Magistrates' Courts Act 1980

1980 CHAPTER 43

An Act to consolidate certain enactments relating to the jurisdiction of, and the practice and procedure before, magistrates' courts and the functions of justices' clerks, and to matters connected therewith, with amendments to give effect to recommendations of the Law Commission. [1st August 1980]

Extent Information

E1 Act extends to England and Wales but for exceptions to this see s. 155(2)-(6)

Modifications etc. (not altering text)

C1 Act extended by Insurance Companies Act 1981 (c. 31, SIF 67), **s. 14(3)**
Act extended (E.W.) by Housing and Building Control Act 1984 (c. 29, SIF 61), **s. 47(3)**
Act extended (E.W.) by County Courts Act 1984 (c. 28, SIF 34), **s. 129**(*b*)
Act extended (N.I.) by Insurance Companies Act 1982 (c. 50, SIF 67), **s. 14(3)**
Act modified (11.3.1999) by S.I. 1999/450, **art. 140**
Act excluded (1.4.2000) by 1999 c. 22, **s. 21(3)** (with s. 107, Sch. 14 para. 7(2)); S.I. 2000/774, **art. 2(a)(i)**
Act excluded (31.8.2000) by 1997 c. 25, **s. 10E** (as substituted (31.8.2000) by 1999 c. 22, **s. 78(1)**, (with s. 107, Sch. 14 para. 7(2)); S.I. 2000/1920, **art. 3(a)**)
Act applied (E.)(1.4.2000) by S.I. 2000/227, **reg. 8(1)**

C2 Act extended by Public Health Act 1936 (c. 49, SIF 100:1), **ss. 65A**, 65B (as inserted by Housing and Building Act 1984 (c. 29, SIF 61), s. 57(1), **Sch. 9**)

C3 Act applied (E.W.S.) by Fire Safety and Safety of Places of Sport Act 1987 (c. 27, SIF 45A), **ss. 26(1)**, 30(6), 40(1)(2), 50(2)

C4 Act applied (E.W.S.) by Fire Precautions Act 1971 (c. 40, SIF 50), **s. 10A(3)** (as inserted by Fire Safety and Safety of Places of Sport Act 1987 (c. 27, SIF 45A), **s. 24**)

C5 Act excluded (E.W.): by Legal Aid Act 1988 (c. 34, SIF 77:1), **s. 39(2)(3)**; (19.6.1997) by 1997 c. 25, **ss. 15(1)(2)**, 74(1)-(4) (with Sch. 4 para. 27)

C6 Act modified (E.W.) by Road Traffic Offenders Act 1988 (c. 53, SIF 107:1), **ss. 59(2)(5)**, 92, 99(5)

C7 Act applied by Food Safety Act 1990 (c. 16, SIF 53:1, 2), **ss. 37(3)**, 54
Act applied (1.12.1991) by Land Drainage Act 1991 (c. 59, SIF 73:1), **ss. 27(2)**, 76(2), (with ss. 67(3)(5)(8), 72(6), 74(3)(4))
Act applied by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 81(7), **Sch. 3 para. 1(2)**

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C8 Act: definition of "petty sessional court-house" applied (E.W.) (31.10.1991) by Criminal Justice Act 1991 (c. 53, SIF 39:1), **s. 92(1)**; S.I. 1991/2208, art. 2(4), **Sch. 3**

C9 By Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 101(1), **Sch. 12 para. 23**; S.I. 1991/2208, art. 2(1), **Sch.1** it is provided (14.10.1991) that in relation to any time before the commencement of s. 70 of that 1991 Act (which came into force on 1.10.1992 by S.I. 1992/333, art. 2(2), **Sch. 2**) references in any enactment amended by that 1991 Act, to youth courts shall be construed as references to juvenile courts.

C10 Act applied (1.4.1997) by 1996 c. 14, s. 100, **Sch. 2 para. 3(2)** (with s. 72(5)); S.I. 1997/305, **art.2**
Act applied (W.) (1.7.2001) by S.I. 2001/2197, **s. 8(1)**
Act applied (E.W.) (1.12.2001) by 2001 c. 16, **ss. 20(7), 23(5)**; S.I. 2001/3736, **art. 2(a)**
Act applied (22.1.2002) by 1998 c. 34, **ss. 25(3)**, (with s. 29); S.I. 2000/3144, **art. 2**
Act applied (W.) (22.5.2002) by S.I. 2002/1387, **reg. 21(6)**
Act applied (E.) (22.5.2002) by S.I. 2002/1227, **reg. 21(6)** (with regs. 3, 29)
Act applied (15.8.2002) by S.I. 2002/1998 art. 16(2) (with art. 33)
Act applied (W.) (19.8.2002) by S.I. 2002/2127, **reg. 24(6)**
Act applied (W.) (9.9.2002) by S.I. 2002/2295, **reg. 6(3)**
Act applied (W) (9.9.2002) by S.I. 2002/2296, **reg. 6(3)**
Act applied (E.) (13.9.2002) by S.I. 2002/2350, **reg. 6(5)**
Act applied (E.) (13.9.2002) by S.I. 2002/2351, **reg. 6(5)**
Act applied (E.) (1.10.2002) by S.I. 2000/3047 reg. 13A (as inserted by S.I. 2002/2315, **reg. 2(3)**)
Act applied (E.W.) (21.10.2002) by 2001 c. 3, **s. 6(3)**; S.I. 2002/1914, **art. 2**
Act applied (E.W.) (1.12.2002 for certain purposes, otherwise 1.1.2003) by 2001 c. 3, **s. 23(3)**; S.I. 2002/2957, **arts. 2**, 3
Act applied (E.) (30.6.2003) by S.I. 2003/1478, **reg. 8(5)**
Act applied (E.) (11.7.2003) by S.I. 2003/1722, **reg. 6(5)**
Act applied (E.) (30.7.2003) by S.I. 2003/1940 {reg. 6(5)}
Act. applied (E.) (31.7.2003) by S.I. 2003/1956, **reg. 6(5)** (as substituted (7.2.2005) by S.I. 2005/208, **reg. 2(5)**)
Act applied (W.) (5.9.2003) by S.I. 2003/2254, **reg. 6(5)**
Act applied (E.) (1.5.2004) by S.I. 2004/1214, **reg. 21(6)**
Act applied (E.) (1.8.2004) by S.I. 2004/1740, **reg. 21(6)**
Act applied (E) (20.12.2004) by S.I. 2004/3062, **reg. 8(5)**
Act applied (W.) (10.6.2005) by S.I. 2005/1540, **reg. 6(5)**
Act applied (E.W.) (8.10.2005) by S.I. 2005/2469, **reg. 25(3)**
Act applied (30.10.2005) by S.I. 2005/2745, **reg. 38(2)** (which S.I. was revoked (1.10.2006) by S.I. 2006/2407, reg. 44(1))
Act applied (W.) (1.1.2006) by S.I. 2005/3368, **regs. 13(2), 18(2)**
Act applied (E.) (1.1.2006) by S.I. 2005/3280, **regs. 13(2), 18(2)**
Act applied (E.) (11.1.2006) by S.I. 2006/14, **reg. 20**
Act applied (E.) (11.1.2006) by S.I. 2006/15, **reg. 31** (which S.I. was revoked (14.12.2007) by S.I. 2007/3185, reg. 49)
Act applied (W.) (11.1.2006) by S.I. 2006/31, **reg. 20(2)**
Act applied (1.10.2006) by S.I. 2006/2407, **reg. 38(2)**
Act applied (E.) (24.11.2006) by S.I. 2006/2841, **regs. 19(6), 21(8)**
Act applied (W.) (14.2.2007) by S.I. 2007/376, **reg. 21(8)** (subject to reg. 22)
Act applied (12.7.2007) by S.I. 2007/1711, **Sch. 5 para. 4(2)**
Act applied (1.10.2007) by S.I. 2007/2539, **regs. 38(2)**, 40(7)
Act applied (3.12.2007) by S.I. 2007/3106, **reg. 10(4)**
Act applied (E.) (14.12.2007) by S.I. 2007/3185, **regs. 12(2), 31(2)**
Act applied (W.) (14.12.2007) by S.I. 2007/3294, **regs. 12(2), 31(2)**
Act applied (prosp.) by 2006 c. 50, **ss. 62(4)**, 79

C11 Act amended (W.) (29.2.2003) by The National Assembly for Wales (Representation of the People) Order 2003 (S.I. 2003/284), **art. 127** (with art. 82(1))

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Act amended (1.2.2007) by The National Assembly for Wales (Representation of the People) Order 2007 (S.I. 2007/236), arts. 1(1), **128** (with arts. 83(1), 137(1))

C12 Act restricted (E.W.) (1.4.2005) by Courts Act 2003 (c. 39), **s. 26(1)**, 110; S.I. 2005/910, **art. 3**
Act restricted (E.W.) (15.12.2006) by S.I. 2006/3407, **art. 7**

C13 Act modified (E.W.) (24.3.2003) by 2002 c. 29, ss. 67(6)(b), 458(1)(3); S.I. 2003/333, **art. 2**, Sch.
Act modified (E.W.) (4.4.2005) by S.I. 2005/384, rule 26.4(2)-(7)

C14 Act applied (W.) (25.9.2003) by The Food (Hot Chilli and Hot Chilli Products) (Emergency Control) (Wales) Regulations 2003 (S.I. 2003/2455), **reg. 6(5)**
Act applied (with modifications) (E.W.) (27.3.2006) by The Collection of Fines (Pilot Scheme) and Discharge of Fines by Unpaid Work (Pilot Schemes) (Amendment) Order 2006 (S.I. 2006/502), **arts. 1(1)(b)(2)** {7}

C15 Act applied (15.2.2008) by The Fluorinated Greenhouse Gases Regulations 2008 (S.I. 2008/41), regs. 1(2), **25(1)**

C16 Act applied (15.2.2008) by The Environmental Protection (Controls on Ozone-Depleting Substances) (Amendment) Regulations 2008 (S.I. 2002/528), **reg. 16(2)** (as substituted by 2008/91, reg. 2, Sch. para. 5)

C17 Act applied (1.10.2008) by The Veterinary Medicines Regulations 2008 (S.I. 2008/2297), **regs. 39(2)**, 41(7)

C18 Act applied (16.1.2009) by The Spirit Drinks Regulations 2008 (S.I. 2008/3206), regs. 12(16)(a), **14(2)(a)**

C19 Act applied (E.) (19.1.2009) by The Beef and Veal Labelling Regulations 2008 (S.I. 2008/3252), **reg. 5(5)**

C20 Act excluded (30.11.2009) by Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), Sch. 1 para. 9ZA(8) (as inserted by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, **Sch. 4 para. 107** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, **art. 2**)

C21 Act excluded (30.11.2009) by Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), Sch. 6 para. 6A(8) (as inserted by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, **Sch. 4 para. 108(6)** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, **art. 2**)

C22 Act excluded (30.11.2009) by Criminal Justice Act 2003 (c. 44), Sch. 8 para. 25A(5) (as inserted by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, **Sch. 4 para 109** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, **art. 2**)

C23 Act applied (E.) (14.9.2009) by The Eggs and Chicks (England) Regulations 2009 (S.I. 2009/2163), **reg. 21(16)**

C24 Act applied (1.10.2009) by The Veterinary Medicines Regulations 2009 (S.I. 2009/2297), **regs. 39(2)**, **41(7)** (with reg. 3)

C25 Act applied (23.11.2009) by The Scotch Whisky Regulations 2009 (S.I. 2009/2890), **reg. 21(16)**

C26 Act applied (E.) (1.1.2010) by The Private Water Supplies Regulations 2009 (S.I. 2009/3101), **reg. 19(2)** (with reg. 2)

C27 Act applied (E.) (25.1.2010) by The Official Feed and Food Controls (England) Regulations 2009 (S.I. 2009/3255), **regs. 12(2)**, **33(2)**

C28 Act applied (W.) (25.1.2010) by The Official Feed and Food Controls (Wales) Regulations 2009 (S.I. 2009/3376), **reg. 33(2)**

C29 Act applied (25.1.2010) by The Sea Fishing (Illegal, Unreported and Unregulated Fishing) Order 2009 (S.I. 2009/3391), **art. 7(4)** (with art. 2(1))

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PART I

CRIMINAL JURISDICTION AND PROCEDURE

Jurisdiction to issue process and deal with charges

1 Issue of summons to accused or warrant for his arrest.

[F1(1) On an information being laid before a justice of the peace that a person has, or is suspected of having, committed an offence, the justice may issue—

(a) a summons directed to that person requiring him to appear before a magistrates' court to answer the information, or

(b) a warrant to arrest that person and bring him before a magistrates' court.**]**

(2) F2. . . . . .

(3) No warrant shall be issued under this section unless the information is in writing F3. . . .

(4) No warrant shall be issued under this section for the arrest of any person who has attained **[**F4 the age of 18 years**]** unless—

(a) the offence to which the warrant relates is an indictable offence or is punishable with imprisonment, or

(b) the person's address is not sufficiently established for a summons to be served on him.

(5) F2. . . . . .

(6) Where the offence charged is an indictable offence, a warrant under this section may be issued at any time notwithstanding that a summons has previously been issued.

(7) A justice of the peace may issue a summons or warrant under this section upon an information being laid before him notwithstanding any enactment requiring the information to be laid before two or more justices.

(8) F2. . . . . .

Textual Amendments

F1 S. 1(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), **ss. 43(1)**, 110; S.I. 2005/910, **art. 3(p)**

F2 S. 1(2)(5)(8) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 43(2), 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(p)(aa)**

F3 Words in s. 1(3) omitted (29.1.2004) by virtue of Criminal Justice Act 2003 (c. 44), ss. {31(1)}, 336; S.I. 2004/81, **art. 4(1)(2)(d)** and the same words repealed (15.12.2004) by s. 332, {Sch. 37 Part. 12} of that Act; S.I. 2004/3033, **art. 3(2)(e)(ii)**

F4 Words in s. 1(4) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 68(d), 101(1), Sch. 8 para. 6(1)(a), **Sch. 12 para. 22(1)**; S.I. 1992/333, art. 2(2), **Sch. 2**

[F5**2** Trial of summary offences

(1) A magistrates' court has jurisdiction to try any summary offence.

(2) A magistrates' court has jurisdiction as examining justices over any offence committed by a person who appears or is brought before the court.

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(3) Subject to—

(a) sections 18 to 22, and

(b) any other enactment (wherever contained) relating to the mode of trial of offences triable either way,

a magistrates' court has jurisdiction to try summarily any offence which is triable either way.

(4) A magistrates' court has jurisdiction, in the exercise of its powers under section 24, to try summarily an indictable offence.

(5) This section does not affect any jurisdiction over offences conferred on a magistrates' court by any enactment not contained in this Act.**]**

Textual Amendments

F5 S. 2 substituted (1.4.2005) by Courts Act 2003 (c. 39), **ss. 44**, 110; S.I. 2005/910, **art. 3(p)**

3 Offences committed on boundaries, etc.

F6 . . . . . .

Textual Amendments

F6 S. 3 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 201, **Sch. 10**; S.I. 2005/910, **art. 3(y)(aa)**

[F7**3A Offences committed on ships and abroad.**

Sections 280, 281 and 282 of the Merchant Shipping Act 1995 (offences on ships and abroad by British citizens and others) apply in relation to other offences under the law of England and Wales as they apply in relation to offences under that Act or instruments under that Act.**]**

Textual Amendments

F7 S. 3A inserted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para.55** (with s. 312(1))

3B Transfer of trials of summary offences.

F8 . . . . . .

Textual Amendments

F8 S. 3B repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 46(2), 109(3), 110, {Sch. 10)}; S.I. 2005/910, **art. 3**

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Committal proceedings

4 General nature of committal proceedings.

(1) The functions of examining justices may be discharged by a single justice.

(2) Examining justices shall sit in open court except where any enactment contains an express provision to the contrary and except where it appears to them as respects the whole or any part of committal proceedings that the ends of justice would not be served by their sitting in open court.

[F9(3) Subject to subsection (4) below, evidence tendered before examining justices shall be tendered in the presence of the accused.**]**

(4) Examining justices may allow evidence to be **[**F10tendered**]** before them in the absence of the accused if—

(a) they consider that by reason of his disorderly conduct before them it is not practicable for the evidence to be **[**F10 tendered**]** in his presence, or

(b) he cannot be present for reasons of health but is represented by **[**F11 a legal representative**]** and has consented to the evidence being **[**F10tendered**]** in his absence.

