



Criminal Law Act 1977

1977 CHAPTER 45

PART I

CONSPIRACY

1 The offence of conspiracy

- (1) Subject to the following provisions of this Part of this Act, if a person agrees with any other person or persons that a course of conduct shall be pursued which will necessarily amount to or involve the commission of any offence or offences by one or more of the parties to the agreement if the agreement is carried out in accordance with their intentions, he is guilty of conspiracy to commit the offence or offences in question.
- (2) Where liability for any offence may be incurred without knowledge on the part of the person committing it of any particular fact or circumstance necessary for the commission of the offence, a person shall nevertheless not be guilty of conspiracy to commit that offence by virtue of subsection (1) above unless he and at least one other party to the agreement intend or know that that fact or circumstance shall or will exist at the time when the conduct constituting the offence is to take place.
- (3) Where in pursuance of any agreement the acts in question in relation to any offence are to be done in contemplation or furtherance of a trade dispute (within the meaning of the Trade Union and Labour Relations Act 1974) that offence shall be disregarded for the purposes of subsection (1) above provided that it is a summary offence which is not punishable with imprisonment.
- (4) In this Part of this Act " offence " means an offence triable in England and Wales, except that it includes murder notwithstanding that the murder in question would not be so triable if committed in accordance with the intentions of the parties to the agreement.

2 Exemptions from liability for conspiracy

- (1) A person shall not by virtue of section 1 above be guilty of conspiracy to commit any offence if he is an intended victim of that offence.

Status: This is the original version (as it was originally enacted).

- (2) A person shall not by virtue of section 1 above be guilty of conspiracy to commit any offence or offences if the only other person or persons with whom he agrees are (both initially and at all times during the currency of the agreement) persons of any one or more of the following descriptions, that is to say—
- (a) his spouse;
 - (b) a person under the age of criminal responsibility ; and
 - (c) an intended victim of that offence or of each of those offences.
- (3) A person is under the age of criminal responsibility for the purposes of subsection (2) (b) above so long as it is conclusively presumed, by virtue of section 50 of the Children and Young Persons Act 1933, that he cannot be guilty of any offence.

3 Penalties for conspiracy

- (1) A person guilty by virtue of section 1 above of conspiracy to commit any offence or offences shall be liable on conviction on indictment—
- (a) in a case falling within subsection (2) or (3) below, to imprisonment for a term related in accordance with that subsection to the gravity of the offence or offences in question (referred to below in this section as the relevant offence or offences); and
 - (b) in any other case, to a fine.

Paragraph (b) above shall not be taken as prejudicing the application of section 30(1) of the Powers of Criminal Courts Act 1973 (general power of court to fine offender convicted on indictment) in a case falling within subsection (2) or (3) below.

- (2) Where the relevant offence or any of the relevant offences is an offence of any of the following descriptions, that is to say—
- (a) murder, or any other offence the sentence for which is fixed by law;
 - (b) an offence for which a sentence extending to imprisonment for life is provided ; or
 - (c) an indictable offence punishable with imprisonment for which no maximum term of imprisonment is provided,
- the person convicted shall be liable to imprisonment for life.

- (3) Where in a case other than one to which subsection (2) above applies the relevant offence or any of the relevant offences is punishable with imprisonment, the person convicted shall be liable to imprisonment for a term not exceeding the maximum term provided for that offence or (where more than one such offence is in question) for any one of those offences (taking the longer or the longest term as the limit for the purposes of this section where the terms provided differ).

In the case of an offence triable either way the references above in this subsection to the maximum term provided for that offence are references to the maximum term so provided on conviction on indictment.

4 Restrictions on the institution of proceedings for conspiracy

- (1) Subject to subsection (2) below proceedings under section 1 above for conspiracy to commit any offence or offences shall not be instituted against any person except by or with the consent of the Director of Public Prosecutions if the offence or (as the case may be) each of the offences in question is a summary offence.

- (2) In relation to the institution of proceedings under section 1 above for conspiracy to commit—
- (a) an offence which is subject to a prohibition by or under any enactment on the institution of proceedings otherwise than by, or on behalf or with the consent of, the Attorney General, or
 - (b) two or more offences of which at least one is subject to such a prohibition,
- subsection (1) above shall have effect with the substitution of a reference to the Attorney General for the reference .to the Director of Public Prosecutions.
- (3) Any prohibition by or under any enactment on the institution of proceedings for any offence which is not a summary offence otherwise than by, or on behalf or with the consent of, the Director of Public Prosecutions or any other person shall apply also in relation to proceedings under section 1 above for conspiracy to commit that offence.
- (4) Where—
- (a) an offence has been committed in pursuance of any agreement; and
 - (b) proceedings may not be instituted for that offence because any time limit applicable to the institution of any such proceedings has expired,
- proceedings under section 1 above for conspiracy to commit that offence shall not be instituted against any person on the basis of that agreement.

5 Abolitions, savings, transitional provisions, consequential amendment and repeals

- (1) Subject to the following provisions of this section, the offence of conspiracy at common law is hereby abolished.
- (2) Subsection (1) above shall not affect the offence of conspiracy at common law so far as relates to conspiracy to defraud, and section 1 above shall not apply in any case where the agreement in question amounts to a conspiracy to defraud at common law.
- (3) Subsection (1) above shall not affect the offence of conspiracy at common law if and in so far as it may be committed by entering into an agreement to engage in conduct which—
- (a) tends to corrupt public morals or outrages public decency; but
 - (b) would not amount to or involve the commission of an offence if carried out by a single person otherwise than in pursuance of an agreement.
- (4) Subsection (1) above shall not affect—
- (a) any proceedings commenced before the time when this Part of this Act comes into force;
 - (b) any proceedings commenced after that time against a person charged with the same conspiracy as that charged in any proceedings commenced before that time; or
 - (c) any proceedings commenced after that time in respect of a trespass committed before that time;

but a person convicted of conspiracy to trespass in any proceedings brought by virtue of paragraph (c) above shall not in respect of that conviction be liable to imprisonment for a term exceeding six months.

Status: This is the original version (as it was originally enacted).

- (5) Sections 1 and 2 above shall apply to things done before as well as to things done after the time when this Part of this Act comes into force, but in the application of section 3 above to a case where the agreement in question was entered into before that time—
- (a) subsection (2) shall be read without the reference to murder in paragraph (a); and
 - (b) any murder intended under the agreement shall be treated as an offence for which a maximum term of imprisonment of ten years is provided.
- (6) The rules laid down by sections 1 and 2 above shall apply for determining whether a person is guilty of an offence of conspiracy under any enactment other than section 1 above, but conduct which is an offence under any such other enactment shall not also be an offence under section 1 above.
- (7) Incitement and attempt to commit the offence of conspiracy (whether the conspiracy incited or attempted would be an offence at common law or under section 1 above or any other enactment) shall cease to be offences.
- (8) The fact that the person or persons who, so far as appears from the indictment on which any person has been convicted of conspiracy, were the only other parties to the agreement on which his conviction was based have been acquitted of conspiracy by reference to that agreement (whether after being tried with the person convicted or separately) shall not be a ground for quashing his conviction unless under all the circumstances of the case his conviction is inconsistent with the acquittal of the other person or persons in question.
- (9) Any rule of law or practice inconsistent with the provisions of subsection (8) above is hereby abolished.
- (10) In section 4 of the Offences against the Person Act 1861—
- (a) the words preceding "whosoever" shall cease to have effect; and
 - (b) for the words from "be kept" to "years" there shall be substituted the words "imprisonment for life".
- (11) Section 3 of the Conspiracy and Protection of Property Act 1875 shall cease to have effect.

PART II

OFFENCES RELATING TO ENTERING AND REMAINING ON PROPERTY

6 Violence for securing entry

- (1) Subject to the following provisions of this section, any person who, without lawful authority, uses or threatens violence for the purpose of securing entry into any premises for himself or for any other person is guilty of an offence, provided that—
- (a) there is someone present on those premises at the time who is opposed to the entry which the violence is intended to secure ; and
 - (b) the person using or threatening the violence knows that that is the case.
- (2) The fact that a person has any interest in or right to possession or occupation of any premises shall not for the purposes of subsection (1) above constitute lawful authority

for the use or threat of violence by him or anyone else for the purpose of securing his entry into those premises.

- (3) In any proceedings for an offence under this section it shall be a defence for the accused to prove—
- (a) that at the time of the alleged offence he or any other person on whose behalf he was acting was a displaced residential occupier of the premises in question; or
 - (b) that part of the premises in question constitutes premises of which he or any other person on whose behalf he was acting was a displaced residential occupier and that the part of the premises to which he was seeking to secure entry constitutes an access of which he or, as the case may be, that other person is also a displaced residential occupier.
- (4) It is immaterial for the purposes of this section—
- (a) whether the violence in question is directed against the person or against property ; and
 - (b) whether the entry which the violence is intended to secure is for the purpose of acquiring possession of the premises in question or for any other purpose.
- (5) A person guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £1,000 or to both.
- (6) A constable in uniform may arrest without warrant anyone who is, or whom he, with reasonable cause, suspects to be, guilty of an offence under this section.
- (7) Section 12 below contains provisions which apply for determining when any person is to be regarded for the purposes of this Part of this Act as a displaced residential occupier of any premises or of any access to any premises.

7 Adverse occupation of residential premises

- (1) Subject to the following provisions of this section, any person who is on any premises as a trespasser after having entered as such is guilty of an offence if he fails to leave those premises on being required to do so by or on behalf of—
- (a) a displaced residential occupier of the premises ; or
 - (b) an individual who is a protected intending occupier of the premises by virtue of subsection (2) or subsection (4) below.
- (2) For the purposes of this section an individual is a protected intending occupier of any premises at any time if at that time—
- (a) he has in those premises a freehold interest or a leasehold interest with not less than 21 years still to run and he acquired that interest as a purchaser for money or money's worth ; and
 - (b) he requires the premises for his own occupation as a residence; and
 - (c) he is excluded from occupation of the premises by a person who entered them, or any access to them, as a trespasser ; and
 - (d) he or a person acting on his behalf holds a written statement—
 - (i) which specifies his interest in the premises ; and
 - (ii) which states that he requires the premises for occupation as a residence for himself; and

Status: This is the original version (as it was originally enacted).

- (iii) with respect to which the requirements in subsection (3) below are fulfilled.
- (3) The requirements referred to in subsection (2)(d)(iii) above are—
- (a) that the statement is signed by the person whose interest is specified in it in the presence of a justice of the peace or commissioner for oaths ; and
 - (b) that the justice of the peace or commissioner for oaths has subscribed his name as a witness to the signature ;
- and a person is guilty of an offence if he makes a statement for the purposes of subsection (2)(d) above which he knows to be false in a material particular or if he recklessly makes such a statement which is false in a material particular.
- (4) For the purposes of this section an individual is also a protected intending occupier of any premises at any time if at that time—
- (a) he has been authorised to occupy the premises as a residence by an authority to which this subsection applies ; and
 - (b) he is excluded from occupation of the premises by a person who entered the premises, or any access to them, as a trespasser ; and
 - (c) there has been issued to him by or on behalf of the authority referred to in paragraph (a) above a certificate stating that the authority is one to which this subsection applies, being of a description specified in the certificate, and that he has been authorised by the authority to occupy the premises concerned as a residence.
- (5) Subsection (4) above applies to the following authorities:—
- (a) any body mentioned in section 14 of the Rent Act 1977 (landlord's interest belonging to local authority etc.);
 - (b) the Housing Corporation ; and
 - (c) a housing association, within the meaning of section 189(1) of the Housing Act 1957, which is for the time being either registered in the register of housing associations established under section 13 of the Housing Act 1974 or specified in an order made by the Secretary of State under paragraph 23 of Schedule 1 to the Housing Rents and Subsidies Act 1975.
- (6) In any proceedings for an offence under subsection (1) above it shall be a defence for the accused to prove that he believed that the person requiring him to leave the premises was not a displaced residential occupier or protected intending occupier of the premises or a person acting on behalf of a displaced residential occupier or protected intending occupier.
- (7) In any proceedings for an offence under subsection (1) above it shall be a defence for the accused to prove—
- (a) that the premises in question are or form part of premises used mainly for non-residential purposes ; and
 - (b) that he was not on any part of the premises used wholly or mainly for residential purposes.
- (8) In any proceedings for an offence under subsection (1) above where the accused was requested to leave the premises by a person claiming to be or to act on behalf of a protected intending occupier of the premises—
- (a) it shall be a defence for the accused to prove that, although asked to do so by the accused at the time the accused was requested to leave, that person failed at that time to produce to the accused such a statement as is referred to in

Status: This is the original version (as it was originally enacted).

