



# Criminal Justice and Courts Act 2015

## 2015 CHAPTER 2

### PART 3

#### COURTS AND TRIBUNALS

##### *Trial by single justice on the papers*

#### **48 Trial by single justice on the papers**

- (1) The Magistrates' Courts Act 1980 is amended as follows.
- (2) In section 11 (non-appearance of accused: general provisions)—
  - (a) in subsection (1), for “and (4)” substitute “, (4) and (8)”, and
  - (b) after subsection (7) insert—

“(8) This section and sections 12 to 16 do not apply if and for so long as a written charge is to be tried by a magistrates' court in accordance with section 16A.”
- (3) After section 16 insert—

##### *“Trial by single justice on the papers*

#### **16A Trial by single justice on the papers**

- (1) A magistrates' court may try a written charge in accordance with subsections (3) to (10) if—
  - (a) the offence charged is a summary offence not punishable with imprisonment,
  - (b) the accused had attained the age of 18 years when charged,
  - (c) the court is satisfied that—
    - (i) the documents specified in subsection (2) have been served on the accused, and

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- (ii) service of all of the documents was effected at the same time, and
  - (d) the accused has not served on the designated officer specified in the single justice procedure notice, within the period prescribed by Criminal Procedure Rules, a written notification stating either—
    - (i) a desire to plead not guilty, or
    - (ii) a desire not to be tried in accordance with this section.
- (2) The documents mentioned in subsection (1)(c) are—
- (a) a written charge and a single justice procedure notice (see section 29 of the Criminal Justice Act 2003), and
  - (b) such other documents as may be prescribed by Criminal Procedure Rules (see section 29(3B) of the Criminal Justice Act 2003).
- (3) The court may not hear any oral evidence and may consider only the contents of the following—
- (a) the documents specified in subsection (2),
  - (b) any document containing information to which subsection (4) applies, and
  - (c) any written submission that the accused makes with a view to mitigation of sentence.
- (4) This subsection applies to information if—
- (a) a notice describing the information was served on the accused at the same time as the documents specified in subsection (2), and
  - (b) a copy of the notice has been served on the designated officer specified in the single justice procedure notice.
- (5) The court may disregard a written submission that is not served on the designated officer specified in the single justice procedure notice within the period prescribed by Criminal Procedure Rules.
- (6) The court is not required to conduct any part of the proceedings in open court.
- (7) The court may try the charge in the absence of the parties and, if a party appears, must proceed as if the party were absent.
- (8) If the accused served on the designated officer specified in the notice a written notification stating a desire to plead guilty and to be tried in accordance with this section, the court may try the charge as if the accused had pleaded guilty.
- (9) The court may not remand the accused.
- (10) If the resumed trial is to be conducted in accordance with subsections (3) to (9), no notice is required of the resumption of the trial after an adjournment.
- (11) A magistrates' court acting under this section may be composed of a single justice.
- (12) Any magistrates' court may try a written charge in accordance with subsections (3) to (10), whether or not its designated officer is specified in the single justice procedure notice.
- (13) Subsection (1) is subject to sections 16B and 16C.

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### **16B Cases not tried in accordance with section 16A**

- (1) If a magistrates' court decides, before the accused is convicted of the offence, that it is not appropriate to convict the accused in proceedings conducted in accordance with section 16A, the court may not try or continue to try the charge in that way.
- (2) A magistrates' court may not try a written charge in accordance with section 16A if, at any time before the trial, the accused or the accused's legal representative on the accused's behalf gives notice to the designated officer specified in the single justice procedure notice that the accused does not desire to be tried in accordance with section 16A.
- (3) If a magistrates' court may not try or continue to try a written charge in accordance with section 16A because the conditions in section 16A(1) are not satisfied or because of subsection (1) or (2), the magistrates' court dealing with the matter must—
  - (a) adjourn the trial, if it has begun, and
  - (b) issue a summons directed to the accused requiring the accused to appear before a magistrates' court for the trial of the written charge.
- (4) A magistrates' court issuing a summons under subsection (3)(b) may be composed of a single justice.