Textual Amendments

F9 S. 4(3) substituted (4.7.1996 with effect as mentioned in Sch. 1 Pt. III para. 39 of the substituting Act) by 1996 c. 25, s. 47, **Sch. 1 Pt. I para. 2(2)** (with s. 78(1)); S.I. 1997/683, **art. 1(2)**

F10 Words in s. 4(4) inserted (4.7.1996 with effect as mentioned in Sch. 1 Pt. III para. 39 of the inserting Act) by 1996 c. 25, s. 47, **Sch. 1 Pt. I para. 2(3)** (with s. 78(1)); S.I. 1997/683, **art. 1(2)**

F11 Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37, 82), s. 125(3), **Sch. 18 para. 25(3)(a)**

5 Adjournment of inquiry.

(1) A magistrates' court may, before beginning to inquire into an offence as examining justices, or at any time during the inquiry, adjourn the hearing, and if it does so shall remand the accused.

(2) The court shall when adjourning fix the time and place at which the hearing is to be resumed; and the time fixed shall be that at which the accused is required to appear or be brought before the court in pursuance of the remand **[**F12or would be required to be brought before the court but for section 128(3A) below**]**.

Textual Amendments

F12 Words added by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 59(1), **Sch. 9 para. 1**(*a*)

[F13**5A Evidence which is admissible.**

(1) Evidence falling within subsection (2) below, and only that evidence, shall be admissible by a magistrates' court inquiring into an offence as examining justices.

(2) Evidence falls within this subsection if it—

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(a) is tendered by or on behalf of the prosecutor, and
(b) falls within subsection (3) below.

(3) The following evidence falls within this subsection—
(a) written statements complying with section 5B below;
(b) the documents or other exhibits (if any) referred to in such statements;
(c) depositions complying with section 5C below;
(d) the documents or other exhibits (if any) referred to in such depositions;
(e) statements complying with section 5D below;
(f) documents falling within section 5E below.

(4) In this section "document" means anything in which information of any description is recorded.**]**

Textual Amendments

F13 Ss. 5A-5F inserted (with effect as mentioned in Sch. 1 Pt. III para. 39 of the inserting Act) by 1996 c. 25, s. 47, **Sch. 1 Pt. I para.3** (with s. 78(1)); S.I. 1997/683, **art. 1(2)**

Modifications etc. (not altering text)

C30 S. 5A extended (with effect as mentioned in Sch. 1 Pt. III para. 39 of 1996 c. 25) by 1972 c. 71, **s. 46(1A)(a)(1B)(a)** (as inserted by 1996 c. 25, s. 47, **Sch. 1 Pt. II para. 22(3)** (with s. 78(1); S.I. 1997/683, **art. 1(2)**)

F14 5B Written statements.

(1) For the purposes of section 5A above a written statement complies with this section if—
(a) the conditions falling within subsection (2) below are met, and
(b) such of the conditions falling within subsection (3) below as apply are met.

(2) The conditions falling within this subsection are that—
(a) the statement purports to be signed by the person who made it;
(b) the statement contains a declaration by that person to the effect that it is true to the best of his knowledge and belief and that he made the statement knowing that, if it were tendered in evidence, he would be liable to prosecution if he wilfully stated in it anything which he knew to be false or did not believe to be true;
(c) before the statement is tendered in evidence a copy of the statement is given, by or on behalf of the prosecutor, to each of the other parties to the proceedings.

(3) The conditions falling within this subsection are that—
(a) if the statement is made by a person under 18 years old, it gives his age;
(b) if it is made by a person who cannot read it, it is read to him before he signs it and is accompanied by a declaration by the person who so read the statement to the effect that it was so read;
(c) if it refers to any other document as an exhibit, the copy given to any other party to the proceedings under subsection (2)(c) above is accompanied by a

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copy of that document or by such information as may be necessary to enable the party to whom it is given to inspect that document or a copy of it.

(4) So much of any statement as is admitted in evidence by virtue of this section shall, unless the court commits the accused for trial by virtue of section 6(2) below or the court otherwise directs, be read aloud at the hearing; and where the court so directs an account shall be given orally of so much of any statement as is not read aloud.

(5) Any document or other object referred to as an exhibit and identified in a statement admitted in evidence by virtue of this section shall be treated as if it had been produced as an exhibit and identified in court by the maker of the statement.

(6) In this section "document" means anything in which information of any description is recorded.

Textual Amendments

F14 Ss. 5A-5F inserted (with effect as mentioned in Sch. 1 Pt. III para. 39 of the inserting Act) by 1996 c. 25, s. 47, **Sch. 1 Pt. I para.3**; S.I. 1997/683, **art. 1(2)**

Modifications etc. (not altering text)

C31 S. 5B extended (with effect as mentioned in Sch. 1 Pt. III para. 39 of 1996 c. 25) by 1972 c. 71, **s. 46(1A)(b)** (as inserted by 1996 c. 25, s. 47, **Sch. 1 Pt. II para. 22(3)** (with s. 78(1); S.I. 1997/683, **art. 1(2)**)
S. 5B extended (with modifications) (with effect as mentioned in Sch. 1 Pt. III para. 39 of 1996 c. 25) by 1972 c. 71, **s. 46(1B)(b)** (as inserted by 1996 c. 25, **Sch. 1 Pt. II para. 22(3)** (with s. 78(1)); S.I. 1997/683, **art. 1(2)**

C32 S. 5B modified (prosp.) by 1997 c. 39, **ss. 9(1)**, 11(2) (with ss. 1(4), 11(3))

F15 5C Depositions.

(1) For the purposes of section 5A above a deposition complies with this section if—

(a) a copy of it is sent to the prosecutor under section 97A(9) below,

(b) the condition falling within subsection (2) below is met, and

(c) the condition falling within subsection (3) below is met, in a case where it applies.

(2) The condition falling within this subsection is that before the magistrates' court begins to inquire into the offence concerned as examining justices a copy of the deposition is given, by or on behalf of the prosecutor, to each of the other parties to the proceedings.

(3) The condition falling within this subsection is that, if the deposition refers to any other document as an exhibit, the copy given to any other party to the proceedings under subsection (2) above is accompanied by a copy of that document or by such information as may be necessary to enable the party to whom it is given to inspect that document or a copy of it.

(4) So much of any deposition as is admitted in evidence by virtue of this section shall, unless the court commits the accused for trial by virtue of section 6(2) below or the court otherwise directs, be read aloud at the hearing; and where the court so directs an account shall be given orally of so much of any deposition as is not read aloud.

(5) Any document or other object referred to as an exhibit and identified in a deposition admitted in evidence by virtue of this section shall be treated as if it had been produced

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as an exhibit and identified in court by the person whose evidence is taken as the deposition.

(6) In this section "document" means anything in which information of any description is recorded.

Textual Amendments

F15 Ss. 5A-5F inserted (with effect as mentioned in Sch. 1 Pt. III para. 39 of the inserting Act) by 1996 c. 25, s. 47, **Sch. 1 Pt. I para.3**; S.I. 1997/683, **art. 1(2)**

Modifications etc. (not altering text)

C33 S. 5C modified (prosp.) by 1997 c. 39, **ss. 9(1)**, 11(2) (with ss. 1(4), 11(3))

F16 5D Statements.

(1) For the purposes of section 5A above a statement complies with this section if the conditions falling within subsections (2) to (4) below are met.

(2) The condition falling within this subsection is that, before the committal proceedings begin, the prosecutor notifies the magistrates' court and each of the other parties to the proceedings that he believes—

(a) that the statement might by virtue of section 23 or 24 of the M1 Criminal Justice Act 1988 (statements in certain documents) be admissible as evidence if the case came to trial, and

(b) that the statement would not be admissible as evidence otherwise than by virtue of section 23 or 24 of that Act if the case came to trial.

(3) The condition falling within this subsection is that—

(a) the prosecutor's belief is based on information available to him at the time he makes the notification,

(b) he has reasonable grounds for his belief, and

(c) he gives the reasons for his belief when he makes the notification.

(4) The condition falling within this subsection is that when the court or a party is notified as mentioned in subsection (2) above a copy of the statement is given, by or on behalf of the prosecutor, to the court or the party concerned.

(5) So much of any statement as is in writing and is admitted in evidence by virtue of this section shall, unless the court commits the accused for trial by virtue of section 6(2) below or the court otherwise directs, be read aloud at the hearing; and where the court so directs an account shall be given orally of so much of any statement as is not read aloud.

Textual Amendments

F16 Ss. 5A-5F inserted (with effect as mentioned in Sch. 1 Pt. III para. 39 of the inserting Act) by 1996 c. 25, s. 47, **Sch. 1 Pt. I para.3**; S.I. 1997/683, **art. 1(2)**

Modifications etc. (not altering text)

C34 S. 5D modified (prosp.) by 1997 c. 39, **ss. 9(1)**, 11(2) (with ss. 1(4), 11(3))

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Marginal Citations

M1 1988 c. 33.

F17 5E Other documents.

(1) The following documents fall within this section—

(a) any document which by virtue of any enactment is evidence in proceedings before a magistrates' court inquiring into an offence as examining justices;

(b) any document which by virtue of any enactment is admissible, or may be used, or is to be admitted or received, in or as evidence in such proceedings;

(c) any document which by virtue of any enactment may be considered in such proceedings;

(d) any document whose production constitutes proof in such proceedings by virtue of any enactment;

(e) any document by the production of which evidence may be given in such proceedings by virtue of any enactment.

(2) In subsection (1) above—

(a) references to evidence include references to prima facie evidence;

(b) references to any enactment include references to any provision of this Act.

(3) So much of any document as is admitted in evidence by virtue of this section shall, unless the court commits the accused for trial by virtue of section 6(2) below or the court otherwise directs, be read aloud at the hearing; and where the court so directs an account shall be given orally of so much of any document as is not read aloud.

(4) In this section "document" means anything in which information of any description is recorded.

Textual Amendments

F17 Ss. 5A-5F inserted (with effect as mentioned in Sch. 1 Pt. III para. 39 of the inserting Act) by 1996 c. 25, s. 47, **Sch. 1 Pt. I para.3**; S.I. 1997/683, **art. 1(2)**

F18 5F Proof by production of copy.

(1) Where a statement, deposition or document is admissible in evidence by virtue of section 5B, 5C, 5D or 5E above it may be proved by the production of—

(a) the statement, deposition or document, or

(b) a copy of it or the material part of it.

(2) Subsection (1)(b) above applies whether or not the statement, deposition or document is still in existence.

(3) It is immaterial for the purposes of this section how many removes there are between a copy and the original.

(4) In this section "copy", in relation to a statement, deposition or document, means anything onto which information recorded in the statement, deposition or document has been copied, by whatever means and whether directly or indirectly.

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Textual Amendments

F18 Ss. 5A-5F inserted (with effect as mentioned in Sch. 1 Pt. III para. 39 of the inserting Act) by 1996 c. 25, s. 47, **Sch. 1 Pt. I para.3**; S.I. 1997/683, **art. 1(2)**

6 Discharge or committal for trial.

[F19(1) A magistrates' court inquiring into an offence as examining justices shall on consideration of the evidence—

(a) commit the accused for trial if it is of opinion that there is sufficient evidence to put him on trial by jury for any indictable offence;

(b) discharge him if it is not of that opinion and he is in custody for no other cause than the offence under inquiry;

but the preceding provisions of this subsection have effect subject to the provisions of this and any other Act relating to the summary trial of indictable offences.

(2) If a magistrates' court inquiring into an offence as examining justices is satisfied that all the evidence tendered by or on behalf of the prosecutor falls within section 5A(3) above, it may commit the accused for trial for the offence without consideration of the contents of any statements, depositions or other documents, and without consideration of any exhibits which are not documents, unless—

(a) the accused or one of the accused has no legal representative acting for him in the case, or

(b) a legal representative for the accused or one of the accused, as the case may be, has requested the court to consider a submission that there is insufficient evidence to put that accused on trial by jury for the offence;

and subsection (1) above shall not apply to a committal for trial under this subsection.**]**

(3) Subject to section 4 of the M2Bail Act 1976 and section 41 below, the court may commit a person for trial—

(a) in custody, that is to say, by committing him to custody there to be safely kept until delivered in due course of law, or

(b) on bail in accordance with the M3Bail Act 1976, that is to say, by directing him to appear before the Crown Court for trial;

and where his release on bail is conditional on his providing one or more surety or sureties and, in accordance with section 8(3) of the M4Bail Act 1976, the court fixes the amount in which the surety is to be bound with a view to his entering into his recognizance subsequently in accordance with subsections (4) and (5) or (6) of that section the court shall in the meantime commit the accused to custody in accordance with paragraph (a) of this subsection.

(4) Where the court has committed a person to custody in accordance with paragraph (a) of subsection (3) above, then, if that person is in custody for no other cause, the court may, at any time before his first appearance before the Crown Court, grant him bail in accordance with the M5Bail Act 1976 subject to a duty to appear before the Crown Court for trial.

(5) Where a magistrates' court acting as examining justices commits any person for trial or determines to discharge him, the **[**F20designated officer for**]** the court shall, on the day on which the committal proceedings are concluded or the next day, cause to be displayed in a part of the court house to which the public have access a notice—

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(a) in either case giving that person's name, address, and age (if known);

(b) in a case where the court so commits him, stating the charge or charges on which he is committed and the court to which he is committed;

(c) in a case where the court determines to discharge him, describing the offence charged and stating that it has so determined;

but this subsection shall have effect subject to **[**F21section 4 of the Sexual Offences (Amendment) Act 1976 (anonymity of complainant in rape etc. cases)**]**.

(6) A notice displayed in pursuance of subsection (5) above shall not contain the name or address of any person under **[**F22the age of 18 years**]** unless the justices in question have stated that in their opinion he would be mentioned in the notice apart from the preceding provisions of this subsection and should be mentioned in it for the purpose of avoiding injustice to him.

Textual Amendments

F19 S. 6(1)(2) substituted (with effect as mentioned in Sch. 1 Pt. III para. 39 of the substituting Act) by 1996 c. 25, s. 47, **Sch. 1 Pt. I para. 4** (with s. 78(1)); S.I. 1997/683, **art. 1(2)**

F20 Words in s. 6(5) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 202**; S.I. 2005/910, **art. 3(y)**

F21 Words substituted by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 123(6), 170(1), Sch. 8 para. 16, **Sch. 15 para. 66**

F22 Words in s. 6(6) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 68(d), 101(1), Sch. 8 para. 6(1)(a), **Sch. 12 para. 22(1)**; S.I. 1992/333, art. 2(2), **Sch.2**

Modifications etc. (not altering text)

C35 S. 6 modified (10.4.1995) by 1994 c. 33, **ss. 34(2)(a)(4)-(7)**, 36(2)(a)(3)-(8), 37(2)(a)(3)-(7), 38; S.I. 1995/721, art. 2, **Sch.**

C36 S. 6 modified (temp.) (prosp.) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 59, 60, **Sch. 12 para. 3**

Marginal Citations

M2 1976 c. 63.

M3 1976 c. 63.

M4 1976 c. 63.

M5 1976 c. 63

7 Place of trial on indictment.

A magistrates' court committing a person for trial shall specify the place at which he is to be tried, and in selecting that place shall have regard to—

(a) the convenience of the defence, the prosecution and the witnesses,

(b) the expediting of the trial, and

(c) any direction given by or on behalf of the Lord Chief Justice with the concurrence of the Lord Chancellor under section 4(5) of the [M6]Courts Act 1971.

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Modifications etc. (not altering text)

C37 S. 7 applied (prosp.) by War Crimes Act 1991 (c. 13, SIF 39:4), ss. 1(4), 3(4), **Sch. Pt. I para. 2(1)** (which affecting provision was repealed (4.7.1996) before coming into force by Criminal Procedure and Investigations Act 1996 (c. 25), ss. 46(1)(b), 80, **Sch. 5 para. 2** (with s. 78(1))

C38 S. 7 applied (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 53(5), **Sch. 6 para. 1(1)**; S.I. 1992/333, art. 2(2), **Sch.2**

Marginal Citations

M6 1971 c. 23.

8 Restrictions on reports of commital proceedings.

(1) Except as provided by subsections (2), (3) and (8) below, it shall not be lawful to publish in Great Britain a written report, or to **[**F23include in a relevant programme for reception**]**in Great Britain a report, of any committal proceedings in England and Wales containing any matter other than that permitted by subsection (4) below.