- subsection (2)(d) above or such a certificate as is referred to in subsection (4)(c) above; and
- (b) any document purporting to be a certificate under subsection (4)(c) above shall be received in evidence and, unless the contrary is proved, shall be deemed to have been issued by or on behalf of the authority stated in the certificate.
- (9) Any reference in the preceding provisions of this section other than subsections (2) to (4) above, to any premises includes a reference to any access to them, whether or not any such access itself constitutes premises, within the meaning of this Part of this Act; and a person who is a protected intending occupier of any premises shall be regarded for the purposes of this section as a protected intending occupier also of any access to those premises.
- (10) A person guilty of an offence under subsection (1) or (3) above shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £1,000 or to both.
- (11) A constable in uniform may arrest without warrant anyone who is, or whom he, with reasonable cause, suspects to be, guilty of an offence under subsection (1) above.

8 Trespassing with a weapon of offence

- (1) A person who is on any premises as a trespasser, after having entered as such, is guilty of an offence if, without lawful authority or reasonable excuse, he has with him on the premises any weapon of offence.
- (2) In subsection (1) above " weapon of offence " means any article made or adapted for use for causing injury to or incapacitating a person, or intended by the person having it with him for such use.
- (3) A person guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding £1,000 or to both.
- (4) A constable in uniform may arrest without warrant anyone who is, or whom he, with reasonable cause, suspects to be, in the act of committing an offence under this section.

9 Trespassing on premises of foreign missions, etc.

- (1) Subject to subsection (3) below, a person who enters or is on any premises to which this section applies as a trespasser is guilty of an offence.
- (2) This section applies to any premises which are or form part of—
- the premises of a diplomatic mission within the meaning of the definition in Article 1(i) of the Vienna Convention on Diplomatic Relations signed in 1961 as that Article has effect in the United Kingdom by virtue of section 2 of and Schedule 1 to the Diplomatic Privileges Act 1964 ;
 - consular premises within the meaning of the definition in paragraph 1(j) of Article 1 of the Vienna Convention on Consular Relations signed in 1963 as that Article has effect in the United Kingdom by virtue of section 1 of and Schedule 1 to the Consular Relations Act 1968;
 - any other premises in respect of which any organisation or body is entitled to inviolability by or under any enactment; and

Status: This is the original version (as it was originally enacted).

- (d) any premises which are the private residence of a diplomatic agent (within the meaning of Article 1(e) of the Convention mentioned in paragraph (a) above) or of any other person who is entitled to inviolability of residence by or under any enactment.
- (3) In any proceedings for an offence under this section it shall be a defence for the accused to prove that he believed that the premises in question were not premises to which this section applies.
- (4) In any proceedings for an offence under this section a certificate issued by or under the authority of the Secretary of State stating that any premises were or formed part of premises of any description mentioned in paragraphs (a) to (d) of subsection (2) above at the time of the alleged offence shall be conclusive evidence that the premises were or formed part of premises of that description at that time.
- (5) A person guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £1,000 or to both.
- (6) Proceedings for an offence under this section shall not be instituted against any person except by or with the consent of the Attorney General.
- (7) A constable in uniform may arrest without warrant anyone who is, or whom he, with reasonable cause, suspects to be, in the act of committing an offence under this section.

10 Obstruction of court officers executing process for possession against unauthorised occupiers

- (1) Without prejudice to section 8(2) of the Sheriffs Act 1887 but subject to the following provisions of this section, a person is guilty of an offence if he resists or intentionally obstructs any person who is in fact an officer of a court engaged in executing any process issued by the High Court or by any county court for the purpose of enforcing any judgment or order for the recovery of any premises or for the delivery of possession of any premises.
- (2) Subsection (1) above does not apply unless the judgment or order in question was given or made in proceedings brought under any provisions of rules of court applicable only in circumstances where the person claiming possession of any premises alleges that the premises in question are occupied solely by a person or persons (not being a tenant or tenants holding over after the termination of the tenancy) who entered into or remained in occupation of the premises without the licence or consent of the person claiming possession or any predecessor in title of his.
- (3) In any proceedings for an offence under this section it shall be a defence for the accused to prove that he believed that the person he was resisting or obstructing was not an officer of a court.
- (4) A person guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £1,000 or to both.
- (5) A constable in uniform or any officer of a court may arrest without warrant anyone who is, or whom he, with reasonable cause, suspects to be, guilty of an offence under this section.
- (6) In this section " officer of a court " means—

- (a) any sheriff, under sheriff, deputy sheriff, bailiff or officer of a sheriff; and
- (b) any bailiff or other person who is an officer of a county court within the meaning of the County Courts Act 1959.

11 Power of entry for the purposes of this Part of this Act

For the purpose of arresting a person under any power conferred by any provision of this Part of this Act other than section 9(7) above a constable in uniform may enter (if need be, by force) and search any premises where that person is or where the constable, with reasonable cause, suspects him to be.

12 Supplementary provisions

- (1) In this Part of this Act—
- (a) " premises " means any building, any part of a building under separate occupation, any land ancillary to a building, the site comprising any building or buildings together with any land ancillary thereto, and (for the purposes only of sections 10 and 11 above) any other place; and
 - (b) " access " means, in relation to any premises, any part of any site or building within which those premises are situated which constitutes an ordinary means of access to those premises (whether or not that is its sole or primary use).
- (2) References in this section to a building shall apply also to any structure other than a movable one, and to any movable structure, vehicle or vessel designed or adapted for use for residential purposes; and for the purposes of subsection (1) above—
- (a) part of a building is under separate occupation if anyone is in occupation or entitled to occupation of that part as distinct from the whole; and
 - (b) land is ancillary to a building if it is adjacent to it and used (or intended for use) in connection with the occupation of that building or any part of it.
- (3) Subject to subsection (4) below, any person who was occupying any premises as a residence immediately before being excluded from occupation by anyone who entered those premises, or any access to those premises, as a trespasser is a displaced residential occupier of the premises for the purposes of this Part of this Act so long as he continues to be excluded from occupation of the premises by the original trespasser or by any subsequent trespasser.
- (4) A person who was himself occupying the premises in question as a trespasser immediately before being excluded from occupation shall not by virtue of subsection (3) above be a displaced residential occupier of the premises for the purposes of this Part of this Act.
- (5) A person who by virtue of subsection (3) above is a displaced residential occupier of any premises shall be regarded for the purposes of this Part of this Act as a displaced residential occupier also of any access to those premises.
- (6) Anyone who enters or is on or in occupation of any premises by virtue of—
- (a) any title derived from a trespasser ; or
 - (b) any licence or consent given by a trespasser or by a person deriving title from a trespasser,

shall himself be treated as a trespasser for the purposes of this Part of this Act (without prejudice to whether or not he would be a trespasser apart from this provision); and

Status: This is the original version (as it was originally enacted).

references in this Part of this Act to a person's entering or being on or occupying any premises as a trespasser shall be construed accordingly.

- (7) Anyone who is on any premises as a trespasser shall not cease to be a trespasser for the purposes of this Part of this Act by virtue of being allowed time to leave the premises, nor shall anyone cease to be a displaced residential occupier of any premises by virtue of any such allowance of time to a trespasser.
- (8) No rule of law ousting the jurisdiction of magistrates' courts to try offences where a dispute of title to property is involved shall preclude magistrates' courts from trying offences under this Part of this Act.

13 Abolitions and repeals

- (1) The offence of forcible entry and any offence of forcible detainer at common law are hereby abolished for all purposes not relating to offences committed before the coming into force of this Part of this Act.
- (2) The following enactments shall cease to have effect—
- (a) the Forcible Entry Act 1381;
 - (b) chapter 2 of 15 Ric.2 (1391);
 - (c) the Forcible Entry Act 1429 ;
 - (d) the Forcible Entry Act 1588 ; and
 - (e) the Forcible Entry Act 1623.

PART III

CRIMINAL PROCEDURE, PENALTIES, ETC.

Preliminary

14 Preliminary

The provisions of this Part of this Act down to the end of section 24 shall have effect for the purpose of securing that, as regards mode of trial, there are only three classes of offence, namely—

- (a) offences triable only on indictment;
- (b) offences triable only summarily ; and
- (c) offences triable either way,

for laying down a single procedure applicable to all cases where a person who has attained the age of seventeen appears or is brought before a magistrates' court on an information charging him with an offence which is triable either way, and for related purposes.

Allocation of offences to classes as regards mode of trial

15 Offences which are to become triable only summarily

- (1) The following offences shall be triable only summarily (instead of either way), namely—

Status: This is the original version (as it was originally enacted).

- (a) the offences mentioned (and broadly described) in column 1 of Schedule 1 to this Act; and
 - (b) any offence consisting in the incitement to commit a summary offence.
- (2) The provisions mentioned in subsection (3) below (which confer a right to claim trial by jury for certain offences triable summarily, thereby making triable either way such of those offences as would otherwise be triable only summarily) shall cease to have effect.
- (3) The said provisions are—
- (a) section 25 of the Magistrates' Courts Act 1952 ;
 - (b) sections 9 and 19(1) and (2) of the Conspiracy and Protection of Property Act 1875 ;
 - (c) in the Cruelty to Animals Act 1876, section 15 and, in section 17, the words from "or if" to "Justiciary";
 - (d) in the Witnesses (Public Inquiries) Protection Act 1892, in section 3 the words from " provided that" onwards and, in section 6, paragraph (2).
- (4) The following offences under the Night Poaching Act 1828 shall be triable only summarily (instead of only on indictment), namely—
- (a) offences under section 2 of that Act (assaults by persons committing offences under the Act);
 - (b) offences under section 9 of that Act (entering land, with others, armed and for the purpose of taking or destroying game or rabbits).
- (5) Subsections (1) and (4) above are without prejudice to any other enactment by virtue of which any offence is triable only summarily.

16 Offences which are to become triable either way

- (1) The offences mentioned in Schedule 2 to this Act shall be triable either way (instead of only on indictment).
- (2) The offences which by virtue of section 19 of the Magistrates' Courts Act 1952 are triable either way (excluding offences under section 56 of the Post Office Act 1953 and any other offence which by virtue of section 15(1) above is triable only summarily) shall be triable either way by virtue of this subsection ; and the said section 19 shall cease to have effect.
- (3) The offences triable either way by virtue of subsections (1) and (2) above are, for convenience of reference, listed in Schedule 3 to this Act.
- (4) Subsections (1) and (2) above are without prejudice to any enactment by virtue of which any offence is (otherwise than under the said section 19) triable either way.

17 Offence which is to become triable only on indictment

Section 5 of the Newspaper Libel and Registration Act 1881 (which provides for the summary trial, with the consent of the accused, of charges against newspaper proprietors and others responsible for the publication of newspapers for libels published in them) shall cease to have effect.

