



Administration of Justice Act 1970

1970 CHAPTER 31

PART V

MISCELLANEOUS PROVISIONS

40 Punishment for unlawful harassment of debtors

- (1) A person commits an offence if, with the object of coercing another person to pay money claimed from the other as a debt due under a contract, he—
 - (a) harasses the other with demands for payment which, in respect of their frequency or the manner or occasion of making any such demand, or of any threat or publicity by which any demand is accompanied, are calculated to subject him or members of his family or household to alarm, distress or humiliation;
 - (b) falsely represents, in relation to the money claimed, that criminal proceedings lie for failure to pay it ;
 - (c) falsely represents himself to be authorised in some official capacity to claim or enforce payment; or
 - (d) utters a document falsely represented by him to have some official character or purporting to have some official character which he knows it has not.
- (2) A person may be guilty of an offence by virtue of subsection (1)(a) above if he concert with others in the taking of such action as is described in that paragraph, notwithstanding that his own course of conduct does not by itself amount to harassment.
- (3) Subsection (1)(a) above does not apply to anything done by a person which is reasonable (and otherwise permissible in law) for the purpose—
 - (a) of securing the discharge of an obligation due, or believed by him to be due, to himself or to persons for whom he acts, or protecting himself or them from future loss; or
 - (b) of the enforcement of any liability by legal process.

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- (4) A person guilty of an offence under this section shall be liable on summary conviction to a fine of not more than £100, and on a second or subsequent conviction to a fine of not more than £400.

41 Recovery of costs and compensation awarded by magistrates, assizes, quarter sessions, etc.

- (1) In the cases specified in Part I of Schedule 9 to this Act (being cases where, in criminal proceedings, a court makes an order against the accused for the payment of costs, compensation, etc.) any sum required to be paid by such an order as is there mentioned shall be treated, for the purposes of collection and enforcement, as if it had been adjudged to be paid on a conviction by a magistrates' court, being—
- (a) where the order is made by a magistrates' court, that court; and
 - (b) in any other case, such magistrates' court as may be specified in the order.
- (2) In the cases specified in Part II of the said Schedule (being cases where a court makes an order against the prosecutor in criminal proceedings, and certain cases where an order for costs arises out of an appeal to quarter sessions in proceedings which are not criminal) any sum required to be paid by such an order as is there mentioned shall be enforceable as if the order were for the payment of money recoverable summarily as a civil debt.
- (3) Without prejudice to the foregoing subsections, but subject to subsection (4) below, in the cases specified in Schedule 9 to this Act any sum required to be paid by such an order as is there mentioned shall be enforceable by the High Court or a county court (otherwise than by issue of a writ of fieri facias or other process against goods or by imprisonment or attachment of earnings) as if the sum were due in pursuance of a judgment or order of the High Court or county court, as the case may be.
- (4) Subsection (3) above shall not authorise the enforcement by a county court of payment of any sum exceeding the limit for the time being in force under section 40 of the County Courts Act 1959 on the amount of any penalty recoverable by statute in a county court.
- (5) References in subsections (1) and (2) above to orders mentioned in Schedule 9 to this Act include references to orders made before the day appointed under section 54 of this Act for the coming into force of this section, except an order in the case of which the person entitled to payment has before that day begun proceedings for its enforcement; and in relation to such a case the enactments in force immediately before that day with reference to the enforcement of such an order shall continue to apply notwithstanding any repeal effected by this Act, without prejudice however to section 13(6) of this Act.

For the purpose of the operation of subsection (1) above with respect to an order made (otherwise than by a magistrates' court) before the day so appointed, the order shall be deemed to specify the magistrates' court for the petty sessions area in which the person subject to the order for the time being resides.