(2) **[**F24Subject to subsection (2A) below**]**a magistrates' court shall, on an application for the purpose made with reference to any committal proceedings by the accused or one of the accused, as the case may be, order that subsection (1) above shall not apply to reports of those proceedings.

[F25(2A) Where in the case of two or more accused one of them objects to the making of an order under subsection (2) above, the court shall make the order if, and only if, it is satisfied, after hearing the representations of the accused, that it is in the interests of justice to do so.

(2B) An order under subsection (2) above shall not apply to reports of proceedings under subsection (2A) above, but any decision of the court to make or not to make such an order may be contained in reports published **[**F26or included in a relevant programme**]**before the time authorised by subsection (3) below.**]**

(3) It shall not be unlawful under this section to publish **[**F27or include in a relevant programme**]**a report of committal proceedings containing any matter other than that permitted by subsection (4) below—

(a) where the magistrates' court determines not to commit the accused, or determines to commit none of the accused, for trial, after it so determines;

(b) where the court commits the accused or any of the accused for trial, after the conclusion of his trial or, as the case may be, the trial of the last to be tried;

and where at any time during the inquiry the court proceeds to try summarily the case of one or more of the accused under section 25(3) or (7) below, while committing the other accused or one or more of the other accused for trial, it shall not be unlawful under this section to publish **[**F27or include in a relevant programme**]**as part of a report of the summary trial, after the court determines to proceed as aforesaid, a report of so much of the committal proceedings containing any such matter as takes place before the determination.

(4) The following matters may be contained in a report of committal proceedings published **[**F28 or included in a relevant programme**]**without an order under subsection (2) above before the time authorised by subsection (3) above, that is to say—

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(a) the identity of the court and the names of the examining justices;

(b) the names, addresses and occupations of the parties and witnesses and the ages of the accused and witnesses;

(c) the offence or offences, or a summary of them, with which the accused is or are charged;

(d) the names of **[**F29 the legal representatives**]**engaged in the proceedings;

(e) any decision of the court to commit the accused or any of the accused for trial, and any decision of the court on the disposal of the case of any accused not committed;

(f) where the court commits the accused or any of the accused for trial, the charge or charges, or a summary of them, on which he is committed and the court to which he is committed;

(g) where the committal proceedings are adjourned, the date and place to which they are adjourned;

(h) any arrangements as to bail on committal or adjournment;

[F30(i) whether a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service was granted to the accused or any of the accused.**]**

(5) If a report is published **[**F31 or included in a relevant programme**]** in contravention of this section, the following persons, that is to say—

(a) in the case of a publication of a written report as part of a newspaper or periodical, any proprietor, editor or publisher of the newspaper or periodical;

(b) in the case of a publication of a written report otherwise than as part of a newspaper or periodical, the person who publishes it;

[F32(c) in the case of the inclusion of a report in a relevant programme, any body corporate which provides the service in which the programme is included and any person having functions in relation to the programme corresponding to those of an editor of a newspaper.**]**

shall be liable on summary conviction to a fine not exceeding **[**F33level 5 on the standard scale**]**.

(6) Proceedings for an offence under this section shall not, in England and Wales, be instituted otherwise than by or with the consent of the Attorney-General.

(7) Subsection (1) above shall be in addition to, and not in derogation from, the provisions of any other enactment with respect to the publication of reports and proceedings of magistrates' and other courts.

(8) For the purposes of this section committal proceedings shall, in relation to an information charging an indictable offence, be deemed to include any proceedings in the magistrates' court before the court proceeds to inquire into the information as examining justices; but where a magistrates' court which has begun to try an information summarily discontinues the summary trial in pursuance of section 25(2) or (6) below and proceeds to inquire into the information as examining justices, that circumstance shall not make it unlawful under this section for a report of any proceedings on the information which was published **[**F34or included in a relevant programme**]** before the court determined to proceed as aforesaid to have been so published **[**F34or included in a relevant programme**]**.

(9) F35

(10) In this section—

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. . . . . F36
. . . . . F37

"publish", in relation to a report, means publish the report, either by itself or as part of a newspaper or periodical, for distribution to the public.

[F38"relevant programme" means a programme included in a programme service (within the meaning of the Broadcasting Act 1990).**]**

Textual Amendments

F23 Words substituted by virtue of Broadcasting Act 1990 (c.42, SIF 96), ss. 4(6), 87(6), 203(1), **Sch. 20 para. 29(1)(a)**

F24 Words inserted by Criminal Justice (Amendment) Act 1981 (c. 27, SIF 82), **s. 1(1)(4)**

F25 S. 8(2A)(2B) inserted by Criminal Justice (Amendment) Act 1981 (c. 27, SIF 82), **s. 1(2)(4)**

F26 Words substituted by virtue of Broadcasting Act 1990 (c. 42, SIF 96), ss. 4(6), 87(6), 203(1), **Sch. 20 para. 29(1)(b)** and Cable and Broadcasting Act 1984 (c. 46, SIF 96), s. 57(1), **Sch. 5 para. 37(2)**

F27 Words substituted by virtue of Cable and Broadcasting Act 1984 (c. 46, SIF 96), s. 57(1), **Sch. 5 para. 37(2)** and by Broadcasting Act 1990 (c. 42, SIF 96), ss. 4(6), 87(6), 203(1), **Sch. 20 para. 29(1)(c)**

F28 Words substituted by virtue of Cable and Broadcasting Act 1984 (c. 46, SIF 96), s. 57(1), **Sch. 5 para. 37(2)** and by Broadcasting Act 1990 (c. 42, SIF 96), ss. 4(6), 87(6), 203(1), **Sch. 20 para. 29(1)(b)**

F29 Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37, 82), s. 125(3), **Sch. 18 para. 25(5)**

F30 S. 8(4)(i) substituted (2.4.2001) by 1999 c. 22, s. 24, Sch. 4 paras. 15, **16** (with s. 107, Sch. 14 para. 7(1)); S.I. 2001/916, **art. 3(a)(ii)** (with Sch. 2 para. 2)

F31 Words substituted by virtue of Cable and Broadcasting Act 1984 (c. 46, SIF 96), s. 57(1), **Sch. 5 para. 37(2)** and Broadcasting Act 1990 (c. 42, SIF 96), s. 203(1), **Sch. 20 para. 29(1)(b)**

F32 S. 8(5)(c) substituted (for para. (c) and the para. (d) inserted by Cable and Broadcasting Act 1984 (c. 46, SIF 96), s. 57(1), **Sch. 5 para. 37(4)**) by virtue of Broadcasting Act 1990 (c. 42, SIF 96), s. 203(1), **Sch. 20 para. 29(1)(d)**

F33 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F**, 289G

F34 Words substituted by virtue of Cable and Broadcasting Act 1984 (c. 46, SIF 96), s. 57(1), **Sch. 5 para. 37(2)** and Broadcasting Act 1990 (c. 42, SIF 96), ss. 4(6), 87(6), 203(1), **Sch. 20 para. 29(1)(b)**

F35 S. 8(9) repealed by Contempt of Court Act 1981 (c. 49, SIF 39:3), **s. 4(4)**

F36 Definition of "broadcast" repealed by Broadcasting Act 1990 (c. 42, SIF 96), ss. 4(6), 87(6), 203(1)(3), Sch. 20 para. 29(1)(e), **Sch. 21**

F37 Definition of "cable programme" inserted by Cable and Broadcasting Act 1984 (c. 46, SIF 96), s. 57(1), **Sch. 5 para. 37(5)** and repealed by Broadcasting Act 1990 (c. 42, SIF 96), ss. 4(6), 87(6), 203(1)(3), Sch. 20 para. 29(1)(e), **Sch. 21**

F38 Definition of "relevant programme" inserted by Broadcasting Act 1990 (c. 42, SIF 96), s. 203(1), **Sch. 20**, para. 29(1)(e)

[F39Pre-trial hearings

Textual Amendments

F39 Ss. 8A-8D and cross-heading inserted (1.4.2005) by Courts Act 2003 (c. 39), ss. 45, 110, **Sch. 3**; S.I. 2005/910, **art. 3(p)**

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8A Power to make rulings at pre-trial hearing

(1) For the purposes of this section a hearing is a pre-trial hearing if—

(a) it relates to an information—

(i) which is to be tried summarily, and

(ii) to which the accused has pleaded not guilty, and

(b) it takes place before the start of the trial.

(2) For the purposes of subsection (1)(b), the start of a summary trial occurs when the court begins—

(a) to hear evidence from the prosecution at the trial, or

(b) to consider whether to exercise its power under section 37(3) of the Mental Health Act 1983 (power to make hospital order without convicting the accused).

(3) At a pre-trial hearing, a magistrates' court may make a ruling as to any matter mentioned in subsection (4) if—

(a) the condition in subsection (5) is met,

(b) the court has given the parties an opportunity to be heard, and

(c) it appears to the court that it is in the interests of justice to make the ruling.

(4) The matters are—

(a) any question as to the admissibility of evidence;

(b) any other question of law relating to the case.

(5) The condition is that, if the accused is not legally represented, the court must—

(a) ask whether he wishes to be granted a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service, and

(b) if he does, decide whether or not to grant him that right.

(6) A ruling may be made under this section—

(a) on an application by a party to the case, or

(b) of the court's own motion.

(7) For the purposes of this section and section 8B, references to the prosecutor are to any person acting as prosecutor, whether an individual or body.

8B Effect of rulings at pre-trial hearing

(1) Subject to subsections (3) and (6), a ruling under section 8A has binding effect from the time it is made until the case against the accused or, if there is more than one, against each of them, is disposed of.

(2) The case against an accused is disposed of if—

(a) he is acquitted or convicted,

(b) the prosecutor decides not to proceed with the case against him, or

(c) the information is dismissed.

(3) A magistrates' court may discharge or vary (or further vary) a ruling under section 8A if—

(a) the condition in section 8A(5) is met,

(b) the court has given the parties an opportunity to be heard, and

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(c) it appears to the court that it is in the interests of justice to do so.

(4) The court may act under subsection (3)—

(a) on an application by a party to the case, or

(b) of its own motion.

(5) No application may be made under subsection (4)(a) unless there has been a material change of circumstances since the ruling was made or, if a previous application has been made, since the application (or last application) was made.

(6) A ruling under section 8A is discharged in relation to an accused if—

(a) the magistrates' court commits or sends him to the Crown Court for trial for the offence charged in the information, or

(b) a count charging him with the offence is included in an indictment by virtue of section 40 of the Criminal Justice Act 1988.

8C Restrictions on reporting

(1) Except as provided by this section no report of matters falling within subsection (2) may be published in England and Wales.

(2) The following matters fall within this subsection—

(a) a ruling under section 8A;

(b) proceedings on an application for a ruling under section 8A;

(c) an order under section 8B that a ruling under section 8A be discharged, varied or further varied;

(d) proceedings on an application under section 8B for a ruling under section 8A to be discharged, varied or further varied.

(3) A magistrates' court dealing with any matter falling within subsection (2) may order that subsection (1) does not apply, or does not apply to a specified extent, to a report of the matter.

(4) Where there is only one accused and he objects to the making of an order under subsection (3)—

(a) the court may make the order if (and only if) satisfied after hearing the representations of the accused that it is in the interests of justice to do so, and

(b) if the order is made, it shall not apply to the extent that a report deals with any such objection or representations.

(5) Where there are two or more accused and one or more of them objects to the making of an order under subsection (3)—

(a) the court may make the order if (and only if) satisfied after hearing the representations of each of the accused that it is in the interests of justice to do so, and

(b) if the order is made, it shall not apply to the extent that a report deals with any such objection or representations.

(6) Subsection (1) does not apply to the publication of a report of matters after the case against the accused or, if more than one, against each of them, is disposed of.

(7) Subsection (1) does not apply to a report which contains only one or more of the following matters—

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(a) the identity of the court and the names of the justices;

(b) the names, ages, home addresses and occupations of the accused and witnesses;

(c) the offence or offences, or a summary of them, with which the accused or any of the accused are charged;

(d) the names of counsel and solicitors in the proceedings;

(e) where the proceedings are adjourned, the date and place to which they are adjourned;

(f) any arrangements as to bail;

(g) whether a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service was granted to the accused or any of the accused.

(8) The addresses that may be included in a report by virtue of subsection (7) are addresses—

(a) at any relevant time, and

(b) at the time of their inclusion in the publication.

(9) In subsection (8), "relevant time" means a time when events giving rise to the charges to which the proceedings relate are alleged to have occurred.

(10) Nothing in this section affects any prohibition or restriction imposed by virtue of any other enactment on the publication of a report of any matter.

(11) In this section and in section 8D—

(a) references to publication of a report of matters falling within subsection (2)—

(i) include references to inclusion of those matters in any speech, writing, relevant programme or other communication in whatever form which is addressed to the public at large or any section of the public (and for this purpose every relevant programme is to be taken to be so addressed), but

(ii) do not include references to inclusion of those matters in a document prepared for use in particular legal proceedings;

(b) "relevant programme" means a programme included in a programme service, within the meaning of the Broadcasting Act 1990.

8D Offences in connection with reporting

(1) If a report is published in contravention of section 8C each of the following persons is guilty of an offence—

(a) in the case of a publication of a report as part of a newspaper or periodical, any proprietor, editor or publisher of the newspaper or periodical;

(b) in the case of the inclusion of a report in a relevant programme, any body corporate which is engaged in providing the service in which the programme is included and any person having functions in relation to the programme corresponding to those of an editor of a newspaper;

(c) in the case of any other publication, any person publishing it.

(2) If an offence under this section committed by a body corporate is proved—

(a) to have been committed with the consent or connivance of, or

(b) to be attributable to any neglect on the part of,

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an officer, the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(3) In subsection (2), "officer" means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

(4) If the affairs of a body corporate are managed by its members, "director"in subsection (3) means a member of that body.

(5) A person guilty of an offence under this section is liable on summary conviction to a fine of an amount not exceeding level 5 on the standard scale.

(6) Proceedings for an offence under this section may not be instituted otherwise than by or with the consent of the Attorney General.**]**

Summary trial of information

9 Procedure on trial.

(1) On the summary trial of an information, the court shall, if the accused appears, state to him the substance of the information and ask him whether he pleads guilty or not guilty.

(2) The court, after hearing the evidence and the parties, shall convict the accused or dismiss the information.

(3) If the accused pleads guilty, the court may convict him without hearing evidence.

10 Adjournment of trial.

(1) A magistrates' court may at any time, whether before or after beginning to try an information, adjourn the trial, and may do so, notwithstanding anything in this Act, when composed of a single justice.

(2) The court may when adjourning either fix the time and place at which the trial is to be resumed, or, unless it remands the accused, leave the time and place to be determined later by the court; but the trial shall not be resumed at that time and place unless the court is satisfied that the parties have had adequate notice thereof.

(3) A magistrates' court may, for the purpose of enabling inquiries to be made or of determining the most suitable method of dealing with the case, exercise its power to adjourn after convicting the accused and before sentencing him or otherwise dealing with him; but, if it does so, the adjournment shall not be for more than 4 weeks at a time unless the court remands the accused in custody and, where it so remands him, the adjournment shall not be for more than 3 weeks at a time.

[[F40](3A) A youth court shall not be required to adjourn any proceedings for an offence at any stage by reason only of the fact—

(a) that the court commits the accused for trial for another offence; or

(b) that the accused is charged with another offence.**]**

(4) On adjourning the trial of an information the court may remand the accused and, where the accused has attained **[**[F41]the age of 18 years**]**, shall do so if the offence is triable either way and—

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(a) on the occasion on which the accused 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) the accused 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 trial shall be that at which he is required to appear or be brought before the court in pursuance of the remand **[**F42or would be required to be brought before the court but for section 128(3A) below**]**.