Limitation of time

18 Provisions as to time-limits on summary proceedings for indictable offences

- (1) Nothing in—
- (a) section 104 of the Magistrates' Courts Act 1952 (limitation of time for trial of information); or
 - (b) subject to subsection (3) below, any other enactment (however framed or worded) which, as regards any offence to which it applies, would but for this section impose a time-limit on the power of a magistrates' court to try an information summarily or impose a limitation on the time for taking summary proceedings,
- shall apply in relation to any indictable offence.
- (2) Without prejudice to the generality of paragraph (b) of subsection (1) above, that paragraph includes enactments which impose a time-limit that applies only in certain circumstances (for example, where the proceedings are not instituted by or with the consent of the Director of Public Prosecutions or some other specified authority).
- (3) Where, as regards any indictable offence, there is imposed by any enactment (however framed or worded, and whether falling within subsection (1)(b) above or not) a limitation on the time for taking proceedings on indictment for that offence no summary proceedings for that offence shall be taken after the latest time for taking proceedings on indictment.

Procedure for determining mode of trial of offences triable either way

19 Initial procedure on information for offence triable either way

- (1) Sections 20 to 24 below shall have effect where a person who has attained the age of seventeen appears or is brought before a magistrates' court on an information charging him with an offence triable either way.
- (2) Without prejudice to section 15 of the Magistrates' Courts Act 1952 (non-appearance of accused for trial), everything that the court is required to do under sections 20 to 23 below must be done before any evidence is called and, subject to the following subsection and section 24 below, with the accused present in court.
- (3) The court may proceed in the absence of the accused in accordance with such of the provisions of sections 20 to 23 below as are applicable in the circumstances if they consider that by reason of his disorderly conduct before them it is not practicable for the proceedings to be conducted in his presence; and subsections (3) to (5) of section 24 below, so far as applicable, shall have effect in relation to proceedings conducted in the absence of the accused by virtue of this subsection (references in those subsections to the person representing the accused being for this purpose read as references to the person, if any, representing him).
- (4) A magistrates' court proceeding under sections 20 to 24 below may adjourn the proceedings at any time, and on doing so on any occasion when the accused is present may remand the accused, and shall remand him if—
- (a) on the occasion on which he first appeared, or was brought, before the court to answer to the information he was in custody or, having been released on bail, surrendered to the custody of the court; or

(b) if he has been remanded at any time in the course of proceedings on the information ;

and where the court remands the accused, the time fixed for the resumption of the proceedings shall be that at which he is required to appear or be brought before the court in pursuance of the remand.

(5) The functions of a magistrates' court under sections 20 to 24 below may be discharged by a single justice, but the foregoing provision shall not be taken to authorise the summary trial of an information by a magistrates' court composed of less than two justices.

20 Court to begin by considering which mode of trial appears more suitable

(1) The court shall consider whether, having regard to the matters mentioned in subsection (3) below and any representations made by the prosecutor or the accused, the offence appears to the court more suitable for summary trial or for trial on indictment.

(2) Before so considering, the court—

(a) shall cause the charge to be written down, if this has not already been done, and read to the accused ; and

(b) shall afford first the prosecutor and then the accused an opportunity to make representations as to which mode of trial would be more suitable.

(3) The matters to which the court is to have regard under subsection (1) above are the nature of the case; whether the circumstances make the offence one of serious character; whether the punishment which a magistrates' court would have power to inflict for it would be adequate ; and any other circumstances which appear to the court to make it more suitable for the offence to be tried in one way rather than the other.

(4) If the prosecution is being carried on by the Attorney General, the Solicitor General or the Director of Public Prosecutions and he applies for the offence to be tried on indictment, the preceding provisions of this section and sections 21 and 22 below shall not apply, and the court shall proceed to inquire into the information as examining justices.

21 Procedure where summary trial appears more suitable

(1) If, where the court has considered as required by section 20(1) above, it appears to the court that the offence is more suitable for summary trial, the following provisions of this section shall apply (unless excluded by section 24 below).

(2) The court shall explain to the accused in ordinary language—

(a) that it appears to the court more suitable for him to be tried summarily for the offence, and that he can either consent to be so tried or, if he wishes, be tried by a jury; and

(b) that if he is tried summarily and is convicted by the court, he may be committed for sentence to the Crown Court under section 29 of the Magistrates' Courts Act 1952 if the convicting court, on obtaining information about his character and antecedents, is of opinion that they are such that greater punishment should be inflicted than the convicting court has power to inflict for the offence.

Status: This is the original version (as it was originally enacted).

- (3) After explaining to the accused as provided by the preceding subsection the court shall ask him whether he consents to be tried summarily or wishes to be tried by a jury, and—
- (a) if he consents to be tried summarily, shall proceed to the summary trial of the information ;
 - (b) if he does not so consent, shall proceed to inquire into the information as examining justices.

22 Procedure where trial on indictment appears more suitable

If, where the court has considered as required by section 20(1) above, it appears to the court that the offence is more suitable for trial on indictment, the court shall tell the accused that the court has decided that it is more suitable for him to be tried for the offence by a jury, and shall proceed to inquire into the information as examining justices.

23 Certain offences triable either way to be tried summarily if value involved is small

- (1) If the offence charged by the information is one of those mentioned in the first column of Schedule 4 to this Act (in this section referred to as " scheduled offences ") then, subject to subsection (7) below, the court shall, before proceeding in accordance with section 20 above, consider whether, having regard to any representations made by the prosecutor or the accused, the value involved (as defined in subsection (10) below) appears to the court to exceed the relevant sum.

For the purposes of this section the relevant sum is £200.

- (2) If, where subsection (1) above applies, it appears to the court clear that, for the offence charged, the value involved does not exceed the relevant sum, the court shall proceed as if the offence were triable only summarily, and sections 20 to 22 above shall not apply.
- (3) If, where subsection (1) above applies, it appears to the court clear that, for the offence charged, the value involved exceeds the relevant sum, the court shall thereupon proceed in accordance with section 20 above in the ordinary way without further regard to the provisions of this section.
- (4) If, where subsection (1) above applies, it appears to the court for any reason not clear whether, for the offence charged, the value involved does or does not exceed the relevant sum, the provisions of subsections (5) and (6) below shall apply.
- (5) The court shall cause the charge to be written down, if this has not already been done, and read to the accused, and shall explain to him in ordinary language—
 - (a) that he can, if he wishes, consent to be tried summarily for the offence and that if he consents to be so tried, he will definitely be tried in that way; and
 - (b) that if he is tried summarily and is convicted by the court, his liability to imprisonment or a fine will be limited as provided in section 29 below.
- (6) After explaining to the accused as provided by the preceding subsection the court shall ask him whether he consents to be tried summarily and—
 - (a) if he so consents, shall proceed in accordance with subsection (2) above as if that subsection applied;

Status: This is the original version (as it was originally enacted).

- (b) if he does not so consent, shall proceed in accordance with subsection (3) above as if that subsection applied.
- (7) Subsection (1) above shall not apply where the offence charged—
 - (a) is one of two or more offences with which the accused is charged on the same occasion and which appear to the court to constitute or form part of a series of two or more offences of the same or a similar character; or
 - (b) consists in the incitement to commit two or more scheduled offences.
- (8) Where a person is convicted by a magistrates' court of a scheduled offence, it shall not be open to him to appeal to the Crown Court against the conviction on the ground that the convicting court's decision as to the value involved was mistaken; and where a person is convicted before the Crown Court of such an offence, it shall not be open to him to appeal to the Court of Appeal against the conviction on the ground that the decision of the court which committed him for trial as to the value involved was mistaken.
- (9) If, where subsection (1) above applies, the offence charged is one with which the accused is charged jointly with a person who has not attained the age of seventeen, the reference in that subsection to any representations made by the accused shall be read as including any representations made by the person under seventeen.
- (10) In this section " the value involved ", in relation to any scheduled offence, means the value indicated in the second column of Schedule 4 to this Act, measured as indicated in the third column of that Schedule; and in that Schedule " the material time " means the time of the alleged offence.

24 Power of court, with consent of legally represented accused, to proceed in his absence

- (1) Where—
 - (a) the accused is represented by counsel or a solicitor who in his absence signifies to the court the accused's consent to the proceedings for determining how he is to be tried for the offence being conducted in his absence; and
 - (b) the court is satisfied that there is good reason for proceeding in the absence of the accused,the following provisions of this section shall apply.
- (2) Subject to the following provisions of this section, the court may proceed in the absence of the accused in accordance with such of the provisions of sections 20 to 23 above as are applicable in the circumstances.
- (3) If, in a case where subsection (1) of section 23 above applies, it appears to the court as mentioned in subsection (4) of that section, subsections (5) and (6) of that section shall not apply and the court—
 - (a) if the accused's consent to be tried summarily has been or is signified by the person representing him, shall proceed in accordance with subsection (2) of that section as if that subsection applied ; or
 - (b) if that consent has not been and is not so signified, shall proceed in accordance with subsection (3) of that section as if that subsection applied.
- (4) If, where the court has considered as required by section 20(1) above, it appears to the court that the offence is more suitable for summary trial then—

Status: This is the original version (as it was originally enacted).

- (a) if the accused's consent to be tried summarily has been or is signified by the person representing him, section 21 above shall not apply, and the court shall proceed to the summary trial of the information; or
 - (b) if that consent has not been and is not so signified, section 21 above shall not apply and the court shall proceed to inquire into the information as examining justices and may adjourn the hearing without remanding the accused.
- (5) If, where the court has considered as required by section 20(1) above, it appears to the court that the offence is more suitable for trial on indictment, section 22 above shall not apply, and the court shall proceed to inquire into the information as examining justices and may adjourn the hearing without remanding the accused.

25 Power to change from summary trial to committal proceedings, and vice versa

- (1) Subsections (2) to (4) below shall have effect where a person who has attained the age of seventeen appears or is brought before a magistrates' court on an information charging him with an offence triable either way.
- (2) Where the court has (otherwise than in pursuance of section 23(2) above) begun to try the information summarily, the court may, at any time before the conclusion of the evidence for the prosecution, discontinue the summary trial and proceed to inquire into the information as examining justices and, on doing so, may adjourn the hearing without remanding the accused.
- (3) Where the court has begun to inquire into the information as examining justices, then, if at any time during the inquiry it appears to the court, having regard to any representations made in the presence of the accused by the prosecutor, or made by the accused, and to the nature of the case, that the offence is after all more suitable for summary trial, the court may, after doing as provided in subsection (4) below, ask the accused whether he consents to be tried summarily and, if he so consents, may proceed to try the information summarily:
- Provided that, if the prosecution is being carried on by the Attorney General, the Solicitor General or the Director of Public Prosecutions, the court shall not act under this subsection without his consent.
- (4) Before asking the accused under subsection (3) above whether he consents to be tried summarily, the court shall in ordinary language—
- (a) explain to him that it appears to the court more suitable for him to be tried summarily for the offence, but that this can only be done if he consents to be so tried; and
 - (b) unless it has already done so, explain to him, as provided in section 21(2)(b) above, about the court's power to commit to the Crown Court for sentence.
- (5) Where a person under the age of seventeen appears or is brought before a magistrates' court on an information charging him with an indictable offence other than homicide, and the court—
- (a) has begun to try the information summarily on the footing that the case does not fall within paragraph (a) or (b) of section 6(1) of the Children and Young Persons Act 1969 and must therefore be tried summarily, as required by the said section 6(1); or
 - (b) has begun to inquire into the case as examining justices on the footing that the case does so fall,

subsection (6) or (7) below, as the case may be, shall have effect.

- (6) If, in a case falling within subsection (5)(a) above, it appears to the court at any time before the conclusion of the evidence for the prosecution that the case is after all one which under the said section 6(1) ought not to be tried summarily, the court may discontinue the summary trial and proceed to inquire into the information as examining justices and, on doing so, may adjourn the hearing without remanding the accused.
- (7) If, in a case falling within subsection (5)(b) above, it appears to the court at any time during the inquiry that the case is after all one which under the said section 6(1) ought to be tried summarily, the court may proceed to try the information summarily.