- (6) In the Magistrates' Courts Act 1952—
- (a) in section 72(1) (transfer of fine order in England and Wales) and in section 72A(1) (the same as between England and Scotland), for the words from the beginning to " the offender " there shall be substituted in each case the words " Where a magistrates' court has, or is treated by any enactment as

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- having, adjudged a person by a conviction to pay a sum and it appears to the court that the person "; and
- (b) in section 72(2) (enforcement functions on transfer of fine in England and Wales), for the words " the convicting court" there shall be substituted the words " the court which made the order " .
- (7) In section 32(2) of the Courts-Martial (Appeals) Act 1968 (enforcement of order for costs against unsuccessful appellant or applicant for leave to appeal to that court), for paragraph (a) there shall be substituted the following:—
- “(a) in the same manner as an order for costs made by the criminal division of the Court of Appeal under section 25 of the Criminal Appeal Act 1968; or”.
- (8) In any of the cases specified in Part I of Schedule 9 to this Act, a court (other than a magistrates' court) which makes such an order as is there mentioned may, if it thinks that the period for which the person subject to the order is liable apart from this subsection to be committed to prison for default under the order is insufficient, specify a longer period for that purpose, but not exceeding twelve months; and then, in the case of default—
- (a) the specified period shall be substituted as the maximum for which the person may be imprisoned under section 64 of the Magistrates' Courts Act 1952 (distress or committal); and
- (b) paragraph 2 of Schedule 3 to that Act shall apply, with the necessary modifications, for the reduction of the specified period where, at the time of the person's imprisonment, he has made part payment under the order.
- (9) Where a magistrates' court has power to commit a person to prison for default in paying a sum due under an order enforceable as mentioned in this section, the court shall not exercise the power unless it is satisfied that all other methods of enforcing payment have been tried or considered and either have proved unsuccessful or are likely to do so.

42 Enforcement of fines

In section 45(1) of the Criminal Justice Act 1967 (which enables payment of a fine to be enforced by High Court or county court process, excepting execution on goods and imprisonment) after the words " or by imprisonment" there shall be inserted the words " or attachment of earnings " .

43 Procedure for recovery of legal aid contributions in criminal cases

- (1) The appropriate authority for the purposes of section 76 of the Criminal Justice Act 1967 (that is to say, the authority to whom a recipient of legal aid in a criminal case may under that section be ordered to pay a contribution towards the costs) shall be the clerk of a magistrates' court (referred to in this section as " the collecting court") specified in the order; and the court so specified shall be—
- (a) in a case where the court making the legal aid contribution order is itself a magistrates' court, that court;
- (b) in a case where the order is made on the disposal of an appeal from a magistrates' court, or in respect of a person who was committed (whether for trial or otherwise) by a magistrates' court to assizes or quarter sessions,

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the court from which the appeal is brought or, as the case may be, which committed him ; and

- (c) in any other case, a magistrates' court nominated by the court making the order.
- (2) Subject to subsection (5) below, any sum required to be paid by a legal aid contribution order shall be recoverable as if it had been adjudged to be paid by an order of the collecting court, subject to and in accordance with the provisions of Schedule 10 to this Act (being provisions which mainly apply the same enforcement procedure as for maintenance orders).
- (3) Without prejudice to subsection (2) above, but subject to the following subsections, payment of any sum required to be paid by a legal aid contribution order shall be enforceable by the High Court or a county court (otherwise than by issue of a writ of fieri facias or other process against goods or by imprisonment or attachment of earnings) as if the sum were due to the clerk of the collecting court in pursuance of a judgment or order of the High Court or county court, as the case may be.
- (4) The last foregoing subsection shall not authorise the enforcement by a county court of payment of any sum exceeding the limit for the time being in force under section 40 of the County Courts Act 1959 on the amount of any penalty recoverable by statute in a county court.
- (5) Where a legal aid contribution order has been made by the Courts-Martial Appeal Court in respect of a member of Her Majesty's armed forces and the Secretary of State notifies the collecting court that any sum payable under the order will be recovered by deductions from the person's pay in pursuance of one of the enactments amended by subsection (6) below, the collecting court shall not enforce payment of any such sum unless and until the Secretary of State subsequently notifies it that the person is no longer a member of those forces and that the sum has not been fully recovered.
- (6) In section 150(1) of the Army Act 1955 and section 150(1) of the Air Force Act 1955 (enforcement by deduction from service-man's pay of certain orders made by civil courts), after paragraph (c) there shall be inserted—
- “(d) a contribution towards the costs of legal aid ordered for him, under Part IV of the Criminal Justice Act 1967, for the purpose of, or in connection with, an appeal to or from the Courts-Martial Appeal Court”;
- and in section 1(1) of the Naval Forces (Enforcement of Maintenance Liabilities) Act 1947 (which enables maintenance payments due from a person in naval or marine service to be recovered by deductions from pay), after paragraph (b) there shall be inserted—
- “(c) for the payment of any contribution towards the costs of legal aid ordered for him, under Part IV of the Criminal Justice Act 1967, for the purpose of, or in connection with, an appeal to or from the Courts-Martial Appeal Court.”
- (7) The clerk of the collecting court shall not take proceedings by virtue of subsection (3) above to recover any sum required to be paid by a legal aid contribution order unless authorised to do so by the court.
- (8) Any expenses incurred by the clerk of a magistrates' court in recovering any sum so required to be paid shall be treated for the purposes of Part IV of the Justices of the Peace Act 1949 as expenses of the magistrates' court committee.