Textual Amendments

F40 S. 10(3A) inserted (30.9.1998) by 1998 c. 37, **s. 47(5)**; S.I. 1998/2327, **art.2(1)(k)**

F41 Words in s. 10(4) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 68(d), 101(1), Sch. 8 para. 6(1)(a), **Sch. 12**, para. 22(1); S.I. 1992/333, art. 2(2), **Sch. 2**

F42 Words added by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 59(1), **Sch. 9 para. 1**(*b*)

Modifications etc. (not altering text)

C39 S. 10 applied by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 41(1), 123(6), **Sch. 8 para. 16**

C40 S. 10 excluded (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 2, 153, **Sch. 2 para. 22(6)**; S.I. 2009/3074, **art. 2(b)(n)**

C41 S. 10 excluded (30.11.2009) by Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), Sch. 1 para. 97A(9) (as inserted by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, **Sch. 4 para. 107** (with Sch. 27, paras. 1, 5); S.I. 2009/3074, **art. 2(f)(p)(xv)** (with art. 4))

C42 S. 10 excluded (30.11.2009) by Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), Sch. 8 para. 6A(9) (as inserted by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, **Sch. 4 para. 108(6)** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, **art. 2(f)(p)(xv)** (with art. 4))

C43 S. 10 excluded (30.11.2009) by Criminal Justice Act 2003 (c. 44), Sch. 8 para. 25A(6) (as inserted by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, **Sch. 4 para. 109** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, **art. 2(f)(p)(xv)** (with art. 4))

C44 S. 10 excluded (prosp.) by Street Offences Act 1959 (c. 57), Sch. para. 11(6) (as inserted by Policing and Crime Act 2009 (c. 26), ss. 17(4), 116(1), **Sch. 1**)

11 Non-appearance of accused: general provisions.

(1) Subject to the provisions of this Act, where at the time and place appointed for the trial or adjourned trial of an information the prosecutor appears but the accused does not, the court may proceed in his absence.

(2) Where a summons has been issued, the court shall not begin to try the information in the absence of the accused unless either it is proved to the satisfaction of the court, on oath or in such other manner as may be prescribed, that the summons was served on the accused within what appears to the court to be a reasonable time before the trial or adjourned trial or the accused has appeared on a previous occasion to answer to the information.

(3) A magistrates' court shall not in a person's absence sentence him to imprisonment or detention in a detention centre or make **[**F43a **[**F44detention and training order**]** or**]** an order under **[**F45section 119 of the M7Powers of Criminal Courts (Sentencing) Act 2000**]** that a suspended sentence passed on him shall take effect.

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(4) A magistrates' court shall not in a person's absence impose any disqualification on him, except on resumption of the hearing after an adjournment under section 10(3) above; and where a trial is adjourned in pursuance of this subsection the notice required by section 10(2) above shall include notice of the reason for the adjournment.

Textual Amendments

F43 Words in s. 11(3) inserted (1.3.1998) by 1994 c. 33, s. 168(2), **Sch. 10 para. 39**; S.I. 1998/277, **art. 3**

F44 Words in s. 11(3) substituted (1.4.2000) by 1998 c. 37, s. 119, **Sch. 8 para. 39**; S.I. 1999/3426, **art. 3(b)**

F45 Words in s. 11(3) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 61**

Modifications etc. (not altering text)

C45 S. 11(1) applied (25.8.2000) by 2000 c. 6, **ss. 2(5)**, 168(1)

Marginal Citations

M7 2000 c. 6.

[F46 12 Non-appearance of accused: plea of guilty.

(1) This section shall apply where—

(a) a summons has been issued requiring a person to appear before a magistrates' court, other than a youth court, to answer to an information for a summary offence, not being—

(i) an offence for which the accused is liable to be sentenced to be imprisoned for a term exceeding 3 months; or

(ii) an offence specified in an order made by the Secretary of State by statutory instrument; and

(b) the **[**F47 designated officer for **]** the court is notified by or on behalf of the prosecutor that the documents mentioned in subsection (3) below have been served upon the accused with the summons.

(2) The reference in subsection (1)(a) above to the issue of a summons requiring a person to appear before a magistrates' court other than a youth court includes a reference to the issue of a summons requiring a person who has attained the age of 16 at the time when it is issued to appear before a youth court.

(3) The documents referred to in subsection (1)(b) above are—

(a) a notice containing such statement of the effect of this section as may be prescribed;

F48 (b) either of the following, namely—

(i) a concise statement of such facts relating to the charge as will be placed before the court by the prosecutor if the accused pleads guilty without appearing before the court, or

(ii) a copy of such written statement or statements complying with subsections (2)(a) and (b) and (3) of section 9 of the Criminal Justice Act 1967 (proof by written statement) as will be so placed in those circumstances; and**]**

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(c) if any information relating to the accused will or may, in those circumstances, be placed before the court by or on behalf of the prosecutor, a notice containing or describing that information.

(4) Where the **[**F47designated officer for**]** the court receives a notification in writing purporting to be given by the accused or by a legal representative acting on his behalf that the accused desires to plead guilty without appearing before the court—

(a) the **[**F47designated officer for**]** the court shall inform the prosecutor of the receipt of the notification; and

(b) the following provisions of this section shall apply.

(5) If at the time and place appointed for the trial or adjourned trial of the information—

(a) the accused does not appear; and

(b) it is proved to the satisfaction of the court, on oath or in such manner as may be prescribed, that the documents mentioned in subsection (3) above have been served upon the accused with the summons,

the court may, subject to section 11(3) and (4) above and subsections (6) to (8) below, proceed to hear and dispose of the case in the absence of the accused, whether or not the prosecutor is also absent, in like manner as if both parties had appeared and the accused had pleaded guilty.

(6) If at any time before the hearing the **[**F47designated officer for**]** the court receives an indication in writing purporting to be given by or on behalf of the accused that he wishes to withdraw the notification—

(a) the **[**F47designated officer for**]** the court shall inform the prosecutor of the withdrawal; and

(b) the court shall deal with the information as if the notification had not been given.

(7) Before accepting the plea of guilty and convicting the accused under subsection (5) above, the court shall cause the following to be read out before the court by the clerk of the court, namely—

[F49(a) in a case where a statement of facts as mentioned in subsection (3)(b)(i) above was served on the accused with the summons, that statement;

(aa) in a case where a statement or statements as mentioned in subsection (3)(b)(ii) above was served on the accused with the summons and the court does not otherwise direct, that statement or those statements;**]**

(b) any information contained in a notice so served, and any information described in such a notice and produced by or on behalf of the prosecutor;

(c) the notification under subsection (4) above; and

(d) any submission received with the notification which the accused wishes to be brought to the attention of the court with a view to mitigation of sentence.

[F50(7A) Where the court gives a direction under subsection (7)(aa) above the court shall cause an account to be given orally before the court by the clerk of the court of so much of any statement as is not read aloud.

(7B) Whether or not a direction under paragraph (aa) of subsection (7) above is given in relation to any statement served as mentioned in that paragraph the court need not cause to be read out the declaration required by section 9(2)(b) of the Criminal Justice Act 1967.**]**

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(8) If the court proceeds under subsection (5) above to hear and dispose of the case in the absence of the accused, the court shall not permit—

(a) any other statement with respect to any facts relating to the offence charged; or

(b) any other information relating to the accused,

to be made or placed before the court by or on behalf of the prosecutor except on a resumption of the trial after an adjournment under section 10(3) above.

(9) If the court decides not to proceed under subsection (5) above to hear and dispose of the case in the absence of the accused, it shall adjourn or further adjourn the trial for the purpose of dealing with the information as if the notification under subsection (4) above had not been given.

(10) In relation to an adjournment on the occasion of the accused's conviction in his absence under subsection (5) above or to an adjournment required by subsection (9) above, the notice required by section 10(2) above shall include notice of the reason for the adjournment.

(11) No notice shall be required by section 10(2) above in relation to an adjournment—

(a) which is for not more than 4 weeks; and

(b) the purpose of which is to enable the court to proceed under subsection (5) above at a later time.

(12) No order shall be made under subsection (1) above unless a draft of the order has been laid before and approved by resolution of each House of Parliament.

(13) Any such document as is mentioned in subsection (3) above may be served in Scotland with a summons which is so served under the Summary Jurisdiction (Process) Act 1881.

Extent Information

E2 S. 12(13) extends to Scotland see s. 155(2) (as amended by 1994 c. 33, s. 45, **Sch. 5 para. 3(4)**)

Textual Amendments

F46 S. 12 substituted (E.W.) (4.9.1995) by 1994 c. 33, s. 45, **Sch. 5 para. 1**; S.I. 1995/1957, **art. 4**

F47 Words in s. 12(1)(b)(4)(6) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 203**; S.I. 2005/910, **art. 3(y)**

F48 S. 12(3)(b)(i)(ii) substituted for s. 12(3)(b) (4.5.1999) by 1998 c. 15, **s. 1(1)**; S.I. 1999/1197, **art. 2** (with art. 3)

F49 S. 12(7)(a)(aa) substituted for s. 12(7)(a) (4.5.1999) by 1998 c. 15, **s. 1(2)**; S.I. 1999/1197, **art. 2** (with art. 3)

F50 S. 12(7A)(7B) inserted (4.5.1999) by 1998 c. 15, **s. 1(3)**; S.I. 1999/1197, **art. 2** (with art. 3)

[F51 12A Application of section 12 where accused appears.

(1) Where the [F52 designated officer for] the court has received such a notification as is mentioned in subsection (4) of section 12 above but the accused nevertheless appears before the court at the time and place appointed for the trial or adjourned trial, the court may, if he consents, proceed under subsection (5) of that section as if he were absent.

(2) Where the [F53 designated officer for] the court has not received such a notification and the accused appears before the court at that time and place and informs the court that he

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desires to plead guilty, the court may, if he consents, proceed under section 12(5) above as if he were absent and the **[**F54designated officer**]** had received such a notification.

(3) For the purposes of subsections (1) and (2) above, subsections (6) to (11) of section 12 above shall apply with the modifications mentioned in subsection (4) or, as the case may be, subsection (5) below.

(4) The modifications for the purposes of subsection (1) above are that—

(a) before accepting the plea of guilty and convicting the accused under subsection (5) of section 12 above, the court shall afford the accused an opportunity to make an oral submission with a view to mitigation of sentence; and

(b) where he makes such a submission, subsection (7)(d) of that section shall not apply.

(5) The modifications for the purposes of subsection (2) above are that—

(a) subsection (6) of section 12 above shall apply as if any reference to the notification under subsection (4) of that section were a reference to the consent under subsection (2) above;

(b) subsection (7)(c) and (d) of that section shall not apply; and

(c) before accepting the plea of guilty and convicting the accused under subsection (5) of that section, the court shall afford the accused an opportunity to make an oral submission with a view to mitigation of sentence.**]**

Textual Amendments

F51 S. 12A inserted (4.9.1995) by 1994 c. 33, s. 45, **Sch. 5 para.2**; S.I. 1995/1957, **art.4**

F52 Words in s. 12A(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 204(2)**; S.I. 2005/910, **art. 3(y)**

F53 Words in s. 12A(2) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 204(3)(a)**; S.I. 2005/910, **art. 3(y)**

F54 Words in s. 12A(2) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 204(3)(b)**; S.I. 2005/910, **art. 3(y)**

13 Non-appearance of accused: issue of warrant.

(1) Subject to the provisions of this section, where the court, instead of proceeding in the absence of the accused, adjourns or further adjourns the trial, the court may, F55. . ., issue a warrant for his arrest.

(2) Where a summons has been issued, the court shall not issue a warrant under this section **[**F56unless the condition in subsection (2A) below or that in subsection (2B) below is fulfilled**]**.

[F57(2A) The condition in this subsection is that it is proved to the satisfaction of the court, on oath or in such other manner as may be prescribed, that the summons was served on the accused within what appears to the court to be a reasonable time before the trial or adjourned trial.

(2B) The condition in this subsection is that—

(a) the adjournment now being made is a second or subsequent adjournment of the trial,

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(b) the accused was present on the last (or only) occasion when the trial was adjourned, and

(c) on that occasion the court determined the time for the hearing at which the adjournment is now being made.**]**

[F58(3) A warrant for the arrest of any person who has attained the age of 18 shall not be issued under this section unless—

(a) F59. . . the offence to which the warrant relates is punishable with imprisonment, or

(b) the court, having convicted the accused, proposes to impose a disqualification on him.

(3A) A warrant for the arrest of any person who has not attained the age of 18 shall not be issued under this section unless—

[F60(a) the offence to which the warrant relates is punishable, in the case of a person who has attained the age of 18, with imprisonment, or**]**

(b) the court, having convicted the accused, proposes to impose a disqualification on him.**]**

[F61(4) This section shall not apply to an adjournment on the occasion of the accused's conviction in his absence under subsection (5) of section 12 above or to an adjournment required by subsection (9) of that section.**]**

(5) Where the court adjourns the trial—

(a) after having, either on that or on a previous occasion, received any evidence or convicted the accused without hearing evidence on his pleading guilty under section 9(3) above; or

(b) after having on a previous occasion convicted the accused without hearing evidence on his pleading guilty under section **[**F62 12(5)**]** above,

the court shall not issue a warrant under this section unless it thinks it undesirable, by reason of the gravity of the offence, to continue the trial in the absence of the accused.

Textual Amendments

F55 Words in s. 13(1) repealed (1.9.1998 subject as mentioned in S.I. 1998/1837, **art. 4**) by 1998 c. 15, **s. 3(1)**; S.I. 1998/1837, **arts2**, 4

F56 Words in s. 13(2) substituted (4.7.1996 with application where the court proposes to issue a warrant under s. 13 on or after 1.10.1996) by 1996 c. 25, **s. 48(2)(4)** (with s. 78(1)); S.I. 1996/2343, **art. 2**

F57 S. 13(2A)(2B) inserted (4.7.1996 with application where the court proposes to issue a warrant under s. 13 on or after 1.10.1996) by 1996 c. 25, **s. 48(3)(4)** (with s. 78(1)); S.I. 1996/2343, **art. 2**

F58 S. 13(3)(3A) substituted for s. 13(3) (1.9.1998 subject as mentioned in S.I. 1998/1837, **art. 4**) by 1998 c. 15, **s. 3(2)**; S.I. 1998/1837, **arts2**, 4

F59 Words in s. 13(3)(a) omitted (29.1.2004) and repealed (15.12.2004) by virtue of Criminal Justice Act 2003 (c. 44), **ss. 31(2)**, 332, 336, **Sch. 37 Pt. 12**; S.I. 2004/81, **art. 4(2)(d)**; S.I. 2004/3033, **art. 3(2)(e)(ii)**

F60 S. 13(3A)(a) substituted (29.1.2004) by Criminal Justice Act 2003 (c. 44), **ss. 31(3)**, 336; S.I. 2004/81, **art. 4(2)(d)**

F61 S. 13(4) substituted (4.9.1995) by 1994 c. 33, s. 45, **Sch. 5 para. 3(2)**; S.I. 1995/1957, **art. 4**

F62 Words in s. 13(5) substituted (4.9.1995) by 1994 c. 33, s. 45, **Sch. 5 para. 3(3)**; S.I. 1995/1957, **art. 4**

Modifications etc. (not altering text)

C46 S. 13(1)-(3A)(5) applied (25.8.2000) by 2000 c. 6, **ss. 2(5)**, 168(1)

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14 Proceedings invalid where accused did not know of them.

(1) Where a summons has been issued under section 1 above and a magistrates' court has begun to try the information to which the summons relates, then, if—

(a) the accused, at any time during or after the trial, makes a statutory declaration that he did not know of the summons or the proceedings until a date specified in the declaration, being a date after the court has begun to try the information; and

(b) within 21 days of that date the declaration is served on the **[**F63designated officer for the court**]**,

without prejudice to the validity of the information, the summons and all subsequent proceedings shall be void.

(2) For the purposes of subsection (1) above a statutory declaration shall be deemed to be duly served on the **[**F64designated officer**]** if it is delivered to him, or left at his office, or is sent in a registered letter or by the recorded delivery service addressed to him at his office.

(3) If on the application of the accused it appears to a magistrates' court (which for this purpose may be composed of a single justice) that it was not reasonable to expect the accused to serve such a statutory declaration as is mentioned in subsection (1) above within the period allowed by that subsection, the court may accept service of such a declaration by the accused after that period has expired; and a statutory declaration accepted under this subsection shall be deemed to have been served as required by that subsection.

(4) Where any proceedings have become void by virtue of subsection (1) above, the information shall not be tried again by any of the same justices.

Textual Amendments

F63 Words in s. 14(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 205(2)**; S.I. 2005/910, **art. 3(y)**

F64 Words in s. 14(2) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 205(3)**; S.I. 2005/910, **art. 3(y)**

15 Non-appearance of prosecutor.

(1) Where at the time and place appointed for the trial or adjourned trial of an information the accused appears or is brought before the court and the prosecutor does not appear, the court may dismiss the information or, if evidence has been received on a previous occasion, proceed in the absence of the prosecutor.