26 Power to issue summons to accused in certain circumstances

- (1) Where—
- (a) in the circumstances mentioned in section 24(1)(a) above the court is not satisfied that there is good reason for proceeding in the absence of the accused; or
 - (b) subsection (4)(b) or (5) of section 24 or subsection (2) or (6) of section 25 above applies, and the court adjourns the hearing in pursuance of that subsection without remanding the accused,
- the justice or any of the justices of which the court is composed may issue a summons directed to the accused requiring his presence before the court.
- (2) If the accused is not present at the time and place appointed—
- (a) in a case within subsection (1)(a) above, for the proceedings under section 20(1) or 23(1) above, as the case may be; or
 - (b) in a case within subsection (1)(b) above, for the resumption of the hearing,
- the court may issue a warrant for his arrest.

Penalties

27 General limit on power of magistrates' court to impose imprisonment,

- (1) Without prejudice to section 108 of the Magistrates' Courts Act 1952 (consecutive terms of imprisonment), a magistrates' court shall not have power to impose imprisonment for more than six months in respect of any one offence.
- (2) Unless expressly excluded, subsection (1) above shall apply even if the offence in question is one for which a person would otherwise be liable on summary conviction to imprisonment for more than six months.
- (3) Any power of a magistrates' court to impose a term of imprisonment for non-payment of a fine, or for want of sufficient distress to satisfy a fine, shall not be limited by virtue of subsection (1) above.

28 Penalties on summary conviction for offences triable either way

- (1) On summary conviction of any of the offences triable either way listed in Schedule 3 to this Act a person shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding the prescribed sum or both:

Status: This is the original version (as it was originally enacted).

Provided that—

- (a) a magistrates' court shall not have power to impose imprisonment for an offence so listed if the Crown Court would not have that power in the case of an adult convicted of it on indictment;
 - (b) on summary conviction of an offence consisting in the incitement to commit an offence triable either way a person shall not be liable to any greater penalty than he would be liable to on summary conviction of the last-mentioned offence; and
 - (c) on summary conviction of attempting to commit an offence triable either way a person shall not be liable to any greater penalty than he would be liable to on summary conviction of the completed offence.
- (2) For any offence triable either way which is not listed in Schedule 3 to this Act, being an offence under a relevant enactment, the maximum fine which may be imposed on summary conviction shall by virtue of this subsection be the prescribed sum unless the offence is one for which by virtue of an enactment other than this subsection a larger fine may be imposed on summary conviction.
- (3) Where, by virtue of any relevant enactment, a person summarily convicted of an offence triable either way would, apart from this section, be liable to a maximum fine of one amount in the case of a first conviction and of a different amount in the case of a second or subsequent conviction, subsection (2) above shall apply irrespective of whether the conviction is a first, second or subsequent one.
- (4) Subsection (2) above shall not affect so much of any enactment as (in whatever words) makes a person liable on summary conviction to a fine not exceeding a specified amount for each day on which a continuing offence is continued after conviction or the occurrence of any other specified event.
- (5) Where, as regards any offence triable either way, there is under any enactment (however framed or worded) a power by subordinate instrument to restrict the amount of the fine which on summary conviction can be imposed in respect of that offence—
 - (a) subsection (2) above shall not affect that power or override any restriction imposed in exercise of that power ; and
 - (b) the amount to which that fine may be restricted in exercise of that power shall be any amount less than the maximum fine which could be imposed on summary conviction in respect of the offence apart from any restriction so imposed.
- (6) Where there is under any relevant enactment (however framed or worded) a power by subordinate instrument to impose penal provisions, being a power which allows the creation of offences triable either way—
 - (a) the maximum fine which may in the exercise of that power be authorised on summary conviction in respect of an offence triable either way shall by virtue of this subsection be the prescribed sum unless some larger maximum fine can be authorised on summary conviction in respect of such an offence by virtue of an enactment other than this subsection ; and
 - (b) subsection (2) above shall not override any restriction imposed in the exercise of that power on the amount of the fine which on summary conviction can be imposed in respect of an offence triable either way created in the exercise of the power.
- (7) In this section—

Status: This is the original version (as it was originally enacted).

" the prescribed sum " means £1,000 or such sum as is for the time being substituted in this definition by an order in force under section 61(1) below ;

" relevant enactment " means an enactment contained in this Act or in any Act passed before, or in the same Session as, this Act.

- (8) Schedule 5 to this Act shall have effect for the purpose of altering the penalties available on summary conviction of certain offences triable either way not listed in Schedule 3 to this Act; and subsection (2) above shall not apply on summary conviction of any of the offences mentioned in paragraph 1(2) of the said Schedule 5.

29 Maximum penalties on summary conviction in pursuance of section 23

Where in pursuance of subsection (2) of section 23 above a magistrates' court proceeds to the summary trial of an information, then, if the accused is summarily convicted of the offence—

- (a) the court shall not have power to impose on him in respect of that offence imprisonment for more than three months or a fine greater than £500; and
- (b) section 29 of the Magistrates' Courts Act 1952 (power of court to commit offender to Crown Court for sentence if of opinion that his character and antecedents are such that greater punishment should be inflicted than the convicting court has power to inflict) shall not apply as regards that offence.

30 Penalties (and mode of trial) for offences made triable only summarily

- (1) The enactments specified in column 2 of Schedule 1 to this Act, which relate to the mode of trial of, and the maximum penalties for, the offences mentioned (and broadly described) in column 1 of that Schedule (being the offences which are by section 15(1) (a) above made triable only summarily instead of either way) shall have effect subject to the amendments specified in column 3 of that Schedule.
- (2) The said amendments have the effect of altering the maximum penalties available on summary conviction of the offences so mentioned as well as making alterations consequential on their becoming triable only summarily ; and in that Schedule column 4 shows the present maximum penalties by way of fine or imprisonment on summary conviction and on conviction on indictment, and column 5 shows the new maximum penalties resulting from the amendments.
- (3) A person who (by virtue of section 15 above) is summarily convicted of an offence under section 2 (assaults by persons committing offences under the Act) or section 9 (entering land, with others, armed and for the purpose of taking or destroying game or rabbits) of the Night Poaching Act 1828 shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding £500, or to both (instead of to a maximum penalty on conviction on indictment of seven years imprisonment or a fine or both for an offence under the said section 2, or of fourteen years imprisonment or a fine or both for an offence under the said section 9).
- (4) On conviction of an offence consisting in the incitement to commit a summary offence a person shall be liable to the same penalties as he would be liable to on conviction of the last-mentioned offence.

Status: This is the original version (as it was originally enacted).

31 Increase of fines for certain summary offences

- (1) The enactments specified in column 2 of Schedule 6 to this Act, which relate to the maximum fines for the offence's mentioned (and broadly described) in column 1 of that Schedule, shall have effect as if the maximum fine that may be imposed on summary conviction of any offence so mentioned were a fine not exceeding the amount specified in column 4 of that Schedule instead of a fine not exceeding the amount specified in column 3 of that Schedule, so however that the preceding provision shall not alter the maximum daily fine, if any, provided for by any of those enactments.
- (2) This subsection applies to the following enactments (by virtue of which certain byelaws may make persons contravening the byelaws liable on summary conviction to a fine not exceeding £20), namely—
- (a) section 183 of the Public Health Act 1875 and section 237 of the Local Government Act 1972 (local authorities' byelaws) in their application to byelaws under any public general Act; and
 - (b) paragraph 5 of Schedule 6 to the Weights and Measures Act 1963 (byelaws about solid fuel), including that paragraph as extended to wood fuel by paragraph 4 of Part IV of Schedule 7 to that Act.

- (3) In the enactments to which subsection (2) above applies for any reference to £20 there shall be substituted a reference to £50; and any provision in force at the coming into force of this subsection which—

- (a) is contained in any byelaw made under a public general Act by virtue of—
 - (i) any enactment to which subsection (2) above applies; or
 - (ii) section 251 of the Local Government Act 1933; and
- (b) specifies £20 as the maximum fine which may be imposed on summary conviction in respect of a contravention of, or offence under, any byelaw mentioned in that provision,

shall have effect as if it specified £50 instead (but with no change by virtue of this subsection in the maximum daily fine, if any, for which it provides).

The preceding provisions of this subsection are without prejudice to subsection (4) below.

- (4) The following byelaws, namely—
- (a) byelaws under section 75 of the Public Health Act 1961 (byelaws as to pleasure fairs and roller skating rinks);
 - (b) byelaws under section 76 of that Act (byelaws as to seaside pleasure boats); and
 - (c) any byelaws relating to the burning of straw or stubble made by a local authority under section 235 of the Local Government Act 1972 (byelaws for good rule and government and suppression of nuisances),

may provide that persons contravening the byelaws shall be liable on summary conviction to a fine not exceeding £200 and, in the case of a continuing offence, a further fine not exceeding £5 for each day during which the offence continues after the conviction thereof; and any such byelaw in force at the coming into force of this subsection which specifies £20 or any smaller sum as the maximum fine which may be imposed on summary conviction of an offence under any such byelaw shall have effect as if it specified £200 instead (but with no change by virtue of this subsection in the maximum daily fine, if any, for which it provides).

- (5) This subsection applies to any pre-1949 enactment (however framed or worded) which—
- (a) as regards any summary offence makes a person liable on conviction thereof to a fine of, or not exceeding, a specified amount less than £50 which has not been altered since the end of 1948 (and is not altered by this Act); or
 - (b) confers power by subordinate instrument to make a person, as regards any summary offence (whether or not created by the instrument), liable on conviction thereof to a fine of, or not exceeding, a specified amount less than £50 which has not been altered since the end of 1948 (and is not altered by this Act).
- (6) Every enactment to which subsection (5) above applies shall have effect as if for the specified amount less than £50 there mentioned there were substituted—
- (a) £25 if the specified amount is less than £20 ; or
 - (b) £50 if the specified amount is not less than £20.
- (7) Where, by virtue of any enactment to which subsection (5) above applies by virtue of paragraph (a) of that subsection, a person convicted of a summary offence would, apart from this section, be liable to a fine, or maximum fine, of one amount in the case of a first conviction and of a different amount in the case of a second or subsequent conviction, subsection (6) above shall apply separately in relation to each specified amount less than £50, even if this produces the same instead of different amounts for different convictions.
- (8) Subsection (6) above shall not affect so much of any enactment as (in whatever words) makes a person liable on summary conviction to a fine not exceeding a specified amount for each day on which a continuing offence is continued after conviction or the occurrence of any other specified event.
- (9) In subsection (5) above " pre-1949 enactment" means an enactment passed before 1st January 1949 or an enactment passed on or after that date which (whether directly or, through successive re-enactments, indirectly) re-enacts with or without modification an enactment passed before that date.
- (10) In section 67(6) of the Medicines Act 1968, for " £400 " (which gives the maximum fine on summary conviction which can be imposed by regulations under section 66 for contravention of the regulations) there shall be substituted " £1,000 ".
- (11) In this section "enactment" does not include an enactment contained in an order, regulation or other instrument made under an Act.

32 Other provisions as to maximum fines

- (1) Where a person convicted on indictment of any offence (whether triable only on indictment or either way) would, apart from this subsection, be liable to a fine not exceeding a specified amount, he shall by virtue of this subsection be liable to a fine of any amount.
- (2) In section 27(3) of the Magistrates' Courts Act 1952 (power of a magistrates' court to fine an offender up to £100 where it would otherwise only have power to sentence him to imprisonment or other detention), for the words from " impose a fine " onwards there shall be substituted the words " impose a fine which—

Status: This is the original version (as it was originally enacted).

- (a) for an offence triable either way, shall not exceed the prescribed sum within the meaning of section 28 of the Criminal Law Act 1977 ; and
 - (b) for a summary offence, shall—
 - (i) not exceed £200 ; and
 - (ii) not be of such an amount as would subject the offender, in default of payment of the fine, to a longer term of imprisonment or detention than the term to which he is liable on conviction of the offence."
- (3) In paragraph 1(1)(d) of Schedule 2 to the European Communities Act 1972, for the words " £5 a day " (which give the maximum daily fine with which an offence created under the powers conferred by section 2(2) of that Act can under those powers be made punishable on summary conviction) there shall be substituted the words " £100 a day ".