- (9) Nothing in this section applies to a legal aid contribution order made before the day appointed under section 54 of this Act for the coming into force of this section ; and in relation to such an order the enactments in force immediately before that day and relating to the enforcement of such an order shall continue to apply notwithstanding any repeal effected by this Act, without prejudice however to section 13(6) of this Act.
- (10) In this section " legal aid contribution order " means an order under section 76 of the Criminal Justice Act 1967.

44 Interest on judgment debts

- (1) The Lord Chancellor may by order made with the concurrence of the Treasury direct that section 17 of the Judgments Act 1838 (as that enactment has effect for the time being whether by virtue of this subsection or otherwise) shall be amended so as to substitute for the rate specified in that section as the rate at which judgment debts shall carry interest such rate as may be specified in the order.
- (2) An order under this section shall be made by statutory instrument which shall be laid before Parliament after being made.

45 Removal of limit on number of county court judges assignable to a district and of certain registrars appointed jointly

- (1) There shall be no limit on the number of judges who may be assigned to a district by direction of the Lord Chancellor under section 4(4) of the County Courts Act 1959 and, accordingly, for the words in that subsection from "for a district" to " two judges " there shall be substituted the words " there shall be such number of judges for a district as may be specified in the direction " .
- (2) In section 18(3) of the said Act of 1959 (which enables the Lord Chancellor, in the case of a populous district, to appoint two persons to execute jointly the office of registrar for the district and on the death, etc. of a joint registrar either to appoint another joint registrar in his place or direct that the continuing registrar shall act as sole registrar)—
- (a) for the words " in the case of a populous district, appoint two persons to execute jointly the office of registrar for the district" there shall be substituted the words " appoint two or more persons to execute jointly the office of registrar for a district "; and
 - (b) at the end there shall be added the words " or, as the case may be, that the continuing registrars shall execute jointly the office of registrar " .
- and in the definition of " registrar " and " registrar of a county court" in section 201 of the said Act of 1959, after the word " two " there shall be inserted the words " or more " and after the word " either " there shall be inserted the words " or any " .
- (3) In section 84(3) of the Supreme Court of Judicature (Consolidation) Act 1925 (which makes, in relation to the office of district registrar, provision similar to that made by section 18(3) of the said Act of 1959), after the word "two" there shall be inserted the words " or more " and at the end there shall be added the words " or, as the case may be, that the continuing registrars shall execute jointly the office of district registrar " .

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46 Deputy county court registrar not to act as such in certain proceedings

Section 29 of the County Courts Act 1959 (which provides that no officer of a county court shall, either by himself or his partner, be directly or indirectly engaged as solicitor or agent for any party in any proceedings in that court) shall have effect, and be deemed always to have had effect, as if after subsection (1) thereof there were inserted—

“(1A) Subsection (1) of this section shall not apply to a deputy registrar, but a deputy registrar shall not act as such in relation to any proceedings in which he is, either by himself or his partner, directly or indirectly engaged as a solicitor or agent for any party.”

47 Extension of power to make rules, etc. for purposes of Rent Act 1968 (c. 23)

Section 106 of the Rent Act 1968 (which empowers the Lord Chancellor or, when the Great Seal is in commission, any Lord Commissioner to make rules and give directions for the purpose of giving effect to the provisions of that Act specified in subsection (3) of that section) shall be amended as follows:—

- (a) in subsection (1), the words " Subject to subsection (3) below" shall be inserted at the beginning and the words " specified in subsection (3) below " shall be omitted;
- (b) for subsection (3) there shall be substituted—

“(3) The power conferred by subsection (1) above shall not be exercisable in relation to the provisions of Part IV or VI of this Act other than section 51(2).”