(2) Where, instead of dismissing the information or proceeding in the absence of the prosecutor, the court adjourns the trial, it shall not remand the accused in custody unless he has been brought from custody or cannot be remanded on bail by reason of his failure to find sureties.

16 Non-appearance of both parties.

Subect to section 11(3) and (4) and to section 12 above, where at the time and place appointed for the trial or adjourned trial of an information neither the prosecutor nor

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the accused appears, the court may dismiss the information or, if evidence has been received on a previous occasion, proceed in their absence.

Offences triable on indictment or summarily

17 Certain offences triable either way.

(1) The offences listed in Schedule 1 to this Act shall be triable either way.

(2) Subsection (1) above is without prejudice to any other enactment by virtue of which any offence is triable either way.

[F65 17A Initial procedure: accused to indicate intention as to plea.

(1) This section shall have effect where a person who has attained the age of 18 years appears or is brought before a magistrates' court on an information charging him with an offence triable either way.

(2) Everything that the court is required to do under the following provisions of this section must be done with the accused present in court.

(3) The court shall cause the charge to be written down, if this has not already been done, and to be read to the accused.

(4) The court shall then explain to the accused in ordinary language that he may indicate whether (if the offence were to proceed to trial) he would plead guilty or not guilty, and that if he indicates that he would plead guilty—

(a) the court must proceed as mentioned in subsection (6) below; and

(b) he may be committed for sentence to the Crown Court under **[**F66 section 3 of the Powers of Criminal Courts (Sentencing) Act 2000**]** if the court is of such opinion as is mentioned in subsection (2) of that section.

(5) The court shall then ask the accused whether (if the offence were to proceed to trial) he would plead guilty or not guilty.

(6) If the accused indicates that he would plead guilty the court shall proceed as if—

(a) the proceedings constituted from the beginning the summary trial of the information; and

(b) section 9(1) above was complied with and he pleaded guilty under it.

(7) If the accused indicates that he would plead not guilty section 18(1) below shall apply.

(8) If the accused in fact fails to indicate how he would plead, for the purposes of this section and section 18(1) below he shall be taken to indicate that he would plead not guilty.

(9) Subject to subsection (6) above, the following shall not for any purpose be taken to constitute the taking of a plea—

(a) asking the accused under this section whether (if the offence were to proceed to trial) he would plead guilty or not guilty;

(b) an indication by the accused under this section of how he would plead.

Status: *Point in time view as at 01/04/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Magistrates' Courts Act 1980 is up to date with all changes known to be in force on or before 27 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F65 Ss. 17A-17C inserted (4.7.1996 with application where a person appears or is brought before a magistrates' court on or after 1.10.1997) by 1996 c. 25, **s. 49(2)(6)** (with s. 78(1)); S.I. 1997/2199, **art. 2**

F66 Words in s. 17A(4) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 62**

F67 17B Intention as to plea: absence of accused.

(1) This section shall have effect where—

(a) a person who has attained the age of 18 years appears or is brought before a magistrates' court on an information charging him with an offence triable either way,

(b) the accused is represented by a legal representative,

(c) the court considers that by reason of the accused's disorderly conduct before the court it is not practicable for proceedings under section 17A above to be conducted in his presence, and

(d) the court considers that it should proceed in the absence of the accused.

(2) In such a case—

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

(b) the court shall ask the representative whether (if the offence were to proceed to trial) the accused would plead guilty or not guilty;

(c) if the representative indicates that the accused would plead guilty the court shall proceed as if the proceedings constituted from the beginning the summary trial of the information, and as if section 9(1) above was complied with and the accused pleaded guilty under it;

(d) if the representative indicates that the accused would plead not guilty section 18(1) below shall apply.

(3) If the representative in fact fails to indicate how the accused would plead, for the purposes of this section and section 18(1) below he shall be taken to indicate that the accused would plead not guilty.

(4) Subject to subsection (2)(c) above, the following shall not for any purpose be taken to constitute the taking of a plea—

(a) asking the representative under this section whether (if the offence were to proceed to trial) the accused would plead guilty or not guilty;

(b) an indication by the representative under this section of how the accused would plead.

Textual Amendments

F67 Ss. 17A-17C inserted (4.7.1996 with application where a person appears or is brought before a magistrates' court on or after 1.10.1997) by 1996 c. 25, **s. 49(2)(6)** (with s. 78(1)); S.I. 1997/2199, **art.2**

Status: *Point in time view as at 01/04/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Magistrates' Courts Act 1980 is up to date with all changes known to be in force on or before 27 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F68]17C Intention as to plea: adjournment.

A magistrates' court proceeding under section 17A or 17B above 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) 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 proceedings shall be that at which he is required to appear or be brought before the court in pursuance of the remand or would be required to be brought before the court but for section 128(3A) below.

Textual Amendments

F68 Ss. 17A-17C inserted (4.7.1996 with application where a person appears or is brought before a magistrates' court on or after 1.10.1997) by 1996 c. 25, **s. 49(2)(6)** (with s. 78(1)); S.I. 1997/2199, **art.2**

VALID FROM 18/06/2012

[F69]17D Maximum penalty under section 17A(6) or 17B(2)(c) for certain offences

(1) If—

(a) the offence is a scheduled offence (as defined in section 22(1) below);

(b) the court proceeds in relation to the offence in accordance with section 17A(6) or 17B(2)(c) above; and

(c) the court convicts the accused of the offence,

the court shall consider whether, having regard to any representations made by him or by the prosecutor, the value involved (as defined in section 22(10) below) appears to the court to exceed the relevant sum (as specified for the purposes of section 22 below).

(2) If it appears to the court clear that the value involved does not exceed the relevant sum, or it appears to the court for any reason not clear whether the value involved does or does not exceed the relevant sum—

(a) subject to subsection (4) below, the court shall not have power to impose on the accused in respect of the offence a sentence in excess of the limits mentioned in section 33(1)(a) below; and

(b) sections 3 and 4 of the Powers of Criminal Courts (Sentencing) Act 2000 shall not apply as regards that offence.

(3) Subsections (9) to (12) of section 22 below shall apply for the purposes of this section as they apply for the purposes of that section (reading the reference to subsection (1) in section 22(9) as a reference to subsection (1) of this section).

(4) Subsection (2)(a) above does not apply to an offence under section 12A of the Theft Act 1968 (aggravated vehicle-taking).

Status: *Point in time view as at 01/04/2005. This version of this Act contains provisions that are not valid for this point in time.*
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Textual Amendments

F69 Ss. 17D, 17E inserted (prosp.) by Criminal Justice Act 2003 (c. 44), ss. 41, 336, **Sch. 3 para. 3**

VALID FROM 18/06/2012

17E Functions under sections 17A to 17D capable of exercise by single justice

(1) The functions of a magistrates' court under sections 17A to 17D above may be discharged by a single justice.

(2) Subsection (1) above shall not be taken as authorising—

(a) the summary trial of an information (otherwise than in accordance with section 17A(6) or 17B(2)(c) above); or

(b) the imposition of a sentence,

by a magistrates' court composed of fewer than two justices.**]**

Textual Amendments

F69 Ss. 17D, 17E inserted (prosp.) by Criminal Justice Act 2003 (c. 44), ss. 41, 336, **Sch. 3 para. 3**

18 Initial procedure on information against adult for offence triable either way.

(1) Sections 19 to 23 below shall have effect where a person who has attained **[**F70the age of 18 years**]** appears or is brought before a magistrates' court on an information charging him with an offence triable either way **[**F71and—

(a) he indicates under section 17A above that (if the offence were to proceed to trial) he would plead not guilty, or

(b) his representative indicates under section 17B above that (if the offence were to proceed to trial) he would plead not guilty**]**

(2) Without prejudice to section 11(1) above, everything that the court is required to do under sections 19 to 22 below must be done before any evidence is called and, subject to subsection (3) below and section 23 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 19 to 22 below as are applicable in the circumstances if the court considers that by reason of his disorderly conduct before the court it is not practicable for the proceedings to be conducted in his presence; and the subsections (3) to (5) of section 23 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 19 to 23 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—

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(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) 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 **[**[F72]or would be required to be brought before the court but for section 128(3A) below**]**.

(5) The functions of a magistrates' court under sections 19 to 23 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.

Textual Amendments

F70 Words in s. 18(1) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 68(d), 101(1), Sch. 8 para. 6(1)(a), **Sch. 12 para. 22(1)**; S.I. 1992/333, art. 2(2), **Sch. 2**

F71 S. 18(1)(a)(b) and the word "and" immediately preceding inserted (4.7.1996 with application as mentioned in s. 49(6) of the inserting Act and S.I. 1997/2199) by 1996 c. 25, **s. 49(3)(6)** (with s. 78(1)); S.I. 1997/2199, **art.2**

F72 Words added by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 59(1), **Sch. 9 para. 1**(*c*)

19 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 trail or for trial on indictment.

(2) Before so considering, the court—

[F73](a) . . . . . .

(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 20 to 21 below shall not apply, and the court shall proceed to inquire into the information as examining justices.

[[F74](5) The power of the Director of Public Prosecutions under subsection (4) above to apply for an offence to be tried on indictment shall not be exercised except with the consent of the Attorney General.**]**

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Textual Amendments

F73 S. 19(2)(a) repealed (4.7.1996 with application as mentioned in s. 49(6) of the repealing Act and S.I. 1997/2199) by 1996 c. 25, ss. 49(4)(6), 80, **Sch. 5** table3 (with s. 78(1)); S.I. 1997/2199, **art.2**

F74 S. 19(5) added by Prosecution of Offences Act 1985 (c. 23, SIF 39:1), s. 31(5), **Sch. 1 Pt. I para. 2**

Modifications etc. (not altering text)

C47 S. 19(5) modified (24.4.2009 for certain purposes and 31.10.2009 otherwise) by The Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 (S.I. 2009/1059), art. 205, **Sch. 1 para. 18(1)**

20 Procedure where summary trial appears more suitable.

(1) If, where the court has considered as required by section 19(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 23 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 **[**F75section 3 of the Powers of Criminal Courts (Sentencing) Act 2000**]** if the convicting court, **[**F76is of such opinion as is mentioned in subsection (2) of that section**]**.

(3) After explaining to the accused as provided by subsection (2) above 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.

Textual Amendments

F75 Words in s. 20(2) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 63**

F76 Words in s. 20(2)(b) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 100, 102(2), **Sch. 11 para. 25**; S.I. 1992/333, art. 2(2), **Sch. 2**

VALID FROM 18/06/2012

[F77**20A Procedure where summary trial appears more suitable: supplementary**

(1) Where the case is dealt with in accordance with section 20(7) above, no court (whether a magistrates' court or not) may impose a custodial sentence for the offence unless such a sentence was indicated in the indication of sentence referred to in section 20 above.

(2) Subsection (1) above is subject to sections 3A(4), 4(8) and 5(3) of the Powers of Criminal Courts (Sentencing) Act 2000.

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(3) Except as provided in subsection (1) above—

(a) an indication of sentence shall not be binding on any court (whether a magistrates' court or not); and

(b) no sentence may be challenged or be the subject of appeal in any court on the ground that it is not consistent with an indication of sentence.

(4) Subject to section 20(7) above, the following shall not for any purpose be taken to constitute the taking of a plea—

(a) asking the accused under section 20 above whether (if the offence were to proceed to trial) he would plead guilty or not guilty; or

(b) an indication by the accused under that section of how he would plead.

(5) Where the court gives an indication of sentence under section 20 above, it shall cause each such indication to be entered in the register.

(6) In this section and in section 20 above, references to a custodial sentence are to a custodial sentence within the meaning of section 76 of the Powers of Criminal Courts (Sentencing) Act 2000, and references to a non-custodial sentence shall be construed accordingly.**]**

Textual Amendments

F77 Ss. 20, 20A substituted (prosp.) for s. 20 by Criminal Justice Act 2003 (c. 44), ss. 41, 336, **Sch. 3 para. 6**

Modifications etc. (not altering text)

C48 S. 20A(1) excluded (prosp.) by 2000 c. 6, s. 5(3) (as substituted by Criminal Justice Act 2003 (c. 44), ss. 41, 336, **Sch. 3 Pt. 1 para. 26**)

21 Procedure where trial on indictment appears more suitable.

If, where the court has considered as required by section l9(1) above, it apears 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.

22 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 2 to this Act (in this section referred to as "scheduled offences") then, [F78]. . . the court shall, before proceeding in accordance with section l9 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 **[**[F79]£5,000**]**.

(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

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as if the offence were triable only summarily, and sections l9 to 21 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 that relevant sum, the court shall thereupon proceed in accordance with section 19 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 33 below.

(6) After explaining to the accused as provided by subsection (5) above 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) F80

(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.

(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 **[**F81the age of 18 years**]**, the reference in that subsection to any representations made by the accused shall be read as including any representations made by the person **[**F82under 18**]**.

(10) In this section "the value involved", in relation to any scheduled offence, means the value indicated in the second column of Schedule 2 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.

[F83(11) Where—

(a) the accused is charged on the same occasion with two or more scheduled offences and it appears to the court that they constitute or form part of a series of two or more offences of the same or a similar character; or

(b) the offence charged consists in incitement to commit two or more scheduled offences,

this section shall have effect as if any reference in it to the value involved were a reference to the aggregate of the values involved.**]**

[F84(12) Subsection (8) of section 12A of the Theft Act 1968 (which determines when a vehicle is recovered) shall apply for the purposes of paragraph 3 of Schedule 2 to this Act as it applies for the purposes of that section.**]**

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Textual Amendments

F78 Words in s. 22(1) repealed (3.2.1995) by 1994 c. 33, s. 168(3), **Sch.11**; S.I. 1995/127, art. 2(1), **Sch. 1** Appendix C

F79 Sum in s. 22(1) substituted (3.2.1995) by virtue of 1994 c. 33, **s.46**; S.I. 1995/127, art. 2(1), **Sch.1**

F80 S. 22(7) repealed by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 123(6), 170(2), Sch. 8 para. 16, **Sch. 16**

F81 Words in s. 22(9) substituted (*1.10.1992*) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 68(d), 101(1), Sch. 8 para. 6(1)(a), **Sch. 12 para. 22(1)**; S.I. 1992/333, art.2(2), **Sch. 2**

F82 Words in s. 22(9) substituted (*1.10.1992*) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 68, 101(1), Sch. 8 para.6(1)(b), **Sch. 12**, para. 22(1); S.I. 1992/333, art. 2(2), **Sch. 2**

F83 S. 22(11) inserted by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 38(3)(4), 123(6), **Sch. 8 para. 16**

F84 S. 22(12) added (1.4.1992) by Aggravated Vehicle-Taking Act 1992 (c. 11), **s. 2(2)**; S.I. 1992/764, **art. 2**

Modifications etc. (not altering text)

C49 S. 22(11)(b) modified (1.10.2008) by Serious Crime Act 2007 (c. 27), ss. 63(1), 94, **Sch. 6 para. 5(a)** (with Sch. 13 para. 5); S.I. 2008/2504, **art. 2(a)(g)**

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

(1) Where—

(a) the accused is represented by **[**[F85]a legal representative**]**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 19 to 22 above as are applicable in the circumstances.

(3) If, in a case where subsection (1) of section 22 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 l9(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 20 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 20 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.

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(5) If, where the court has considered as required by section 19(1) above, it appears to the court that the offence is more suitable for trial on indictment, 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.

Textual Amendments

F85 Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37, 82), s. 125(3), **Sch. 18 para. 25(3)(a)**

24 Summary trial of information against child or young person for indictable offence.

(1) Where a person under **[**F86the age of l8 years**]** appears or is brought before a magistrates' court on an information charging him with an indictable offence other than **[**F87one falling within subsection (1B) below**]** , he shall be tried summarily unless—

(a) F88. . . the offence is such as is mentioned in **[**F89subsection (1) or (2) of section 91 of the M8Powers of Criminal Courts (Sentencing) Act 2000**]** (under which young persons convicted on indictment of certain grave crimes may be sentenced to be detained for long periods) and the court considers that if he is found guilty of the offence it ought to be possible to sentence him in pursuance of **[**F90subsection (3) of that section**]**; or

(b) he is charged jointly with a person who has attained **[**F86the age of 18 years**]** and the court considers it necessary in the interests of justice to commit them both for trial;

and accordingly in a case falling within paragraph (a) or (b) of this subsection the court shall commit the accused for trial if either it is of opinion that there is sufficient evidence to put him on trial or it has power under section 6(2) above so to commit him without consideration of the evidence.