33 Penalty for offences under section 3 of Explosive Substances Act 1883

For an offence under section 3 of the Explosive Substances Act 1883 (attempt to cause explosion, or making or keeping explosive, with intent to endanger life or property in the United Kingdom or the Republic of Ireland) the maximum term of imprisonment which may be imposed by a court in Great Britain shall be increased from twenty years to life.

Young offenders

34 Power of magistrates' court to remit a person under 17 for trial to a juvenile court in certain circumstances

- (1) Where—
- (a) a person under the age of seventeen ("the juvenile") appears or is brought before a magistrates' court other than a juvenile court on an information jointly charging him and one or more other persons with an offence; and
 - (b) that other person, or any of those other persons, has attained that age,
- subsection (2) below shall have effect notwithstanding proviso (a) in section 46(1) of the Children and Young Persons Act 1933 (which would otherwise require the charge against the juvenile to be heard by a magistrates' court other than a juvenile court). In the following provisions of this section " the older accused " means such one or more of the accused as have attained the age of seventeen.
- (2) If—
- (a) the court proceeds to the summary trial of the information in the case of both or all of the accused, and the older accused or each of the older accused pleads guilty; or
 - (b) the court—
 - (i) in the case of the older accused or each of the older accused, proceeds to inquire into the information as examining justices and either commits him for trial or discharges him ; and
 - (ii) in the case of the juvenile, proceeds to the summary trial of the information,
- then, if in either situation the juvenile pleads not guilty, the court may before any evidence is called in his case remit him for trial to a juvenile court acting for the same place as the remitting court or for the place where he habitually resides.

- (3) A person remitted to a juvenile court under subsection (2) above shall be brought before and tried by a juvenile court accordingly.
- (4) Where a person is so remitted to a juvenile court—
 - (a) he shall have no right of appeal against the order of remission; and
 - (b) the remitting court may give such directions as appear to be necessary with respect to his custody or for his release on bail until he can be brought before the juvenile court.
- (5) The preceding provisions of this section shall apply in relation to a corporation as if it were an individual who has attained the age of seventeen.

35 Power to commit a person under 17 for trial extended to related offences in certain cases

In section 6 of the Children and Young Persons Act 1969 (summary trial of young persons), after subsection (1) there shall be inserted—

“(1A) Where, in a case falling within subsection (1)(b) above, a magistrates' court commits a person under the age of seventeen for trial for an offence with which he is charged jointly with a person who has attained that age, the court may also commit him for trial for any other indictable offence with which he is charged at the same time (whether jointly with the person who has attained that age or not) if that other offence arises out of circumstances which are the same as or connected with those giving rise to the first-mentioned offence.”.

36 Enforcement of fines imposed on young offenders

- (1) Paragraph 6 of Schedule 4 to the Children and Young Persons Act 1969 (which precludes the making of an attendance centre order in respect of a person under the age of seventeen in consequence of a default within the meaning of the Criminal Justice Act 1961) shall not apply in the case of a default consisting in failure to pay, or want of distress to satisfy, a sum adjudged to be paid by a conviction.
- (2) Where a magistrates' court would, but for the statutory restrictions upon the imprisonment of young offenders, have power to commit to prison a person under the age of seventeen for a default consisting in failure to pay, or want of sufficient distress to satisfy, a sum adjudged to be paid by a conviction, the court may, subject to the following provisions of this section, make—
 - (a) an order requiring the defaulter's parent or guardian to enter into a recognisance to ensure that the defaulter pays so much of that sum as remains unpaid ; or
 - (b) an order directing so much of that sum as remains unpaid to be paid by the defaulter's parent or guardian instead of by the defaulter.
- (3) An order under subsection (2) above shall not be made in respect of a defaulter—
 - (a) in pursuance of paragraph (a) of that subsection, unless the parent or guardian in question consents ;
 - (b) in pursuance of paragraph (b) of that subsection, unless the court is satisfied in all the circumstances that it is reasonable to make the order.
- (4) None of the following orders, namely—

Status: This is the original version (as it was originally enacted).

- (a) an order under section 19(1) of the Criminal Justice Act 1948 for attendance at an attendance centre; or
 - (b) any order under subsection (2) above,
- shall be made by a magistrates' court in consequence of a default of a person under the age of seventeen years consisting in failure to pay, or want of sufficient distress to satisfy, a sum adjudged to be paid by a conviction unless the court has since the conviction inquired into the defaulter's means in his presence on at least one occasion.
- (5) An order under subsection (2) above shall not be made by a magistrates' court unless the court is satisfied that the defaulter has, or has had since the date on which the sum in question was adjudged to be paid, the means to pay the sum or any instalment of it on which he has defaulted, and refuses or neglects or, as the case may be, has refused or neglected, to pay it.
 - (6) An order under subsection (2) above may be made in pursuance of paragraph (b) of that subsection against a parent or guardian who, having been required to attend, has failed to do so; but, save as aforesaid, an order under that subsection shall not be made in pursuance of that paragraph without giving the parent or guardian an opportunity of being heard.
 - (7) A parent or guardian may appeal to the Crown Court against an order under subsection (2) above made in pursuance of paragraph (b) of that subsection.
 - (8) Any sum ordered under subsection (2)(b) above to be paid by a parent or guardian may be recovered from him in like manner as if the order had been made on the conviction of the parent or guardian of an offence.
 - (9) In this section—
 - " guardian ", in relation to a person under the age of seventeen, means a person appointed, according to law, to be his guardian by deed or will, or by order of a court of competent jurisdiction;
 - " the statutory restrictions upon the imprisonment of young offenders " has the meaning given by section 39(1) of the Criminal Justice Act 1961 ;
 - " sum adjudged to be paid by a conviction " means any fine, costs, compensation or other sum adjudged to be paid by an order made on a finding of guilt, including an order made under section 35 of the Powers of Criminal Courts Act 1973 (compensation orders) as applied by section 3(6) of the Children and Young Persons Act 1969.

37 Supervision orders

- (1) In section 12 of the Children and Young Persons Act 1969 (power to include requirements in supervision orders) there shall be inserted after subsection (3) the following subsections—
 - “(3A) This subsection applies to—
 - (a) any supervision order made under section 7(7) of this Act in respect of a child or young person found guilty as there mentioned ; and
 - (b) any supervision order made in respect of a person under section 21(2) of this Act by a court on discharging a care order made in respect of him under the said section 7(7).
 - (3B) Subject to the following subsection (but without prejudice to subsection (2) or (4) of this section) a supervision order to which subsection (3A) of this

Status: This is the original version (as it was originally enacted).

section applies may require the supervised person to do as mentioned in all or any one or more of paragraphs (a) to (c) of this subsection, that is to say—

- (a) to be of good behaviour ;
- (b) to comply, for as long as the order remains in force, or until the end of some shorter period specified in the order, with such requirements as may be so specified, being requirements which, having regard to the circumstances of the case, the court making the order considers appropriate for the purpose of preventing the commission of further offences by the supervised person;
- (c) if he is of compulsory school age, to comply, for as long as he is of that age and the order remains in force, with such arrangements for his education as may from time to time be made by his parent, being arrangements for the time being approved by the local education authority.

Expressions used in paragraph (c) of this subsection and in the Education Act 1944 have the same meaning there as in that Act.

(3C) A requirement to do as mentioned in paragraph (b) of the preceding subsection shall not be included in a supervision order to which subsection (3A) of this section applies unless the supervised person or, if he is a child, his parent or guardian consents to its inclusion ; and there shall not be included in such an order by virtue of the said paragraph (b)—

- (a) any requirement that would involve the cooperation of a person other than the supervisor and the supervised person unless that other person consents to its inclusion ; or
- (b) any requirement requiring the specified person to reside with a specified individual or live at a specified place; or
- (c) any such requirement as is mentioned in subsection (4) of this section.”.

(2) In section 15 of the Children and Young Persons Act 1969 (variation and discharge of supervision orders), after subsection (2) there shall be inserted the following subsection—

“(2A) If while a supervision order to which section 12 (3A) of this Act applies is in force in respect of a person who has not attained the age of eighteen it is proved to the satisfaction of a juvenile court, on the application of the supervisor, that the supervised person has failed to comply with any requirement included in the supervision order in pursuance of section 12 or section 18(2)(b) of this Act, the court may, whether or not it also makes an order under subsection (1) of this section—

- (a) order him to pay a fine of an amount not exceeding £50; or
- (b) subject to section 16(10) of this Act, make an attendance centre order in respect of him.”.

(3) The preceding provisions of this section, and any related amendment or repeal provided for in Schedule 12 or 13 to this Act, shall not apply in relation to supervision orders made before the coming into force of those provisions.

Status: This is the original version (as it was originally enacted).

Cross-border enforcement

38 Execution throughout United Kingdom of warrants of arrest

- (1) A warrant issued in Scotland or Northern Ireland for the arrest of a person charged with an offence may be executed in England or Wales by any constable acting within his police area ; and subsection (4) of section 102 of the Magistrates' Courts Act 1952 (execution without possession of the warrant) shall apply to the execution in England or Wales of any such warrant.
- (2) A warrant issued in England, Wales or Northern Ireland for the arrest of a person charged with an offence may be executed in Scotland by any constable appointed for a police area in like manner as any such warrant issued in Scotland.
- (3) A warrant issued in England, Wales or Scotland for the arrest of a person charged with an offence may be executed in Northern Ireland by any member of the Royal Ulster Constabulary or the Royal Ulster Constabulary Reserve; and subsections (4) and (5) of section 159 of the Magistrates' Courts Act (Northern Ireland) 1964 (execution without possession of the warrant and execution on Sunday) shall apply to the execution in Northern Ireland of any such warrant.
- (4) A warrant may be executed by virtue of this section whether or not it has been endorsed under section 12, 14 or 15 of the Indictable Offences Act 1848 or under section 27, 28 or 29 of the Petty Sessions (Ireland) Act 1851.
- (5) Nothing in this section affects the execution in Scotland or Northern Ireland of a warrant to which section 123 of the Bankruptcy Act 1914 applies.

39 Service of summonses and citation throughout United Kingdom

- (1) A summons requiring a person charged with an offence to appear before a court in England or Wales may, in such manner as may be prescribed by rules of court, be served on him in Scotland or Northern Ireland.
- (2) A summons requiring a person charged with an offence to appear before a court in Northern Ireland may, in such manner as may be prescribed by rules of court, be served on him in England, Wales or Scotland.
- (3) Citation of a person charged with a crime or offence to appear before a court in Scotland may be effected in any other part of the United Kingdom in like manner as it may be done in Scotland, and for this purpose the persons authorised to effect such citation shall include, in England and Wales and Northern Ireland, constables and prison officers serving in those parts of the United Kingdom.

40 Transfer of fine orders

Schedule 7 to this Act (which confers powers on courts in Northern Ireland, and extends the existing powers of courts in England, Wales and Scotland, to make transfer of fine orders) shall have effect.

Other provisions

41 Transfer of remand hearings

- (1) A magistrates' court adjourning a case under—
 - (a) section 6 of the Magistrates' Courts Act 1952 (committal proceedings), or
 - (b) section 14(1) of that Act (trial of information), or
 - (c) section 19(4) above,and remanding the accused in custody, may, if he has attained the age of seventeen, order that he be brought up for any subsequent remands before an alternate magistrates' court nearer to the prison where he is to be confined while on remand.
- (2) The order shall require the accused to be brought before the alternate court at the end of the period of remand or at such earlier time as the alternate court may require.
- (3) While the order is in force, the alternate court shall, to the exclusion of the court which made the order, have all the powers in relation to further remand (whether in custody or on bail) and the grant of legal aid which that court would have had but for the order.
- (4) The alternate court may, on remanding the accused in custody, require him to be brought before the court which made the order at the end of the period of remand or at such earlier time as that court may require ; and, if the alternate court does so, or the accused is released on bail, the order under subsection (1) above shall cease to be in force.
- (5) Schedule 8 to this Act shall have effect to supplement this section.

