



## **TO PROMOTE THE EFFICIENT AND EFFECTIVE HEARING AND DISPOSAL OF CASES INVOLVING GUILTY PLEAS BY POST IN THE MAGISTRATES AND SUMMARY COURTS OF THE BRITISH OVERSEAS TERRITORY OF THE FALKLAND ISLANDS**

### Introduction

1. THE MAGISTRATES AND SUMMARY COURTS (GUILTY PLEAS IN ABSENCE) RULES (S.R. & O. No.13 of 1994) AS AMENDED BY THE MAGISTRATES AND SUMMARY COURTS (GUILTY PLEAS IN ABSENCE RULES (AMENDMENT) ORDER (S.R. & O. NO. 23 OF 2002) sets out the procedure to be followed to enable an accused person, in appropriate circumstances, to plead guilty by post.
2. In summary an accused person who has been summonsed to attend Court for an offence which carries a maximum sentence of 3 months or less may plead guilty by post if
  - (i) the accused has been served with the forms which are set out in the Schedule to the above Rules with such modifications as may be appropriate in the circumstances of the case and
  - (ii) the accused has been served with a concise statement of such facts relating to the charge as will be placed before the Court by or on behalf of the prosecutor if the accused pleads guilty without appearing before the Court (hereinafter referred to as the "Statement of Facts").
  - (iii) Where the accused thereafter gives notice in writing that he wishes to plead guilty by post the Court can then hear and dispose of the case in his absence or adjourn it to enable the case to be disposed of in the usual method.
3. Where the Court proceeds to hear the case in the absence of the accused the Statement of Facts will be read to the Court as will any mitigation received. No other statement by the prosecution will be permitted.
4. A Court is only likely to adjourn the case if it is considering imposing a custodial or community sentence or a driving disqualification. It may, however, adjourn for any reason at its discretion.
5. Consequently it is imperative that a full and properly detailed Statement of Facts is prepared and provided to the Court in any case which is begun by information and summons, where the maximum sentence is 3 months or less.

## Practice Direction

1. Every information provided to the Court must be accompanied by a Statement of Facts.
2. The Statement of Facts is different and separate to the information relating to the offence which is contained in the summons.
3. The Statement of Facts must set out all the relevant features relating to the case including all aggravating circumstances (e.g. the speeding took place near to school, the road was wet) and any appropriate mitigating circumstances (e.g. accused made full admissions at the road side) and should include any explanation the accused may have given as to his behaviour.
4. The Statement of Facts should also contain the following statement.

*“At the hearing the Court will have reference to your driving licence and specifically to any convictions endorsed upon it. In addition the Prosecution will invite the Court to consider any relevant previous convictions. A list of the convictions which the Prosecution will bring to the attention of the Court is enclosed. If you do not agree that this is an accurate record or object to these matters being referred to you should notify the Prosecution at once and should detail what matters you do not agree with in the form that you send to the Court”.*

5. The Prosecution must prepare a schedule of such convictions which will accompany the Information and the Statement of Facts.
6. The Court will consider the information and the Statement of Facts before deciding whether to follow the Guilty Pleas in Absence procedure.
7. The Court will not at this stage consider any documents relating to previous convictions.
8. The Court will not follow the procedure where it considers that there is a possibility that a custodial or community sentence might be appropriate or where it considers that the accused might be disqualified from driving.
9. The Court will not follow the procedure if it thinks that the circumstances are such that the case can be more fairly disposed of following a full Court hearing.
10. The accused may give notification in writing before the hearing that he wishes to withdraw his plea of guilty by post. If this occurs the case will proceed in the usual manner.
11. If the Guilty Pleas in Absence procedure is followed the prosecution will not be permitted to make any statement or refer to any matter relating to the offence which is not contained in the Statement of Facts.
12. If, after hearing of any previous convictions that the accused may have or for any other reason the Court considers that the accused should attend Court it will adjourn to enable him to do so.