



Criminal Law Act 1977

1977 CHAPTER 45

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—
 - (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

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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.

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- (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.
- (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;
 - (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—

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- (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—
- (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:

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;

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- (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—
 - " 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.

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

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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—
 - (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—
 - (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 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

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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.

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,

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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 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—

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- (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.
- (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 ;

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- (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.”.