42 Remand of accused already in custody

- (1) When a magistrates' court remands an accused person in custody and he is already detained under a custodial sentence, the period for which he is remanded may be up to 28 clear days.
- (2) But the court shall enquire as to the expected date of his release from that detention; and if it appears that it will be before 28 clear days have expired, he shall not be remanded in custody for more than 8 clear days or (if longer) a period ending with that date.
- (3) So long as he is detained under a custodial sentence, an application for him to be further remanded in custody may be made and determined without his appearance in court, provided that he is represented by counsel or a solicitor who signifies the accused's consent to the application being heard in his absence.

43 Peremptory challenge of jurors

The provisions of section 12(1) of the Juries Act 1974 shall be amended so as to substitute in paragraph (a) thereof " three " for " seven ".

44 Appeals against conviction

In section 2 of the Criminal Appeal Act 1968 and in section 9 of the Criminal Appeal (Northern Ireland) Act 1968 (grounds for allowing appeals) in subsection (1)(a) (cases

Status: This is the original version (as it was originally enacted).

where the verdict of the jury is unsafe or unsatisfactory) for the words "verdict of the jury" there shall be substituted the word "conviction".

45 Cases where magistrates' court may remit offender to another such court for sentence

- (1) Where a person who has attained the age of seventeen ("the offender") has been convicted by a magistrates' court ("the convicting court") of an offence to which this section applies ("the instant offence") and—
 - (a) it appears to the convicting court that some other magistrates' court ("the other court") has convicted him of another such offence in respect of which the other court has neither passed sentence on him nor committed him to the Crown Court for sentence nor dealt with him in any other way; and
 - (b) the other court consents to his being remitted under this section to the other court,

the convicting court may remit him to the other court to be dealt with in respect of the instant offence by the other court instead of by the convicting court.
- (2) The offender, if remitted under this section, shall have no right of appeal against the order of remission.
- (3) Where the convicting court remits the offender to the other court under this section, it shall adjourn the trial of the information charging him with the instant offence, and—
 - (a) section 105 of the Magistrates' Courts Act 1952 (remand in custody or on bail) and all other enactments (whenever passed) relating to remand or the granting of bail in criminal proceedings shall have effect in relation to the convicting court's power or duty to remand the offender on that adjournment as if any reference to the court to or before which the person remanded is to be brought or appear after remand were a reference to the court to which he is being remitted; and
 - (b) subject to subsection (4) below, the other court may deal with the case in any way in which it would have power to deal with it (including, where applicable, the remission of the offender under this section to another magistrates' court in respect of the instant offence) if all proceedings relating to that offence which took place before the convicting court had taken place before the other court.
- (4) Nothing in this section shall preclude the convicting court from making any order which it has power to make under section 28 of the Theft Act 1968 (orders for restitution) by virtue of the offender's conviction of the instant offence.
- (5) Where the convicting court has remitted the offender under this section to the other court, the other court may remit him back to the convicting court; and the provisions of subsection (3) above (so far as applicable) shall apply with the necessary modifications in relation to any remission under this subsection.
- (6) This section applies to—
 - (a) any offence punishable with imprisonment; and
 - (b) any offence in respect of which the convicting court has a power or duty to order the offender to be disqualified under section 93 of the Road Traffic Act 1972 (disqualification for certain motoring offences);

and in this section "conviction" includes a finding under section 26(1) of the Magistrates' Courts Act 1952 (remand for medical examination) that the person in

question did the act or made the omission charged, and " convicted" shall be construed accordingly.

46 Committal for sentence for offences tried summarily

For section 56(1) of the Criminal Justice Act 1967 (powers of magistrates' courts as regards committal for sentence in respect of offences tried summarily) there shall be substituted—

“(1) Where a magistrates' court (' the committing court') commits a person in custody or on bail to the Crown Court under any enactment to which this section applies to be sentenced or otherwise dealt with in respect of an offence (' the relevant offence'), the committing court—

- (a) if the relevant offence is an offence triable either way, may also commit him, in custody or on bail as the case may require, to the Crown Court to be dealt with in respect of any other offence whatsoever in respect of which the committing court has power to deal with him (being an offence of which he has been convicted by that or any other court); or
- (b) if the relevant offence is a summary offence, may commit him, as aforesaid, to the Crown Court to be dealt with in respect of—
 - (i) any other offence of which the committing court has convicted him, being either an offence punishable with imprisonment or an offence in respect of which the committing court has a power or duty to order him to be disqualified under section 93 of the Road Traffic Act 1972 (disqualification for certain motoring offences); or
 - (ii) any suspended sentence in respect of which the committing court has under section 24(1) of the Powers of Criminal Courts Act 1973 power to deal with him.”.

47 Prison sentence partly served and partly suspended

- (1) Where a court passes on an adult a sentence of imprisonment for a term of not less than six months and not more than two years, it may order that, after he has served part of the sentence in prison, the remainder of it shall be held in suspense.
- (2) The part to be held in suspense shall be not more than three quarters and not less than one quarter of the whole term, and the offender shall not be required to serve that part unless it is restored under subsection (3) below; and this shall be explained to him by the court, using ordinary language and stating the substantial effect of that subsection.
- (3) If at any time after the making of the order he is convicted of an offence punishable with imprisonment and committed during the whole period of the original sentence, then (subject to subsection (4) below) a court which is competent under this subsection may restore the part of the sentence held in suspense and order him to serve it.
- (4) If a court, considering the offender's case with a view to exercising the powers of subsection (3) above, is of opinion that (in view of all the circumstances, including the facts of the subsequent offence) it would be unjust fully to restore the part of the sentence held in suspense, it shall either restore a lesser part or declare, with reasons given, its decision to make no order under the subsection.

Status: This is the original version (as it was originally enacted).

- (5) Where a court exercises those powers, it may direct that the restored part of the original sentence is to take effect as a term to be served either immediately or on the expiration of another term of imprisonment passed on the offender by that or another court.
- (6) "Adult" in this section means a person who has attained the age of twenty-one; and "the whole period" of a sentence is the time which the offender would have had to serve in prison if the sentence had been passed without an order under subsection (1) above and he had no remission under section 25(1) of the Prison Act 1952 (industry and good conduct in prison).
- (7) Schedule 9 to this Act has effect with respect to procedural, sentencing and miscellaneous matters ancillary to those dealt with above in this section, including in particular the courts which are competent under subsection (3) above.
- (8) This section and paragraphs 1 to 6 of Schedule 9 to this Act and the Powers of Criminal Courts Act 1973 shall be construed and have effect as if this section and those paragraphs of the Schedule were contained in that Act.

48 Power to make rules as to furnishing of information by prosecutor in criminal proceedings

- (1) The power to make rules conferred by section 15 of the Justices of the Peace Act 1949 shall, without prejudice to the generality of subsection (1) of that section, include power to make, with respect to proceedings against any person for a prescribed offence or an offence of any prescribed class, provision—
 - (a) for requiring the prosecutor to do such things as may be prescribed for the purpose of securing that the accused or a person representing him is furnished with, or can obtain, advance information concerning all, or any prescribed class of, the facts and matters of which the prosecutor proposes to adduce evidence; and
 - (b) for requiring a magistrates' court, if satisfied that any requirement imposed by virtue of paragraph (a) above has not been complied with, to adjourn the proceedings pending compliance with that requirement unless the court is satisfied that the conduct of the case for the accused will not be substantially prejudiced by noncompliance with the requirement.
- (2) Rules made by virtue of subsection (1)(a) above—
 - (a) may require the prosecutor to do as provided in the rules either—
 - (i) in all cases ; or
 - (ii) only if so requested by or on behalf of the accused;
 - (b) may exempt facts and matters of any prescribed description from any requirement imposed by the rules, and may make the opinion of the prosecutor material for the purposes of any such exemption ; and
 - (c) may make different provision with respect to different offences or offences of different classes.
- (3) It shall not be open to a person convicted of an offence to appeal against the conviction on the ground that a requirement imposed by virtue of subsection (1) above was not complied with by the prosecutor.

49 Power to order search of persons before Crown Court

After section 34 of the Powers of Criminal Courts Act 1973 there shall be inserted—

“34A Power of Crown Court to order search of persons before it.

(1) Where—

- (a) the Crown Court imposes a fine on a person or forfeits his recognizance ;
- (b) the Crown Court makes against a person any such order as is mentioned in paragraph 3, 4 or 9 of Schedule 9 to the Administration of Justice Act 1970 (orders for the payment of costs);
- (c) the Crown Court makes against a person any such order as is mentioned in paragraph 12 of that Schedule (fines etc. payable by parents or guardians) other than an order under section 35 of this Act; or
- (d) on the determination of an appeal brought by a person under section 83 of the Magistrates' Courts Act 1952 a sum is payable by him, whether by virtue of an order of the Crown Court or by virtue of a conviction or order of the magistrates' court against whose decision the appeal was brought,

then, if that person is before it, the Crown Court may order him to be searched.

(2) Any money found on a person in a search under this section may be applied, unless the court otherwise directs, towards payment of the fine or other sum payable by him; and the balance, if any, shall be returned to him.”.

PART IV

MISCELLANEOUS PROVISIONS

50 Amendment of Road Traffic Act 1972

(1) For sections 1 and 2 of the Road Traffic Act 1972 (causing death by reckless or dangerous driving, and reckless, and dangerous, driving generally) there shall be substituted—

“1 Causing death by reckless driving.

A person who causes the death of another person by driving a motor vehicle on a road recklessly shall be guilty of an offence. Reckless driving.

A person who drives a motor vehicle on a road recklessly shall be guilty of an offence.”.

(2) For section 17 of that Act (reckless, and dangerous, cycling) there shall be substituted—

“17 Reckless cycling.

A person who rides a cycle, not being a motor vehicle, on a road recklessly shall be guilty of an offence. In this section ' road ' includes a bridleway.”.

Status: This is the original version (as it was originally enacted).

- (3) Nothing in subsection (1) or (2) above or in any related repeal provided for in Schedule 13 to this Act shall apply in relation to an offence committed before the coming into force of that subsection.

51 Bomb hoaxes

- (1) A person who—
- (a) places any article in any place whatever ; or
 - (b) dispatches any article by post, rail or any other means whatever of sending things from one place to another,
- with the intention (in either case) of inducing in some other person a belief that it is likely to explode or ignite and thereby cause personal injury or damage to property is guilty of an offence.

In this subsection "article" includes substance.

- (2) A person who communicates any information which he knows or believes to be false to another person with the intention of inducing in him or any other person a false belief that a bomb or other thing liable to explode or ignite is present in any place or location whatever is guilty of an offence.
- (3) For a person to be guilty of an offence under subsection (1) or (2) above it is not necessary for him to have any particular person in mind as the person in whom he intends to induce the belief mentioned in that subsection.
- (4) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding £1,000, or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding five years.

52 Misuse of Drugs Act 1971: redefinition of cannabis

In section 37(1) (interpretation) of the Misuse of Drugs Act 1971, for the definition of "cannabis" there shall be substituted—

- “'cannabis' (except in the expression 'cannabis resin') means any plant of the genus *Cannabis* or any part of any such plant (by whatever name designated) except that it does not include cannabis resin or any of the following products after separation from the rest of the plant, namely—
- (a) mature stalk of any such plant,
 - (b) fibre produced from mature stalk of any such plant, and
 - (c) seed of any such plant;”.

53 Amendments of Obscene Publications Act 1959 with respect to cinematograph exhibitions

- (1) In the proviso to section 1(3) of the Obscene Publications Act 1959 (which excludes from the scope of that Act anything done in the course of a cinematograph exhibition taking place otherwise than in a private house to which the public are not admitted and anything done in the course of television or sound broadcasting) the words from "a cinematograph exhibition" to "in the course of" shall be omitted.

Status: This is the original version (as it was originally enacted).

