 45 of, and paragraph 2 of Schedule 5 to, the Criminal Justice and Public Order Act 1994 (c. 33) and amended by section 109 of, and paragraph 204 of Schedule 8 to, the Courts Act 2003 (c. 39).

(**14**) 1980 c. 43; section 1 was amended by section 68 of, and paragraph 6 of Schedule 8 to, the Criminal Justice Act 1991 (c. 53), sections 43 and 109 of, and Schedule 10 to, the Courts Act 2003 (c. 39), section 31 of, and paragraph 12 of Schedule 7 to, the Criminal Justice Act 2003 (c. 44) and section 153 of the Police Reform and Social Responsibility Act 2011. It is further amended by paragraphs 7 and 8 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44), with effect from a date to be appointed.

(**15**) 2003 c. 44; section 29 has been brought into force for certain purposes only (see S.I. 2007/1999, S.I. 2008/1424 and S.I. 2009/2879). It was amended by section 50 of, and paragraph 130 of Schedule 4 to, the Commissioners for Revenue and Customs Act 2005 (c. 11) and section 59 of, and paragraph 196 of Schedule 4 to, the Serious Organised Crime and Police Act 2005 (c. 15). It is further amended by section 46 of the Criminal Justice and Courts Act 2015 (c. 2), with effect from a date to be appointed.

(**16**) 1988 c. 53; section 13(3A) was inserted by section 2 of the Magistrates' Courts (Procedure) Act 1998 (c. 15).