[F91(1A) Where a magistrates' court—

(a) commits a person under the age of 18 for trial for an offence **[**F92falling within subsection (1B) below**]** ; or

(b) in a case falling within subsection (1)(a) above, commits such a person for trial for an offence,

the court may also commit him for trial for any other indictable offence with which he is charged at the same time if the charges for both offences could be joined in the same indictment.**]**

[F93(1B) An offence falls within this subsection if—

(a) it is an offence of homicide; or

(b) each of the requirements of section 51A(1) of the Firearms Act 1968 would be satisfied with respect to—

(i) the offence; and

(ii) the person charged with it,

if he were convicted of the offence.**]**

(2) Where, in a case falling within subsection (1)(b) above, a magistrates' court commits a person under **[**F86the age of 18 years**]** for trial for an offence with which he is charged

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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 **[**F94the charges for both offences could be joined in the same indictment**]**.

(3) If on trying a person summarily in pursuance of subsection (1) above the court finds him guilty, it may impose a fine of an amount not exceeding **[**F95£1000**]** or may exercise the same powers as it could have exercised if he had been found guilty of an offence for which, but for **[**F96section 89(1) of the said Act of 2000**][**F97, it could have sentenced him to imprisonment for a term not exceeding—

(a) the maximum term of imprisonment for the offence on conviction on indictment; or

(b) six months,

whichever is the less.**]**

(4) In relation to a person under the age of l4 subsection (3) above shall have effect as if for the words " **[**F98£1000**]**" there were substituted the words " **[**F99£250**]**"; F100. . ..

Textual Amendments

F86 Words in s. 24 substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 68(d), 101(1), Sch. 8 para. 6(1)(a), **Sch. 12 para. 22(1)**; S.I. 1992/333, art. 2(2), **Sch. 2**

F87 Words in s. 24(1) substituted (22.1.2004) by Criminal Justice Act 2003 (c. 44), **ss. 42(2)(a)**, 336; S.I. 2004/81, **art. 3(2)(a)**

F88 Words in s. 24(1)(a) repealed (9.1.1995) by 1994 c. 33, s. 168(2)(3), Sch. 10 para. 40, **Sch. 11**; S.I. 1994/3192, art. 2, **Sch**

F89 Words in s. 24(1)(a) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 64(1)(2)**

F90 Words in s. 24(1)(a) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 40(1)**; S.I. 1998/2327, **art. 2(1)(y)(2)(n)**

F91 S. 24(1A) inserted (30.9.1998) by 1998 c. 37, **s. 47(6)**; S.I. 1998/2327, **art. 2(1)(k)**

F92 Words in s. 24(1A)(a) substituted (22.1.2004) by Criminal Justice Act 2003 (c. 44), **ss. 42(2)(b)**, 336; S.I. 2004/81, **art. 3(2)(a)**

F93 S. 24(1B) inserted (22.1.2004) by Criminal Justice Act 2003 (c. 44), **ss. 42(2)(c)**, 336; S.I. 2004/81, **art. 3(2)(a)**

F94 Words in s. 24(2) substituted (4.1.1999 for the purpose of sending any person for trial under s. 51 of the substituting Act from any area specified in S.I. 1998/2327, **Sch. 2** (as amended by S.I. 1998/2412 and S.I. 2000/924) otherwise 15.1.2001) by 1998 c. 37, ss. 119, 121(2), **Sch. 8 para. 40(2)**; S.I. 1998/2327, art. 4(2)(c), **Sch. 2**; S.I. 2000/3283, **art. 2(c)** (subject to art. 3)

F95 Word in s. 24(3) substituted (1.10.1992) by virtue of Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 17(2)(a), 101(1), **Sch. 12 para. 6** (with s. 28); S.I. 1992/333, art. 2(2), **Sch. 2**

F96 Words in s. 24(3) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 64(1)(3)**

F97 Words substituted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 77, Sch. 14 para. 47

F98 Word in s. 24(4) substituted (1.10.1992) by virtue of Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 17(2)(a), 101(1), **Sch. 12 para. 6** (with s. 28); S.I. 1992/333, art. 2(2), **Sch. 2**

F99 Word in s. 24(4) substituted (1.10.1992) by virtue of Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 17(2)(b), 101(1), **Sch. 12 para. 6** (with s. 28); S.I. 1992/333, art. 2(2), **Sch. 2**

F100 Words in s. 24(4) repealed (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 101(2), **Sch. 13**; S.I. 1992/333, art. 2(2), **Sch. 2**

Marginal Citations

M8 2000 c. 6.

Status: *Point in time view as at 01/04/2005. This version of this Act contains provisions that are not valid for this point in time.*
***Changes to legislation:** Magistrates' Courts Act 1980 is up to date with all changes known to be in force on or before 27 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

VALID FROM 18/06/2012

[F101 24A Child or young person to indicate intention as to plea in certain cases

(1) This section applies where—

(a) a person under the age of 18 years appears or is brought before a magistrates' court on an information charging him with an offence other than one falling within section 51A(12) of the Crime and Disorder Act 1998 ("the 1998 Act"); and

(b) but for the application of the following provisions of this section, the court would be required at that stage, by virtue of section 51(7) or (8) or 51A(3)(b), (4) or (5) of the 1998 Act to determine, in relation to the offence, whether to send the person to the Crown Court for trial (or to determine any matter, the effect of which would be to determine whether he is sent to the Crown Court for trial).

(2) Where this section applies, the court shall, before proceeding to make any such determination as is referred to in subsection (1)(b) above (the "relevant determination"), follow the procedure set out in this section.

(3) Everything that the court is required to do under the following provisions of this section must be done with the accused person in court.

(4) The court shall cause the charge to be written down, if this has not already been done, and to be read to the accused.

(5) The court shall then explain to the accused in ordinary language that he may indicate whether (if the offence were to proceed to trial) he would plead guilty or not guilty, and that if he indicates that he would plead guilty—

(a) the court must proceed as mentioned in subsection (7) below; and

(b) (in cases where the offence is one mentioned in section 91(1) of the Powers of Criminal Courts (Sentencing) Act 2000) he may be sent to the Crown Court for sentencing under section 3B or (if applicable) 3C of that Act if the court is of such opinion as is mentioned in subsection (2) of the applicable section.

(6) The court shall then ask the accused whether (if the offence were to proceed to trial) he would plead guilty or not guilty.

(7) If the accused indicates that he would plead guilty, the court shall proceed as if—

(a) the proceedings constituted from the beginning the summary trial of the information; and

(b) section 9(1) above was complied with and he pleaded guilty under it,

and, accordingly, the court shall not (and shall not be required to) proceed to make the relevant determination or to proceed further under section 51 or (as the case may be) section 51A of the 1998 Act in relation to the offence.

(8) If the accused indicates that he would plead not guilty, the court shall proceed to make the relevant determination and this section shall cease to apply.

(9) If the accused in fact fails to indicate how he would plead, for the purposes of this section he shall be taken to indicate that he would plead not guilty.

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(10) Subject to subsection (7) above, the following shall not for any purpose be taken to constitute the taking of a plea—

(a) asking the accused under this section whether (if the offence were to proceed to trial) he would plead guilty or not guilty;

(b) an indication by the accused under this section of how he would plead.

Textual Amendments

F101 Ss. 24A-24D inserted (prosp.) by Criminal Justice Act 2003 (c. 44), ss. 41, 336, **Sch. 3 para. 10**

VALID FROM 18/06/2012

24B Intention as to plea by child or young person: absence of accused

(1) This section shall have effect where—

(a) a person under the age of 18 years appears or is brought before a magistrates' court on an information charging him with an offence other than one falling within section 51A(12) of the Crime and Disorder Act 1998;

(b) but for the application of the following provisions of this section, the court would be required at that stage to make one of the determinations referred to in paragraph (b) of section 24A(1) above ("the relevant determination");

(c) the accused is represented by a legal representative;

(d) the court considers that by reason of the accused's disorderly conduct before the court it is not practicable for proceedings under section 24A above to be conducted in his presence; and

(e) the court considers that it should proceed in the absence of the accused.

(2) In such a case—

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

(b) the court shall ask the representative whether (if the offence were to proceed to trial) the accused would plead guilty or not guilty;

(c) if the representative indicates that the accused would plead guilty the court shall proceed as if the proceedings constituted from the beginning the summary trial of the information, and as if section 9(1) above was complied with and the accused pleaded guilty under it;

(d) if the representative indicates that the accused would plead not guilty the court shall proceed to make the relevant determination and this section shall cease to apply.

(3) If the representative in fact fails to indicate how the accused would plead, for the purposes of this section he shall be taken to indicate that the accused would plead not guilty.

(4) Subject to subsection (2)(c) above, the following shall not for any purpose be taken to constitute the taking of a plea—

(a) asking the representative under this section whether (if the offence were to proceed to trial) the accused would plead guilty or not guilty;

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(b) an indication by the representative under this section of how the accused would plead.

Textual Amendments

F101 Ss. 24A-24D inserted (prosp.) by Criminal Justice Act 2003 (c. 44), ss. 41, 336, **Sch. 3 para. 10**

VALID FROM 18/06/2012

24C Intention as to plea by child or young person: adjournment

(1) A magistrates' court proceeding under section 24A or 24B above may adjourn the proceedings at any time, and on doing so on any occasion when the accused is present may remand the accused.

(2) Where the court remands the accused, the time fixed for the resumption of proceedings shall be that at which he is required to appear or be brought before the court in pursuance of the remand or would be required to be brought before the court but for section 128(3A) below.

Textual Amendments

F101 Ss. 24A-24D inserted (prosp.) by Criminal Justice Act 2003 (c. 44), ss. 41, 336, **Sch. 3 para. 10**

VALID FROM 18/06/2012

24D Functions under sections 24A to 24C capable of exercise by single justice

(1) The functions of a magistrates' court under sections 24A to 24C above may be discharged by a single justice.

(2) Subsection (1) above shall not be taken as authorising—

(a) the summary trial of an information (other than a summary trial by virtue of section 24A(7) or 24B(2)(c) above); or

(b) the imposition of a sentence,

by a magistrates' court composed of fewer than two justices.**]**

Textual Amendments

F101 Ss. 24A-24D inserted (prosp.) by Criminal Justice Act 2003 (c. 44), ss. 41, 336, **Sch. 3 para. 10**

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 **[**[F102]the age of 18 years**]** appears or is brought before a magistrates' court on an information charging him with an offence triable either way.

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(2) Where the court has (otherwise than in pursuance of section 22(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, **[**F103shall adjourn the hearing.**]**

(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 **[**F104subject to subsection (3A) below **]** proceed to try the information summarily; F105

[F106(3A) Where the prosecution is being carried on by the Attorney General or the Solicitor General, the court shall not exercise the power conferred by subsection (3) above without his consent and, where the prosecution is being carried on by the Director of Public Prosecutions, shall not exercise that power if the Attorney General directs that it should not be exercised.**]**

(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 20(2)(b) above, about the court's power to commit to the Crown Court for sentence.

(5) Where a person under **[**F102 the age of 18 years**]** appears or is brought before a magistrates' court on an information charging him with an indictable offence other than **[**F107one falling within section 24(1B) above**]** , 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 24(1) above and must therefore be tried summarily, as required by the said section 24(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 24(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, **[**F103shall adjourn the hearing.**]**

(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 24(1) ought to be tried summarily, the court may proceed to try the information summarily.

[F108(8) If the court adjourns the hearing under subsection (2) or (6) above it may (if it thinks fit) do so without remanding the accused.**]**

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Textual Amendments

F102 Words in s. 25 substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 68(d), 101(1), Sch. 8 para. 6(1)(a), **Sch. 12**, para. 22(1); S.I. 1992/333, art. 2(2), **Sch. 2**.

F103 Words in s. 25(2)(6) substituted (4.7.1996 with effect as mentioned in Sch. 1 Pt. III para. 39 of the substituting Act) by 1996 c. 25, s. 47, **Sch. 1 Pt. I para. 5(2)** (with s. 78(1)); S.I. 1997/683, **art. 1(2)**

F104 Words inserted by Prosecution of Offences Act 1985 (c. 23, SIF 39:1), s. 31(5), **Sch. 1 Pt. I para. 3**

F105 Words repealed by Prosecution of Offences Act 1985 (c. 23, SIF 39:1), s. 31(6), **Sch. 2**

F106 S. 25(3A) inserted by Prosecution of Offences Act 1985 (c. 23, SIF 39:1), s. 31(5), **Sch. 1 Pt. I para. 3**

F107 Words in s. 25(5) substituted (22.1.2004) by Criminal Justice Act 2003 (c. 44), **ss. 42(3)**, 336; S.I. 2004/81, **art. 3(2)(a)**

F108 S. 25(8) inserted (4.7.1996 with effect as mentioned in Sch. 1 Pt. III para. 39 of the inserting Act) by 1996 c. 25, s. 47, **Sch. 1 Pt. I para. 5(3)** (with s. 78(1)); S.I. 1997/683, **art. 1(2)**

26 Power to issue summons to accused in certain circumstances.

(1) Where—

(a) in the circumstances mentioned in section 23(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 23 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 19(1) or 22(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.

27 Effect of dismissal of information for offence triable either way.

Where on the summary trial of an information for an offence triable either way the court dismisses the information, the dismissal shall have the same effect as an acquittal on indictment.

I[F109] Transfer of criminal proceedings

Textual Amendments

F109 S. 27A and cross-heading inserted (1.4.2005) after s. 27 by Courts Act 2003 (c. 39), **ss. 46(1)**, 110; S.I. 2005/910, **art. 3(p)**

27A Power to transfer criminal proceedings

(1) Where a person appears or is brought before a magistrates' court—

(a) to be tried by the court for an offence, or

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(b) for the court to inquire into the offence as examining justices,

the court may transfer the matter to another magistrates' court.

(2) The court may transfer the matter before or after beginning the trial or inquiry.

(3) But if the court transfers the matter after it has begun to hear the evidence and the parties, the court to which the matter is transferred must begin hearing the evidence and the parties again.

(4) The power of the court under this section to transfer any matter must be exercised in accordance with any directions given under section 30(3) of the Courts Act 2003.

X1F110 28] . . . . . .

Editorial Information

X1 The insertion of the new crossheading "Transfer of criminal proceedings" on 1.4.2005 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new heading.

Textual Amendments

F110 S. 28 repealed (4.7.1996 with effect as mentioned in Sch. 1 Pt. III para. 39 of the repealing Act) by 1996 c. 25, ss. 44, 47, 80, Sch. 1 Pt. I para. 6, **Sch. 5** table10 (with s. 78(1)); S.I. 1997/683, **art. 1(2)**

Power to remit person under 17 for trial to juvenile court

29 Power of magistrates' court to remit a person under 17 for trial to a [F111 youth court] in certain circumstances.

(1) Where—

(a) a person under **[**F112 the age of 18 years**]** ("the juvenile") appears or is brought before a magistrates' court other than a **[**F111 youth 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 M9 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 **[**F111 youth court**]**).

In the following provisions of this section "the older accused" means such one or more of the accused as have attained **[**F112 the age of 18 years**]**.

(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

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(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 **[**F111youth court**]** acting for the same place as the remitting court or for the place where he habitually resides.

(3) A person remitted to a **[**F111youth court**]** under subsection (2) above shall be brought before and tried by a **[**F111youth court**]** accordingly.

(4) Where a person is so remitted to a **[**F111youth court**]**—

(a) he shall have no right of appeal against the order of remission; and

(b) the remitting court may **[**F113, subject to section 25 of the Criminal Justice and Public Order Act 1994,**]** 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 **[**F111youth court**]**.

(5) The preceding provisions of this secion shall apply in relation to a corporation as if it were an individual who has attained **[**F112the age of 18 years**]**.

Textual Amendments

F111 Words in s. 29 substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, **Sch. 11 para. 40(2)(n)**; S.I. 1992/333, art. 2(2), **Sch. 2**

F112 Words in s. 29 substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 68(d), 101(1), Sch. 8 para. 6(1)(a), **Sch. 12 para. 22(1)**; S.I. 1992/333, art. 2(2), **Sch. 2**

F113 Words in s. 29(4)(b) inserted (10.4.1995) by 1994 c. 33, s. 168(2), **Sch. 10 para.41**; S.I. 1995/721, art. 2, **Sch.** AppendixA

Marginal Citations

M9 1933 c. 12.