- (2) In section 2 of that Act (prohibition of publication of obscene matter) at the end of subsection (3) there shall be inserted the following subsection:—

“(3A) Proceedings for an offence under this section shall not be instituted except by or with the consent of the Director of Public Prosecutions in any case where the article in question is a moving picture film of a width of not less than sixteen millimetres and the relevant publication or the only other publication which followed or could reasonably have been expected to follow from the relevant publication took place or (as the case may be) was to take place in the course of a cinematograph exhibition; and in this subsection " the relevant publication " means—

- (a) in the case of any proceedings under this section for publishing an obscene article, the publication in respect of which the defendant would be charged if the proceedings were brought; and
- (b) in the case of any proceedings under this section for having an obscene article for publication for gain, the publication which, if the proceedings were brought, the defendant would be alleged to have had in contemplation.”

- (3) In section 2 of that Act after subsection (4) there shall be inserted the following subsection:—

“(4A) Without prejudice to subsection (4) above, a person shall not be proceeded against for an offence at common law—

- (a) in respect of a cinematograph exhibition or anything said or done in the course of a cinematograph exhibition, where it is of the essence of the common law offence that the exhibition or, as the case may be, what was said or done was obscene, indecent, offensive, disgusting or injurious to morality; or
- (b) in respect of an agreement to give a cinematograph exhibition or to cause anything to be said or done in the course of such an exhibition where the common law offence consists of conspiring to corrupt public morals or to do any act contrary to public morals or decency.”

- (4) At the end of section 2 of that Act there shall be added the following subsection:—

“(7) In this section " cinematograph exhibition " means an exhibition of moving pictures produced on a screen by means which include the projection of light.”

- (5) In section 3 of that Act (which among other things makes provision for the forfeiture of obscene articles kept for publication for gain) at the beginning of subsection (3) there shall be inserted the words " Subject to subsection (3A) of this section " and at the end of that subsection there shall be inserted the following subsection:—

“(3A) Without prejudice to the duty of a court to make an order for the forfeiture of an article where section 1(4) of the Obscene Publications Act 1964 applies (orders made on conviction), in a case where by virtue of subsection (3A) of section 2 of this Act proceedings under the said section 2 for having an article for publication for gain could not be instituted except by or with the consent of the Director of Public Prosecutions, no order for the forfeiture of the article shall be made under this section unless the warrant under which the article was seized was issued on an information laid by or on behalf of the Director of Public Prosecutions.”

Status: This is the original version (as it was originally enacted).

- (6) In section 4 of that Act (defence of public good) at the beginning of subsection (1) there shall be inserted the words " Subject to subsection (1A) of this section " and at the end of that subsection there shall be inserted the following subsection :—

“(1A) Subsection (1) of this section shall not apply where the article in question is a moving picture film or soundtrack, but—

- (a) a person shall not be convicted of an offence against section 2 of this Act in relation to any such film or soundtrack, and
- (b) an order for forfeiture of any such film or soundtrack shall not be made under section 3 of this Act,

if it is proved that publication of the film or soundtrack is justified as being for the public good on the ground that it is in the interests of drama, opera, ballet or any other art, or of literature or learning.”

- (7) At the end of section 4 of that Act there shall be added the following subsection:—

“(3) In this section " moving picture soundtrack " means any sound record designed for playing with a moving picture film, whether incorporated with the film or not.”

54 Inciting girl under sixteen to have incestuous sexual intercourse

- (1) It is an offence for a man to incite to have sexual intercourse with him a girl under the age of sixteen whom he knows to be his grand-daughter, daughter or sister.
- (2) In the preceding subsection " man " includes boy, " sister " includes half-sister, and for the purposes of that subsection any expression importing a relationship between two people shall be taken to apply notwithstanding that the relationship is not traced through lawful wedlock.
- (3) The following provisions of section 1 of the Indecency with Children Act 1960, namely—
 - subsection (2) (competence of spouse of accused to give evidence);
 - subsection (3) (references in Children and Young Persons Act 1933 to the offences mentioned in Schedule 1 to that Act to include offences under that section);
 - subsection (4) (offences under that section to be deemed offences against the person for the purpose of section 3 of the Visiting Forces Act 1952),
 shall apply in relation to offences under this section.
- (4) A person guilty of an offence under this section shall be liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding £1,000, or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years.

55 Amendment of Rabies Act 1974 and Diseases of Animals (N.I.) Order 1975

- (1) The Rabies Act 1974 shall be amended as provided in subsections (2) and (3) below.
- (2) After section 5 there shall be inserted the following sections:—

“5A Powers of arrest.

- (1) Without prejudice to the powers of arrest conferred by section 71 of the principal Act or otherwise, a constable may arrest without warrant any person whom he, with reasonable cause, suspects to be in the act of committing or to have committed an offence to which this section applies.
- (2) The offences to which this section applies are offences against the principal Act consisting of—
 - (a) the landing or attempted landing of any animal in contravention of an order made under that Act and expressed to be made for the purpose of preventing the introduction of rabies into Great Britain; or
 - (b) the failure by the person having the charge or control of any vessel, boat or hovercraft to discharge any obligation imposed on him in that capacity by such an order; or
 - (c) the movement, in contravention of an order under section 10 or 11 of that Act, of any animal into, within or out of a place or area declared to be infected with rabies.
- (3) Section 73(1) of the principal Act (inspectors to have powers of constables) shall not have effect in relation to the powers conferred by this or the following section.

5B Powers of entry and search.

- (1) For the purpose of arresting a person under the power conferred by section 5A above a constable may enter (if need be, by force) and search any vessel, boat, hovercraft, aircraft or vehicle of any other description in which that person is or in which the constable, with reasonable cause, suspects him to be.
- (2) For the purpose of exercising any power to seize an animal or cause an animal to be seized which is conferred on constables by an order made under the principal Act and expressed to be made for the purpose of preventing the introduction of rabies into Great Britain, a constable may enter (if need be, by force) and search any vessel, boat, hovercraft, aircraft or vehicle of any other description in which there is, or in which he, with reasonable cause, suspects that there is, an animal to which that power applies.”.
- (3) After section 6 there shall be inserted the following section:—

“6A Increase of fines for rabies offences.

- (1) An order made under the principal Act and expressed to be made for the purpose of preventing the introduction or spreading of rabies into or within Great Britain may direct that paragraph (a) of section 79(1) of that Act (punishment for offences) shall have effect in relation to any summary offence against that Act the existence of which is attributable to the provisions of that order as if for the words ' £400' (which were substituted by section 105(5)(a) of the Agriculture Act 1970) there were substituted the words ' £1,000 '.
- (2) The said paragraph (a) shall have effect as aforesaid in relation to any summary offence the existence of which is attributable to the provisions of

Status: This is the original version (as it was originally enacted).

either of the following orders made under the principal Act, namely the Rabies (Importation of Dogs, Cats and Other Mammals) Order 1974 and the Rabies (Control) Order 1974.”.

- (4) The Diseases of Animals (Northern Ireland) Order 1975 shall be amended as follows.
- (5) After Article 7 there shall be inserted the following Articles:—

“Powers of arrest

- 7A (1) Without prejudice to the powers of arrest conferred by section 39 of the principal Act or otherwise, a constable may arrest without warrant any person whom he, with reasonable cause, suspects to be in the act of committing or to have committed an offence to which this Article applies.
- (2) The offences to which this Article applies are offences against the principal Act consisting of—
- (a) the landing or attempted landing of any animal in contravention of an order made under that Act and expressed to be made for the purpose of preventing the introduction of rabies into Northern Ireland; or
 - (b) the failure by the person having the charge or control of any vessel, boat or hovercraft to discharge any obligation imposed on him in that capacity by such an order; or
 - (c) the movement, in contravention of an order under section 7 or 8 of that Act, of any animal into, within or out of a place or area declared to be infected with rabies.
- (3) Section 41(1) of the principal Act (inspectors to have powers of constables) shall not have effect in relation to the powers conferred by this or the following Article.

Powers of entry and search

- 7B (1) For the purpose of arresting a person under the power conferred by Article 7A a constable may enter (if need be, by force) and search any vessel, boat, hovercraft, aircraft or vehicle of any other description in which that person is or in which the constable, with reasonable cause, suspects him to be.
- (2) For the purpose of exercising any power to seize an animal or cause an animal to be seized which is conferred on constables by an order made under the principal Act and expressed to be made for the purpose of preventing the introduction of rabies into Northern Ireland, a constable may enter (if need be, by force) and search any vessel, boat, hovercraft, aircraft or vehicle of any other description in which there is, or in which he, with reasonable cause, suspects that there is, an animal to which that power applies.”.
- (6) After Article 8 there shall be inserted the following Article:—

“Increase of fines for rabies offences

- 8A (1) An order made under the principal Act and expressed to be made for the purpose of preventing the introduction or spreading of rabies into or within Northern Ireland may direct that paragraph (a) of section 46(1) of that Act (punishment for offences) shall have effect in relation to any summary offence

against that Act the existence of which is attributable to the provisions of that order as if, for the words ' £500 ' (which were substituted by Article 10(1) (a) of the Diseases of Animals (Northern Ireland) Order 1975) there were substituted the words '£1,000 '.

- (2) The said paragraph (a) shall have effect as aforesaid in relation to any summary offence the existence of which is attributable to the provisions of any order made under the principal Act before the coming into operation of section 55(6) of the Criminal Law Act 1977 and expressed to be made for the purpose of preventing the introduction or spreading of rabies into or within Northern Ireland.”.

56 Coroners' inquests

- (1) At a coroner's inquest touching the death of a person who came by his death by murder, manslaughter or infanticide, the purpose of the proceedings shall not include the finding of any person guilty of the murder, manslaughter or infanticide; and accordingly a coroner's inquisition shall in no case charge a person with any of those offences.
- (2) Without prejudice to the power of a coroner under subsection (2) of section 13 of the Coroners (Amendment) Act 1926 to summon a jury if it appears to him that there is any reason for doing so in a case in which he is not required by that subsection to do so, paragraphs (a) and (d) of that subsection (which require him to do so if it appears to him that the deceased came by his death by murder, manslaughter or infanticide, or that the death was caused by an accident arising out of the use of a vehicle in a street or public highway) shall cease to have effect.
- (3) The section set out in Schedule 10 to this Act shall be substituted for section 20 of the Coroners (Amendment) Act 1926 (which provides for the adjournment of inquests in cases of murder, manslaughter or infanticide, of causing death by reckless driving, or of aiding, abetting, counselling or procuring suicide).
- (4) The City of London Fire Inquests Act 1888 (which makes provision as to the functions and proceedings of the coroner for the City of London with regard to inquests upon fires within the City) shall cease to have effect.

57 Probation and conditional discharge: power to vary statutory minimum or maximum period

- (1) In section 2 of the Powers of Criminal Courts Act 1973 (probation) there shall be added after subsection (8) the following subsections—
- “(9) The Secretary of State may by order direct that subsection (1) above shall be amended by substituting, for the minimum or maximum period specified in that subsection as originally enacted or as previously amended under this subsection, such period as may be specified in the order.
- (10) An order under subsection (9) above may make in paragraph 3(2)(a) of Schedule 1 to this Act any amendment which the Secretary of State thinks necessary in consequence of any substitution made by the order.”.
- (2) In section 7 of the said Act of 1973 (absolute and conditional discharge) there shall be added after subsection (4) the following subsection—

Status: This is the original version (as it was originally enacted).

“(5) The Secretary of State may by order direct that subsection (1) above shall be amended by substituting, for the maximum period specified in that subsection as originally enacted or as previously amended under this subsection, such period as may be specified in the order.”.

- (3) In subsections (3) and (4) of section 54 of the said Act of 1973 (which require certain orders under that Act to be approved by a resolution of each House of Parliament, and provide for their revocation), before the word "14 ", wherever it occurs, there shall be inserted the words " 2 or 7 or ".