48 Variation in rate of payments in maintenance order registered in magistrates' court

- (1) Section 4 of the Maintenance Orders Act 1958 (which enables the rate of payments in a maintenance order registered in a magistrates' court under that Act to be varied by the court of registration) shall be amended in accordance with this section.
- (2) Subsection (3) of that section (rate of payments not to be varied upwards) shall cease to have effect in relation to any maintenance order as defined by section 28(1) of this Act, whether made or registered before or after the coming into force of this section.
- (3) In subsection (4) of that section (power of magistrates' court, on application for variation, to remit to the court which made the order), for the words " that, by reason of the Umitations imposed on the court's jurisdiction by the last foregoing subsection or for any other reason, it is " there shall be substituted the words " that it is for any reason ".

49 Amendments relating to guardianship of minors

- (1) Any order made under section 4(2) of the Family Law Reform Act 1969 (maintenance for persons between 18 and 21 who have been subject to an order under the Guardianship of Infants Acts) may be varied or discharged by a subsequent order made on the application of any person by or to whom payments were required to be made under the previous order.
- (2) In the Guardianship of Infants Act 1886—

- (a) in section 5, the words from " and in every case " on wards (costs in custody proceedings); and
 - (b) in section 11 (rules of procedure) paragraph (a) and, in paragraph (c), the words " England or ",
- shall cease to have effect.
- (3) Subsection (1) of this section shall be deemed to have come into operation at the same time as section 4 of the said Act of 1969.

50 Proof of age before magistrates

Section 126(5) of the Magistrates' Courts Act 1952 (which relates to proof of age) shall have effect as if the provisions of that Act included—

- (a) section 1 of the First Offenders Act 1958 ; and
- (b) section 18, section 24(1) and (2) and section 33 of the Criminal Justice Act 1967.

51 Minor amendments of Children and Young Persons Act 1969 (c. 54)

- (1) In sections 2(4) and 104 of the Act of 1952 the references to sections 20 and 21 of that Act (which are repealed by the Act of 1969 and replaced by section 6 of that Act) shall be construed as references to the said section 6; and for the purposes of section 126(5) of the Act of 1952 and section 70(3) of the Act of 1969 (which relate to proof of age) the said section 6 shall be deemed to be a provision of the Act of 1952 and not the Act of 1969.
- (2) The following paragraph shall be inserted after paragraph 1 of Schedule 4 to the Act of 1969 (transitional provisions and savings)—
- “1A (1) Where—
- (a) before the date when section 1 of this Act comes into force any child or young person (hereafter in this paragraph referred to as " the relevant infant ") has been brought before a juvenile court under section 62 of the Children and Young Persons Act 1933 or has been brought before such a court by virtue of a provision of section 40 or 40A of the Education Act 1944 ; and
 - (b) immediately before that date that court has neither made any order which it had power to make in respect of the relevant infant under the said section 62 nor dismissed the case,
- nothing in paragraph 13 of Schedule 5 to this Act nor in any provision of Schedule 6 thereto shall prevent the proceedings before that court in respect of the relevant infant being continued; but the court shall in those proceedings have power to make any order which it has power to make in proceedings under section 1 of this Act and shall not have power to make any other order, and subsections (3), (4) and (5) of the said section 1 and subsections (10) and (13) of section 2 of this Act shall have effect accordingly with any necessary modifications.
- (2) For the purposes of subsection (12) of the said section 2, any order made in respect of the relevant infant by virtue of sub-paragraph (1) of this paragraph shall be deemed to be made under section 1 of this Act.

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- (3) Any record of a finding of the fact that the relevant infant is in need of care or protection made in pursuance of section 5 of the Children and Young Persons Act 1938 in any such proceedings as are referred to in sub-paragraph (1) of this paragraph shall, notwithstanding the repeal of the said section 5 by this Act, be admissible as evidence of that fact in those proceedings.”
- (3) In this section " the Act of 1952 " and " the Act of 1969 " mean respectively the Magistrates' Courts Act 1952 and the Children and Young Persons Act 1969.