Remand for medical examination

F114 30 . . . . . .

Textual Amendments

F114 S. 30 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Powers in respect of offenders

F115 31 . . . . . .

Textual Amendments

F115 S. 31 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

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32 Penalties on summary conviction for offences triable either way.

(1) On summary conviction of any of the offences triable either way listed in Schedule 1 to this Act a person shall be liable to imprisonment for a term not exceeding 6 months or to a fine not exceeding the prescribed sum or both, except 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) F116

(2) For any offence triable either way which is not listed in Schedule 1 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) Subsection (2) above shall not apply on summary conviction of any of the following offences:—

(a) offences under section 5(2) of the [M10]Misuse of Drugs Act 1971 (having possession of a controlled drug) where the controlled drug in relation to which the offence was committed was a Class B or Class C drug;

(b) offences under the following provisions of that Act, where the controlled drug in relation to which the offence was committed was a Class C drug, namely—

(i) section 4(2) (production, or being concerned in the production, of a controlled drug);

(ii) section 4(3) (supplying or offering a controlled drug or being concerned in the doing of either activity by another);

(iii) section 5(3) (having possession of a controlled drug with intent to supply it to another);

(iv) section 8 (being the occupier, or concerned in the management, of premises and permitting or suffering certain activities to take place there);

(v) section 12(6) (contravention of direction prohibiting practitioner etc. from possessing, supplying etc. controlled drugs); or

(vi) section 13(3) (contravention of direction prohibiting practitioner etc. from prescribing, supplying etc. controlled drugs).

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(6) 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 the exercise of that power; and

(b) the amount to which that fine may be restricted in the 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.

(7) F117

(8) In subsection (5) above "controlled drug", "Class B drug" and "Class C drug" have the same meaning as in the M11Misuse of Drugs Act 1971.

(9) In this section—

"fine" includes a pecuniary penalty but does not include a pecuniary forfeiture or pecuniary compensation;

"the prescribed sum" means **[**F118£5,000**]** or such sum as is for the time being substituted in this definition by an order in force under section 143(1) below;

"relevant enactment" means an enactment contained in the M12Criminal Law Act 1977 or in any Act passed before, or in the same Session as, that Act.

Textual Amendments

F116 S. 32(1)(*c*) repealed by Criminal Attempts Act 1981 (c. 47, SIF 39:1), s. 10, **Sch. Pt. I**

F117 S. 32(7) repealed by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 123(6), 170(2), Sch. 8 para. 16, **Sch. 16**

F118 Word in s. 32(9) substituted (*1.10.1992*) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 17(2)(c), 101(1), **Sch. 12 para. 6** (with s. 28); S.I. 1992/333, art. 2(2), **Sch. 2**

Modifications etc. (not altering text)

C50 S. 32 amended by S.I. 1984/703 (N.I. 3), **art. 4(7)**

C51 S. 32 extended with modifications (Isle of Man) (1.12.1992) by S.I. 1992/2670, **art. 2(b)**

C52 S. 32 extended with modifications (Guernsey) (1.2.1993) by S.I. 1992/3202, art. 2(b), **Sch. para. 2**

C53 S. 32 extended (N.I.) by Finance Act 1983 (c. 28, SIF 40:2), s. 47, **Sch. 9 para. 1(1)(2)**, Copyright (Amendment) Act 1983 (c. 42, SIF 32), **s. 1**, Car Tax Act 1983 (c. 53, SIF 40:2), s. 1(4), Sch. 1 para. 8(6)(a), **V**alue Added Tax Act 1983 (c. 55, SIF 40:2), **s. 48(2)(a)**
S. 32 extended (N.I.) by Telecommunications Act 1984 (c.12, SIF 96), **s. 106(2)(a)**

C54 S. 32(9) extended (N.I.) by Wireless Telegraphy Act 1949 (c. 54, SIF 96), **s. 14(9)** (as added by Telecommunications Act 1984 (c. 12, SIF 96), s. 75(2), **Sch. 3 para. 2**)

Marginal Citations

M10 1971 c. 38.

M11 1971 c. 38.

M12 1977 c. 45.

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33 Maximum penalties on summary conviction in pursuance of section 22.

(1) Where in pursuance of subsection (2) of section 22 above a magistrates' court proceeds to the summary trial of an information, then, if the accused is summarily convicted of the offence—

(a) **[**F119subject to subsection (3) below**]** the court shall not have power to impose on him in respect of that offence imprisonment for more than 3 months or a fine greater than **[**F120level 4 on the standard scale**]**; and

(b) **[**F121section 3 of the Powers of Criminal Courts (Sentencing) Act 2000**]**shall not apply as regards that offence.

(2) In subsection (1) above "fine" includes a pecuniary penalty but does not include a pecuniary forfeiture or pecuniary compensation.

[F122(3) Paragraph (a) of subsection (1) above does not apply to an offence under section 12A of the Theft Act 1968 (aggravated vehicle-taking).**]**

Textual Amendments

F119 Words in s. 33(1)(a) inserted (1.4.1992) by Aggravated Vehicle-Taking Act 1992 (c. 11), **s. 2(3)(a)**; S.I. 1992/764, **art. 2**

F120 Words in s. 33(1)(a) substituted (1.10.1992) by virtue of Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 17(3)(b), 101(1), Sch. 4 Pt. II, **Sch. 12 para. 6** (with s. 28); S.I. 1992/333, art. 2(2), **Sch. 2**

F121 Words in s. 33(1)(b) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 65**

F122 S. 33(3) inserted (1.4.1992) by Aggravated Vehicle-Taking Act 1992 (c. 11), **s. 2(3)(b)**; S.I. 1992/764, **art. 2**

34 Mitigation of penalties, etc.

(1) Where under any enactment whether passed before or after the commencement of this Act a magistrates' court has power to sentence an offender to imprisonment for a period specified by the enactment, or to a fine of an amount specified by the enactment, then, except where an Act passed after 31st December 1879 expressly provides to the contrary, the court may sentence him to imprisonment for less than that period or, as the case may be, to a fine of less than that amount.

(2) Where under any such enactment an offender sentenced on summary conviction to imprisonment or a fine is required to enter into a recognizance with or without sureties to keep the peace or observe any other condition, the court convicting him may dispense with or modify the requirement.

(3) Where under any such enactment a magistrates' court has power to sentence an offender to imprisonment or other detention but not to a fine, then, except where an Act passed after 31st December 1879 expressly provides to the contrary, the court may, instead of sentencing him to imprisonment or other detention, impose a fine which—

(a) for an offence triable either way, shall not exceed the prescribed sum within the meaning of section 32 above; and

(b) for a summary offence, shall—

(i) not exceed **[**F123level 3 on the standard scale**]**; 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.

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Textual Amendments

F123 Words in s. 34(3)(b) substituted (1.10.1992) by virtue of Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 17(3)(b), 101(1), Sch. 4, Pt.II, **Sch. 12 para. 6** (with s. 28); S.I. 1992/333, art. 2(2), **Sch.2**

F124 35 . . . . . .

Textual Amendments

F124 S. 35 repealed (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 101(2), **Sch.13**; S.I. 1992/333, art. 2(2), **Sch.2**

F125 36 . . . . . .

Textual Amendments

F125 S. 36 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

[F126 36A Alterations of names of petty sessions areas in inner London area.

(1) The committee of magistrates may at any time submit to the Secretary of State a draft order altering the name of any petty sessions area in the inner London area.

(2) Where the committee submit a draft order to the Secretary of State under this section, he may by statutory instrument make the order either in the terms of the draft or with such modifications as he thinks fit.

(3) Any order under this section may contain transitional and other consequential provisions.]

Textual Amendments

F126 S. 36A inserted by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 123(6), 164(3), **Sch. 8 para. 16**

F127 37 . . . . . .

Textual Amendments

F127 S. 37 repealed (1.4.2000) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 41, **Sch.10**; S.I. 1999/3426, **art. 3(b)**

F128 38 . . . . . .

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Textual Amendments

F128 S. 38 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with ss. Sch. 11 paras. 1, 2)

F129 38A . . . . . .

Textual Amendments

F129 S. 38A repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with ss. Sch. 11 paras. 1, 2)

F130 39 . . . . . .

Textual Amendments

F130 S. 39 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F131 40 . . . . . .

Textual Amendments

F131 S. 40 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Miscellaneous

41 Restriction on grant of bail in treason.

A person charged with treason shall not be granted bail except by order of a judge of the High Court or the Secretary of State.

42 Restriction on justices sitting after dealing with bail.

(1) A justice of the peace shall not take part in trying the issue of an accused's guilt on the summary trial of an information if in the course of the same proceedings the justice has been informed, for the purpose of determining whether the accused shall be granted bail, that he has one or more previous convictions.

(2) For the purposes of this section any committal proceedings from which the proceedings on the summary trial arose shall be treated as part of the trial.

[F132 43 Bail on arrest.

(1) Where a person has been granted bail under **[**F133Part IV of**]** the Police and Criminal Evidence Act 1984 subject to a duty to appear before a magistrates' court, the court before which he is to appear may appoint a later time as the time at which he is to appear and may enlarge the recognizances of any sureties for him at that time.

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(2) The recognizance of any surety for any person granted bail subject to a duty to attend at a police station may be enforced as if it were conditioned for his appearance before a magistrates' court **[**F134acting in the local justice**]** area in which the police station named in the recognizance is situated.**]**

Textual Amendments

F132 S. 43 substituted by Police and Criminal Evidence Act 1984 (c. 60, SIF 95), **ss. 47(8)**(*a*), 51, 52

F133 Words in s. 43(1) inserted (10.4.1995) by 1994 c. 33, s. 168(2), **Sch. 10 para.43**; S.I. 1995/721, art. 2, **Sch.** AppendixA

F134 Words in s. 43(2) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 206**; S.I. 2005/910, **art. 3(y)**

[F135**43A Functions of magistrates' court where a person in custody is brought before it with a view to his appearance before the Crown Court.**

(1) Where a person in custody in pursuance of a warrant issued by the Crown Court with a view to his appearance before the Crown Court is brought before a magistrates' court in pursuance of section 81(5) of the M13Supreme Court Act 1981—

(a) the magistrates' court shall commit him in custody or release him on bail until he can be brought or appear before the Crown Court at the time and place appointed by the Crown Court;

(b) if the warrant is endorsed for bail, but the person in custody is unable to satisfy the conditions endorsed, the magistrates' court may vary those conditions, if satisfied that it is proper to do so.

(2) A magistrates' court shall have jurisdiction under subsection (1) whether or not the offence was committed, or the arrest was made, within the court's area.**]**

Textual Amendments

F135 S. 43A inserted by Supreme Court Act 1981 (c. 54, SIF 37), s. 152(1), **Sch. 5**

Marginal Citations

M13 1981 c. 54 (**37**).

[F136**43B Power to grant bail where police bail has been granted.**

(1) Where a custody officer—

(a) grants bail to any person under Part IV of the Police and Criminal Evidence Act 1984 in criminal proceedings and imposes conditions, or

(b) varies, in relation to any person, conditions of bail in criminal proceedings under section 3(8) of the Bail Act 1976,

a magistrates' court may, on application by or on behalf of that person, grant bail or vary the conditions.

(2) On an application under subsection (1) the court, if it grants bail and imposes conditions or if it varies the conditions, may impose more onerous conditions.

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(3) On determining an application under subsection (1) the court shall remand the applicant, in custody or on bail in accordance with the determination, and, where the court withholds bail or grants bail the grant of bail made by the custody officer shall lapse.

(4) In this section "bail in criminal proceedings" and "vary" have the same meanings as they have in the Bail Act 1976.**]**

Textual Amendments

F136 S. 43B inserted (10.4.1995) by 1994 c. 33, s. 27(4), **Sch. 3 para.3**; S.I. 1995/721, **art. 2**,Sch.

Modifications etc. (not altering text)

C55 S. 43B excluded (4.4.2005) by Criminal Justice Act 2003 (c. 44), **ss. 88(1)(c)**, 336; S.I. 2005/950, **art. 2**, Sch. 1 para. 5 (subject to art. 2(2) and with Sch. 2)

44 Aiders and abettors.

(1) A person who aids, abets, counsels or procures the commission by another person of a summary offence shall be guilty of the like offence and may be tried (whether or not he is charged as a principal) either by a court having jurisdiction to try that other person or by a court having by virtue of his own offence jurisdiction to try him.

(2) Any offence consisting in aiding, abetting, counselling or procuring the commission of an offence triable either way (other than an offence listed in Schedule 1 to this Act) shall by virtue of this subsection be triable either way.

45 Incitement.

(1) Any offence consisting in the incitement to commit a summary offence shall be triable only summarily.

(2) Subsection (1) above is without prejudice to any other enactment by virtue of which any offence is triable only summarily.

(3) 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.

Modifications etc. (not altering text)

C56 S. 45(3) excluded by Public Order Act 1986 (c. 64, SIF 39:2), **ss. 12(10)**, 13(13), 14(10)
S. 45(3) excluded by 1986 c. 64, **s. 14B(7)** (as inserted (3.11.1994) by 1994 c. 33, **s.70**)
S. 45(3) excluded (1.8.2005) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 136(4)**, 178; S.I. 2005/1521 {art. 4(1)} (subject to art. 4(2))

46 Corporations.

The provisions of Schedule 3 to this Act shall have effect where a corporation is charged with an offence before a magistrates' court.

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Modifications etc. (not altering text)

C57 S. 46 applied (1.5.2009) by The Payment Services Regulations 2009 (S.I. 2009/209), regs. 1(2)(b)(xiii), **118(4)(a)**

47 Service of summons out of time after failure to prove service by post.

Where any enactment requires, expressly or by implication, that a summons in respect of an offence shall be issued or served within a specified period after the commission of the offence, and service of the summons may under **[**[F137]rules of court**]** be effected by post, then, if under the rules service of the summons is not treated as proved, but it is shown that a letter containing the summons was posted at such time as to enable it to be delivered in the ordinary course of post within that period, a second summons may be issued on the same information; and the enactment shall have effect, in relation to that summons, as if the specified period were a period running from the return day of the original summons.

Textual Amendments

F137 Words in s. 47 substituted (1.9.2004) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 207**; S.I. 2004/2066, **art. 2(c)(xi)** (subject to art. 3)

48 Return of property taken from accused.

Where a summons or warrant has been issued requiring any person to appear or be brought before a magistrates' court to answer to an information, or where any person has been arrested without a warrant for an offence, and property has been taken from him after the issue of the summons or warrant or, as the case may be, on or after his arrest without a warrant, the police shall report the taking of the property, with particulars of the property, to the magistrates' court which deals with the case; and, if the court, being of opinion that the whole or any part of the property can be returned to the accused consistently with the interests of justice and the safe custody of the accused, so directs, the property, or such part of it as the court directs, shall be returned to the accused or to such other person as he may require.

49 . . . . . [F138]

Textual Amendments

F138 S. 49 repealed by Police and Criminal Evidence Act 1984 (c. 64, SIF 95), s. 119(2), **Sch. 7 Pt. I**

50 Construction of references to complaint in enactments dealing with offences.

In any enactment conferring power on a magistrates' court to deal with an offence, or to issue a summons or warrant against a person suspected of an offence, on the complaint of any person, for references to a complaint there shall be substituted references to an information.

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PART II

CIVIL JURISDICTION AND PROCEDURE

Jurisdiction to issue summons and deal with complaints

[F139 51 Issue of summons on complaint

Where a complaint relating to a person is made to a justice of the peace, the justice of the peace may issue a summons to the person requiring him to appear before a magistrates' court to answer to the complaint.]

Textual Amendments

F139 S. 51 substituted (1.4.2005) by Courts Act 2003 (c. 39), **ss. 47(1)**,110; S.I. 2005/910, **art. 3(q)**

Modifications etc. (not altering text)

C58 S. 51 applied (with modifications) (1.4.1997) by S.I. 1997/704, **rule 5(2)(3)(4)(a)**

52 Jurisdiction to deal with complaints.

[F140 (1) A magistrates' court has jurisdiction to hear any complaint.

(2) But subsection (1) is subject to provision made by any enactment.]

Textual Amendments

F140 S. 52 substituted (1.4.2005) by Courts Act 2003 (c. 39), **ss. 47(2)**,110; S.I. 2005/910, **art. 3(q)**

Hearing of complaint

53 Procedure on hearing.

(1) On the hearing of a complaint, the court shall, if the defendant appears, state to him the substance of the complaint.