58 Proceedings involving persons under 17: increase of certain pecuniary limits

- (1) In section 8(3) of the Criminal Justice Act 1961 (under which the maximum fine that may be imposed on a young person tried summarily is £50) for the words " fifty pounds ", in both places where they occur, there shall be substituted the words " £200 ".
- (2) In section 2(13) of the Children and Young Persons Act 1969 (by virtue of which the maximum amount for which the parent or guardian of a child or young person can be required by an order under section 1 of that Act to enter into a recognisance to take proper care of and exercise proper control over him is £50), for the words " fifty pounds " there shall be substituted the words " £200 ".
- (3) In section 3(7) of the said Act of 1969 (under which the maximum amount for which a young person can in care proceedings be required by an order under that subsection to enter into a recognisance to keep the peace or to be of good behaviour is £25), for the words " twenty-five pounds" there shall be substituted the words " £50 ".
- (4) In subsection (3) of section 6 of the said Act of 1969 (under which the maximum fine which can be imposed on a young person tried summarily for an indictable offence in pursuance of subsection (1) of that section is £50), for the words "fifty pounds" there shall be substituted the words " £200 ".
- (5) In section 15(4) of the said Act of 1969 (powers of a magistrates' court other than a juvenile court in respect of failure by the supervised person to comply with certain requirements of a supervision order, if that person has attained the age of eighteen)—
- (a) in paragraph (a) (under which, if the court does not discharge the supervision order, the maximum fine which it can impose on the supervised person is £20), for the words " twenty pounds " there shall be substituted the words " £50 "; and
 - (b) for the words " four hundred pounds " (which specify the maximum fine which the court can impose if it discharges the supervision order in a case where the offence in consequence of which the order was made is of a kind which the court has no power to try or has no power to try without appropriate consents) there shall be substituted the words " £1,000 ".
- (6) In relation to a person under the age of fourteen section 8(3) of the Criminal Justice Act 1961 and section 6(3) of the Children and Young Persons Act 1969 shall have effect as if for the words " £200 ", wherever they occur by virtue of subsection (1) or (4) above, there were substituted the words " £50 " ; but this subsection shall cease to have effect on the coming into force of section 4 of the said Act of 1969 (which prohibits criminal proceedings against children).

59 Alteration of maximum periods of imprisonment in default of payment of fines etc.

For the Table in paragraph 1 of Schedule 3 to the Magistrates' Courts Act 1952 (maximum periods of imprisonment in default of payment of fines etc.) there shall be substituted the following Table:—

“TABLE

An amount not exceeding £25	7 days
An amount exceeding £25 but not exceeding £50	14 days
An amount exceeding £50 but not exceeding £200	30 days
An amount exceeding £200 but not exceeding £500	60 days
An amount exceeding £500 but not exceeding £1,000	90 days
An amount exceeding £1,000 but not exceeding £2,500	6 months
An amount exceeding £2,500 but not exceeding £5,000	9 months
An amount exceeding £5,000	12 months.”

60 Increase in maximum amount of compensation which may be ordered by magistrates' court

- (1) In section 35(5) of the Powers of Criminal Courts Act 1973 (limit of £400 on compensation which can be made payable under a compensation order made by a magistrates' court) for the words "£400" there shall be substituted the words " £1,000 ".
- (2) Subsection (1) above shall not apply in relation to a compensation order made in respect of an offence committed before the coming into force of this section.

61 Power to alter sums specified in certain provisions

- (1) If it appears to the Secretary of State that there has been a change in the value of money since the last occasion when the sum or sums specified in a provision mentioned in subsection (2) below were fixed (whether by the coming into force of a provision of this Act or by order under this subsection), the Secretary of State may by order substitute for the sum or sums for the time being specified in that provision such other sum or sums as appear to him justified by the change.
- (2) The said provisions are—
 - (a) section 23(1) above ;
 - (b) the definition of " the prescribed sum " in section 28(7) above;
 - (c) paragraph (a) of section 29 above ;
 - (d) the Table in paragraph 1 of Schedule 3 to the Magistrates' Courts Act 1952 (maximum periods of imprisonment in default of payment of fines etc.)

Status: This is the original version (as it was originally enacted).

- (e) section 35(5) of the Powers of Criminal Courts Act 1973 (limit on compensation which can be made payable under a compensation order made by a magistrates' court).
- (3) Where it appears to the Secretary of State that the difference between a sum to which subsection (4) below applies and the prescribed sum (within the meaning of section 28 above) has been or would be altered or eliminated by an order made or proposed to be made under subsection (1) above, he may by order amend the enactment specifying the first-mentioned sum so as to substitute for that sum such other sum as appears to him to be justified by a change in the value of money appearing to him to have taken place between—
 - (a) the last occasion on which the sum in question was fixed; and
 - (b) the making of the order or proposed order under subsection (1) above.
- (4) This subsection applies to any sum specified in any enactment contained in this Act (except paragraph (a) of section 29) or in any Act passed before, or in the same Session as, this Act as—
 - (a) the maximum fine which may be imposed on summary conviction of an offence triable either way; or
 - (b) the maximum fine which, in the exercise of any power by subordinate instrument to impose penal provisions, may be authorised on summary conviction in respect of an offence triable either way.
- (5) An order under subsection (1) or (3) above—
 - (a) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament and may be revoked by a subsequent order thereunder; and
 - (b) without prejudice to Schedule 14 to this Act, shall not affect the punishment for an offence committed before that order comes into force.

62 Right to have someone informed when arrested

Where any person has been arrested and is being held in custody in a police station or other premises, he shall be entitled to have intimation of his arrest and of the place where he is being held sent to one person reasonably named by him, without delay or, where some delay is necessary in the interest of the investigation or prevention of crime or the apprehension of offenders, with no more delay than is so necessary.

PART V

PROVISIONS APPLYING TO SCOTLAND

63 Provisions applying to Scotland

- (1) The Criminal Procedure (Scotland) Act 1975 shall have effect subject to the amendments specified in Schedule 11 to this Act.
- (2) The following provisions of this Act shall have effect in relation to Scotland, namely—
 - section 15(2) to (4).
 - section 30(3);
 - section 31(10);

Status: This is the original version (as it was originally enacted).

section 32(3);
section 33 ;
sections 38 to 40 and Schedule 7;
sections 50 to 52;
section 55(1) to (3);
section 65(1), (3) and (6) to (10) and Schedule 14 ;
section 65(4) and Schedule 12 so far as they relate to—
 Night Poaching Act 1828,
 Public Stores Act 1875,
 Explosive Substances Act 1883,
 Prison Act 1952 (in its application to persons for the time being in
 Scotland),
 Adoption Act 1958,
 sections 26, 28, 29 and 39(1) of the Criminal Justice Act 1961,
 Housing (Scotland) Act 1966,
 Road Traffic Regulation Act 1967,
 sections 3 and 60 of the Criminal Justice Act 1967 and (in its application
 to persons for the time being in Scotland) section 63 of that Act,
 Companies Act 1967,
 Gaming Act 1968,
 section 179 of the Road Traffic Act 1972,
 Health and Safety at Work etc. Act 1974,
 Rehabilitation of Offenders Act 1974 ;
section 65(5) and Schedule 13 so far as they relate to—
 Night Poaching Act 1828,
 Truck Act 1831,
 Public Stores Act 1875,
 section 5, 7, 9 or 19 of the Conspiracy and Protection of Property Act 1875,
 Cruelty to Animals Act 1876,
 Truck Amendment Act 1887,
 Witnesses (Public Inquiries) Protection Act 1892,
 section 283 of the Customs and Excise Act 1952,
 Protection of Animals (Amendment) Act 1954,
 sections 26 and 28 of the Criminal Justice Act 1961,
 Penalties for Drunkenness Act 1962,
 Criminal Justice (Scotland) Act 1963,
 sections 43(2) and 80 of the Road Traffic Regulation Act 1967,
 sections 60, 92(8) and 106(2)(f) of and, in relation to enactments mentioned
 therein which extend to Scotland, Part I of Schedule 3 to the Criminal
 Justice Act 1967,
 Firearms Act 1968,
 Transport Act 1968,
 section 59(5)(e) of and paragraph 48(a) of Schedule 8 to the Courts Act
 1971,
 Misuse of Drugs Act 1971,
 Road Traffic Act 1972,

Status: This is the original version (as it was originally enacted).

section 58(a) of the Powers of Criminal Courts Act 1973,
Road Traffic Act 1974,
District Courts (Scotland) Act 1975,
Criminal Procedure (Scotland) Act 1975,
Protection of Birds (Amendment) Act 1976 ;
Schedule 9, paragraph 3(3).

PART VI

SUPPLEMENTARY

64 Meaning of " indictable offence ", " summary offence " and " offence triable either way " in England and Wales

- (1) In this Act and, unless the context otherwise requires, in any other enactment (including an enactment passed after this Act—
- (a) " indictable offence " means an offence which, if committed by an adult, is triable on indictment, whether it is exclusively so triable or triable either way;
 - (b) " summary offence " means an offence which, if committed by an adult, is triable only summarily;
 - (c) " offence triable either way " means an offence which, if committed by an adult, is triable either on indictment or summarily;
- and the terms "indictable", "summary" and "triable either way", in their application to offences, shall be construed accordingly.
- (2) In the definitions in subsection (1) above references to the way or ways in which an offence is triable are to be construed without regard to the effect, if any, of section 23 above on the mode of trial.

65 Citation, etc.

- (1) This Act may be cited as the Criminal Law Act 1977.
- (2) The provisions of sections 14 to 32 and 48 above, so far as they relate to proceedings before magistrates' courts, shall be construed as one with the Magistrates' Courts Act 1952, except that in those provisions " fine" shall include any pecuniary penalty.
- (3) Except where the context otherwise requires, any reference in this Act to any enactment is a reference to it as amended, and includes a reference to it as extended or applied, by or under any other enactment, including this Act.
- (4) The enactments specified in Schedule 12 to this Act shall have effect subject to the amendments there specified, being minor amendments and amendments consequential on the provisions of this Act.
- (5) Subject to the transitional provisions contained in this Act, the enactments specified in Schedule 13 to this Act (which include certain spent provisions) are hereby repealed to the extent specified in the third column of that Schedule.
- (6) There shall be defrayed out of money provided by Parliament any increase attributable to the provisions of this Act in the sums payable out of such money under any other Act.

- (7) This Act shall come into force on such day as the Secretary of State may appoint by order made by statutory instrument, and different days may be so appointed for different purposes.
- (8) Without prejudice to any other transitional provision contained in this Act, the transitional provisions contained in Schedule 14 to this Act shall have effect.
- (9) Without prejudice to Schedule 14 or any other transitional provision contained in this Act, an order under subsection (7) above may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into force.
- (10) In this Act—
- (a) Part V and, so far as there provided, the provisions mentioned in section 63(2) above extend to Scotland;
 - (b) the following provisions extend to Northern Ireland namely—
 - sections 38 to 40,
 - section 44,
 - section 52,
 - section 55(4) to (6),
 - subsections (1), (3) and (6) to (10) of this section,
 - Schedule 7,
 - in Schedule 14, paragraph 5 ;
 - (c) section 31 and Schedule 6, so far as they amend any enactment which extends to the Channel Islands or the Isle of Man, extend to the Channel Islands or the Isle of Man, as the case may be;
 - (d) subsections (4) and (5) above and Schedules 12 and 13, so far as they relate to—
 - (i) section 45 of the Prison Act 1952 (in its application to persons for the time being in Northern Ireland or in the Channel Islands or the Isle of Man);
 - (ii) Part III and section 39(1) of the Criminal Justice Act 1961; and
 - (iii) sections 60 and 63 of the Criminal Justice Act 1967 (in their application to persons for the time being in Northern Ireland or in the Channel Islands or the Isle of Man),extend to Northern Ireland, the Channel Islands and the Isle of Man (as well as, by virtue of paragraph (a) above, to Scotland);
 - (e) section 32(3) extends to all places (except Scotland) to which section 2 of the European Communities Act 1972 extends (as well as, by virtue of paragraph (a) above, to Scotland), and the provisions of section 28(6) and (7), in their operation in relation to the provision that may be made under section 2(2) of the said Act of 1972, extend to all such places (except Scotland);

but save as aforesaid, this Act extends to England and Wales only.