### **16C Cases that cease to be tried in accordance with section 16A**

- (1) If a magistrates' court decides, after the accused is convicted of the offence, that it is not appropriate to try the written charge in accordance with section 16A, the court may not continue to try the charge in that way.
- (2) If a magistrates' court trying a written charge in accordance with section 16A proposes, after the accused is convicted of the offence, to order the accused to be disqualified under section 34 or 35 of the Road Traffic Offenders Act 1988—
  - (a) the court must give the accused the opportunity to make representations or further representations about the proposed disqualification, and
  - (b) if the accused indicates a wish to make such representations, the court may not continue to try the case in accordance with section 16A.
- (3) If a magistrates' court may not continue to try a written charge in accordance with section 16A because of subsection (1) or (2), the magistrates' court must—
  - (a) adjourn the trial, and
  - (b) issue a summons directed to the accused requiring the accused to appear before a magistrates' court to be dealt with in respect of the offence.

### **16D Sections 16B and 16C: further provision**

- (1) If a summons is issued under section 16B(3)(b) or 16C(3)(b), a reference in sections 11 to 13 to a summons issued under section 1 is to be read, for the

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purposes of subsequent proceedings as regards the matter, as if it included a reference to a summons issued under section 16B(3)(b) or 16C(3)(b) (as the case may be).

- (2) If a summons has been issued under section 16B(3)(b) or 16C(3)(b), a justice of the peace may issue a summons directed to the accused requiring the accused to appear before a magistrates' court for the purpose specified in the earlier summons; and subsection (1) applies in relation to a summons under this section as it applies in relation to a summons under section 16B(3)(b) or 16C(3)(b).
- (3) Where a summons has been issued under section 16B(3)(b) or 16C(3)(b), a magistrates' court that afterwards tries the written charge or deals with the accused for the offence must be—
  - (a) composed as described in section 121(1), or
  - (b) composed of a District Judge (Magistrates' Courts) sitting alone by virtue of section 26 of the Courts Act 2003.
- (4) Where—
  - (a) the accused is convicted of an offence before a matter is adjourned under section 16C(3)(a), and
  - (b) the matter is tried after the adjournment by another magistrates' court, that other magistrates' court is to be treated as if it were the court that convicted the accused for the purposes of section 142(2).

#### **16E Accused not aware of single justice procedure notice**

- (1) This section applies if—
  - (a) a single justice procedure notice has been issued, and
  - (b) the written charge is being tried, or has been tried, in accordance with section 16A.
- (2) This section does not apply if the trial of the written charge has been adjourned under section 16B(3)(a) or 16C(3)(a).
- (3) The proceedings subsequent to the single justice procedure notice are void if—
  - (a) the accused makes a statutory declaration that the accused did not know of the single justice procedure notice or the proceedings until a date that the accused specifies in the statutory declaration,
  - (b) that date is a date after a magistrates' court began to try the written charge,
  - (c) the declaration is served on the designated officer specified in the single justice procedure notice within 21 days of that date in such manner as Criminal Procedure Rules may prescribe, and
  - (d) at the same time as serving the declaration, the accused responds to the single justice procedure notice by serving a written notification on that designated officer.
- (4) Subsection (3) does not affect the validity of a written charge or a single justice procedure notice.

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- (5) A magistrates' court may accept service of a statutory declaration required by subsection (3) after the period described in subsection (3)(c) if, on application by the accused, it appears to the court that it was not reasonable to expect the accused to serve that statutory declaration within that period.
- (6) A magistrates' court that accepts a statutory declaration under subsection (5) is to be treated as accepting service of a written notification that is served at the same time.
- (7) A statutory declaration accepted under subsection (5) and a written notification treated as accepted under subsection (6) are to be treated as having been served as required by subsection (3).
- (8) If proceedings have become void under subsection (3), the reference in section 16A to the period within which a written notification must be served is to be read as referring to a period that ends on—
  - (a) the date on which a written notification is served under subsection (3)(d), or
  - (b) if a magistrates' court is treated as accepting service of a written notification by virtue of subsection (6), the date on which the written notification is so treated as accepted.
- (9) If proceedings have become void under subsection (3), the written charge may not be tried again by any of the same justices.
- (10) A magistrates' court carrying out functions under subsection (5) may be composed of a single justice.

#### **16F Admissibility of statements**

- (1) A statement contained in a document is admissible in proceedings conducted in accordance with section 16A as evidence of a matter stated if, in the particular case—
  - (a) the document is one in relation to which section 16A(1)(c) is satisfied, or
  - (b) section 16A(4) applies to the information in that document (as the case may be).
- (2) Subsection (1) does not prevent a court taking into consideration the nature of the evidence placed before it when deciding whether it is appropriate to try the written charge in accordance with section 16A.
- (3) In this section “statement” means any representation of fact or opinion.”

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#### **Commencement Information**

**II** S. 48 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 39

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