(2) The court, after hearing the evidence and the parties, shall make the order for which the complaint is made or dismiss the complaint.

(3) Where a complaint is for an order for the payment of a sum recoverable summarily as a civil debt, or for the variation of the rate of any periodical payments ordered by a magistrates' court to be made, or for such other matter as may be prescribed, the court may make the order with the consent of the defendant without hearing evidence.

Modifications etc. (not altering text)

C59 S. 53(1)(2) applied (with modifications) (1.4.1997) by S.I. 1997/704, **rule 5(2)(3)(4)(b)**

C60 S. 53(3) extended (14.10.1991) by S.I. 1991/1991, rule. 16(1) (as amended (5.12.2005) by S.I. 2005/2930, **Sch. 1** {rule 14})

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54 Adjournment

(1) A magistrates' court may at any time, whether before or after beginning to hear a complaint, adjourn the hearing, and may do so, notwithstanding anything in this Act, when composed of a single justice.

(2) The court may when adjourning either fix the time and place at which the hearing is to be resumed or, unless it remands the defendant under section 55 below, leave the time and place to be determined later by the court; but the hearing shall not be resumed at that time and place unless the court is satisfied that the parties have had adequate notice thereof.

Modifications etc. (not altering text)
C61 S. 54 applied (with modifications) (1.4.1997) by S.I. 1997/704, **rule 5(2)(3)(4)(c)**

55 Non-appearance of defendant.

(1) Where at the time and place appointed for the hearing or adjourned hearing of a complaint the complainant appears but the defendant does not, the court may, subject to subsection (3) below, proceed in his absence.

(2) Where the court, instead of proceeding in the absence of the defendant, adjourns, or further adjourns, the hearing, the court may, if the complaint has been substantiated on oath, and subject to the following provisions of this section, issue a warrant for his arrest.

(3) The court shall not begin to hear the complaint in the absence of the defendant or issue a warrant under this section unless either it is proved to the satisfaction of the court, on oath or in such other manner as may be prescribed, that the summons was served on him within what appears to the court to be a reasonable time before the hearing or adjourned hearing or the defendant has appeared on a previous occasion to answer to the complaint.

(4) Where the defendant fails to appear at an adjourned hearing, the court shall not issue a warrant under this section unless it is satisfied that he has had adequate notice of the time and place of the adjourned hearing.

(5) Where the defendant is arrested under a warrant issued under this section, the court may, on any subsequent adjournment of the hearing, but subject to the provisions of subsection (6) below, remand him.

(6) The court shall not issue a warrant or remand a defendant under this section or further remand him by virtue of section 128(3) below after he has given evidence in the proceedings.

(7) Where the court remands the defendant, the time fixed for the resumption of the hearing shall be that at which he is required to appear or be brought before the court in pursuance of the remand.

(8) A warrant under this section shall not be issued in any proceedings for the recovery or enforcement of a sum recoverable summarily as a civil debt or in proceedings in any matter of bastardy.

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Modifications etc. (not altering text)

C62 S. 55 applied (with modifications) (1.4.1997) by S.I. 1997/704, **rule 5(2)(3)(4)(d)(5)**

C63 S. 55(2) restricted by S.I. 1989/438, **art. 29(4)**

C64 S. 55(2) excluded (3.11.1994) by 1994 c. 33, **s. 78(6)**

C65 S. 55(3)(4) applied (with modifications) (25.8.2000) by 2000 c. 6, ss. 65, 168(1), **Sch. 7 para. 7(3)**
S. 55(3)(4) applied (with modifications) (25.8.2000) by 2000 c. 6, ss. 72, 75, 168(1), **Sch. 8 para. 6(3)**

56 Non-appearance of complainant.

Where at the time and place appointed for the hearing or adjourned hearing of a complaint the defendant appears but the complainant does not, the court may dismiss the complaint or, if evidence has been received on a previous occasion, proceed in the absence of the complainant.

57 Non-appearance of both parties.

Where at the time and place appointed for the hearing or adjourned hearing of a complaint neither the complainant nor the defendant appears, the court may dismiss the complaint.

[F141 Transfer of civil proceedings (other than family proceedings)

Textual Amendments

F141 S. 57A and cross-heading inserted (1.4.2005) by Courts Act 2003 (c. 39), **ss. 48**, 110; S.I. 2005/910, **art. 3(q)**

57A Power to transfer civil proceedings (other than family proceedings)

(1) A magistrates' court may at any time, whether before or after beginning to hear a complaint, transfer the hearing to another magistrates' court.

(2) But if the court transfers the matter after it has begun to hear the evidence and the parties, the court to which the matter is transferred must begin hearing the evidence and the parties again.

(3) This section does not apply to family proceedings.

(4) The power of the court under this section to transfer a hearing must be exercised in accordance with any directions given under section 30(3) of the Courts Act 2003.**]**

Civil debt

58 Money recoverable summarily as civil debt.

(1) A magistrates' court shall have power to make an order on complaint for the payment of any money recoverable summarily as a civil debt.

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(2) Any sum payment of which may be ordered by a magistrates' court shall be recoverable summarily as a civil debt except—

(a) a sum recoverable on complaint for **[**F142a magistrates' court maintenance order**]**; or

(b) a sum that may be adjudged to be paid by a summary conviction or by an order enforceable as if it were a summary conviction.

Textual Amendments

F142 Words substituted by Family Law Reform Act 1987 (c. 42, SIF 49:7), ss. 33(1)(2), Sch. 2 para. 80, Sch. 3 paras. 1, **6**

Orders for periodical payment

[F143**59 Orders for periodical payment: means of payment.**

(1) In any case where a magistrates' court orders money to be paid periodically by one person (in this section referred to as "the debtor") to another (in this section referred to as "the creditor"), then—

(a) if the order is a qualifying maintenance order, the court shall at the same time exercise one of its powers under paragraphs (a) to (d) of subsection (3) below;

(b) if the order is not a maintenance order, the court shall at the same time exercise one of its powers under paragraphs (a) and (b) of that subsection.

(2) For the purposes of this section a maintenance order is a "qualifying maintenance order" if, at the time it is made, the debtor is ordinarily resident in England and Wales.

(3) The powers of the court are—

(a) the power to order that payments under the order be made directly by the debtor to the creditor;

(b) the power to order that payments under the order be made to **[**F144the designated officer for the court or for any other magistrates' court**]**;

(c) the power to order that payments under the order be made by the debtor to the creditor by such method of payment falling within subsection (6) below as may be specified;

[F145(cc) the power to order that payments under the order be made in accordance with arrangements made by the Secretary of State for their collection;**]**

(d) the power to make an attachment of earnings order under the Attachment of Earnings Act 1971 to secure payments under the order.

[F146(3A) No order made by a magistrates' court under paragraphs (a) to (d) of subsection (3) above (other than one made under paragraph (cc)) shall have effect at any time when the Secretary of State is arranging for the collection of payments under the qualifying maintenance order concerned.**]**

(4) In any case where—

(a) the court proposes to exercise its power under paragraph (c) of subsection (3) above, and

(b) having given the debtor an opportunity of opening an account from which payments under the order may be made in accordance with the method of

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payment proposed to be ordered under that paragraph, the court is satisfied that the debtor has failed, without reasonable excuse, to open such an account,

the court in exercising its power under that paragraph may order that the debtor open such an account.

(5) In deciding, in the case of a maintenance order, which of the powers under paragraphs (a) to (d) of subsection (3) above **[**F147(other than paragraph (cc))**]** it is to exercise, the court having (if practicable) given them an opportunity to make representations shall have regard to any representations made—

(a) by the debtor,

(b) by the creditor, and

(c) if the person who applied for the maintenance order is a person other than the creditor, by that other person.

(6) The methods of payment referred to in subsection (3)(c) above are the following, that is to say—

(a) payment by standing order; or

(b) payment by any other method which requires one person to give his authority for payments of a specific amount to be made from an account of his to an account of another's on specific dates during the period for which the authority is in force and without the need for any further authority from him.

(7) Where the maintenance order is an order—

(a) under the Guardianship of Minors Acts 1971 and 1973,

(b) under Part I of the Domestic Proceedings and Magistrates' Courts Act 1978, or

(c) under, or having effect as if made under, Schedule 1 to the Children Act 1989,

and the court does not propose to exercise its power under **[**F148paragraph (c), (cc) or (d)**]** of subsection (3) above, the court shall, unless upon representations expressly made in that behalf by the person who applied for the maintenance order it is satisfied that it is undesirable to do so, exercise its power under paragraph (b) of that subsection.

(8) The **[**F149Lord Chancellor**]** may by regulations confer on magistrates' courts, in addition to their powers under paragraphs (a) to (d) of subsection (3) above, the power (the "additional power") to order that payments under a qualifying maintenance order be made by the debtor to the creditor or **[**F150the designated officer for a magistrates' court**]** (as the regulations may provide) by such method of payment as may be specified in the regulations.

(9) Any reference in any enactment to paragraphs (a) to (d) of subsection (3) above (but not a reference to any specific paragraph of that subsection) shall be taken to include a reference to the additional power, and the reference in subsection (10) below to the additional power shall be construed accordingly.

(10) Regulations under subsection (8) above may make provision for any enactment concerning, or connected with, payments under maintenance orders to apply, with or without modifications, in relation to the additional power.

(11) The power of the **[**F149Lord Chancellor**]** to make regulations under subsection (8) above shall be exercisable by statutory instrument and any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.

F151(12) **[** For the purposes of this section—

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(a) the reference in subsection (1) above to money paid periodically by one person to another includes, in the case of a maintenance order, a reference to a lump sum paid by instalments by one person to another; and

(b) references to arrangements made by the Secretary of State for the collection of payments are to arrangements made by him under section 30 of the Child Support Act 1991 and regulations made under that section.**]]**

Textual Amendments

F143 S. 59 substituted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), **s. 2**; S.I. 1992/455, **art. 2**

F144 Words in s. 59(3)(b) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 208(2)**; S.I. 2005/910, **art. 3(y)**

F145 S. 59(3)(cc) inserted (11.4.1994) by S.I. 1994/731, **art. 3(2)**

F146 S. 59(3A) inserted (11.4.1994) by S.I. 1994/731, **art. 3(3)**

F147 Words in s. 59(5) inserted (11.4.1994) by S.I. 1994/731, **art. 3(4)**

F148 Words in s. 59(7) substituted (11.4.1994) by S.I. 1994/731, **art. 3(5)**

F149 Words in s. 59(8)(11) substituted (1.4.1992) by S.I. 1992/709, art. 3(2), **Sch. 2**

F150 Words in s. 59(8) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 110, 109(1), **Sch. 8 para. 208(3)**; S.I. 2005/910, **art. 3(y)**

F151 S. 59(12) substituted (11.4.1994) by S.I. 1994/731, **art. 3(6)**

Modifications etc. (not altering text)

C66 S. 59 excluded (5.11.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1972 (c. 18), **s. 27C(2)** (as substituted (5.11.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1992 (c. 56), s. 1, **Sch. 1 Pt. II para. 13**); S.I. 1993/618, **art. 2**

C67 S. 59(4) applied (1.4.1992) by Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22, SIF 49:3), **s. 20ZA(6)** (inserted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), **s. 5**; S.I. 1992/455, **art. 2**)
S. 59(4) applied (with modifications) (1.4.1992) by Maintenance Orders (Facilities for Enforcement) Act 1920 (c. 33, SIF 49:3), **s. 4(5D)** (inserted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s. 10, **Sch. 1 para. 1(1)**; S.I. 1992/455, **art. 2**)
S. 59(4) applied (with modifications) (1.4.1992) by Maintenance Orders Act 1950 (c. 37, SIF 49:3), **s. 22(1D)** (inserted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s. 10, **Sch. 1 para. 5**; S.I. 1992/455, **art. 2**)

C68 S. 59(4) applied (with modifications) (5.11.1993) by Maintenance Order (Reciprocal Enforcement) Act 1972 (c. 18), **s. 27C(6)** (as substituted (5.11.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1992 (c. 56), s. 1, **Sch. 1 Pt. II para. 13**); S.I. 1993/618, **art. 2**)

C69 S. 59(8)(10)(11) functions of the Secretary of State transferred to the Lord Chancellor (1.4.1992) by S.I. 1992/709, art. 3(1), **Sch. 2**

[F152 59A Orders for periodical payment: proceedings by [F153 designated officer].

(1) Where payments under a relevant UK order are required to be made periodically—

(a) to or through **[**F154 the designated officer for a magistrates' court**]**, or

(b) by any method of payment falling within section 59(6) above,

and any sums payable under the order are in arrear, **[**F155 the relevant designated officer**]** shall, if the person for whose benefit the payments are required to be made so requests in writing, and unless it appears **[**F156 to that designated officer**]** that it is unreasonable in the circumstances to do so, proceed in his own name for the recovery of those sums.

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(2) Where payments under a relevant UK order are required to be made periodically to or through **[**F157the designated officer for a magistrates' court**]**, the person for whose benefit the payments are required to be made may, at any time during the period in which the payments are required to be so made, give authority in writing to **[**F158the relevant designated officer for him**]** to proceed as mentioned in subsection (3) below.

(3) Where authority under subsection (2) above is given to **[**F159the relevant designated officer, he**]** shall, unless it appears to him that it is unreasonable in the circumstances to do so, proceed in his own name for the recovery of any sums payable to or through him under the order in question which, on or after the date of the giving of the authority, fall into arrear.

(4) In any case where—

(a) authority under subsection (2) above has been given to **[**F160the relevant designated officer**]**, and

(b) the person for whose benefit the payments are required to be made gives notice in writing to the **[**F161relevant designated officer cancelling**]** the authority,

the authority shall cease to have effect and, accordingly, the **[**F162relevant designated officer shall**]** not continue any proceedings already commenced by virtue of the authority.

(5) The person for whose benefit the payments are required to be made shall have the same liability for all the costs properly incurred in or about proceedings taken under subsection (1) above at his request or under subsection (3) above by virtue of his authority (including any costs incurred as a result of any proceedings commenced not being continued) as if the proceedings had been taken by him.

(6) Nothing in subsection (1) or (3) above shall affect any right of a person to proceed in his own name for the recovery of sums payable on his behalf under an order of any court.

(7) In this section—

[F163"the relevant designated officer", in relation to an order, means—

(a) in a case where payments under the order are required to be made to or through the designated officer for a magistrates' court, the designated officer for that magistrates' court;

(b) in a case where such payments are required to be made by any method of payment falling within section 59(6) and the order was made by a magistrates' court, the designated officer for that magistrates' court; and

(c) in a case where such payments are required to be made by any method of payment falling within section 59(6) and the order was not made by a magistrates' court, the designated officer for the magistrates' court in which the order is registered;**]**

"relevant UK order" means—

(a) an order made by a magistrates' court, other than an order made by virtue of Part II of the M14Maintenance Orders (Reciprocal Enforcement) Act 1972;

(b) an order made by the High Court or a county court (including an order deemed to be made by the High Court by virtue of section 1(2) of the M15Maintenance Orders Act 1958) and registered under Part I of that Act of 1958 in a magistrates' court; or

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(c) an order made by a court in Scotland or Northern Ireland and registered under Part II of the [M16]Maintenance Orders Act 1950 in a magistrates' court;

and any reference to payments required to be made periodically includes, in the case of a maintenance order, a reference to instalments required to be paid in respect of a lump sum payable by instalments.**]**

Textual Amendments

F152 S. 59A inserted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), **s. 2**; S.I. 1992/455, **art. 2**

F153 Words in s. 59A heading substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 209(7)**; S.I. 2005/910, **art. 3(y)**

F154 Words in s. 59A(1)(a) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 209(2)(a)**; S.I. 2005/910, **art. 3(y)**

F155 Words in s. 59A(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 209(2)(b)**; S.I. 2005/910, **art. 3(y)**

F156 Words in s. 59A(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 209(2)(c)**; S.I. 2005/910, **art. 3(y)**

F157 Words in s. 59A(2) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 209(3)(a)**; S.I. 2005/910, **art. 3(y)**

F158 Words in s. 59A(2) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 209(3)(b)**; S.I. 2005/910, **art. 3(y)**

F159 Words in s. 59A(3) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 209(4)**; S.I. 2005/910, **art. 3(y)**

F160 Words in s. 59A(4)(a) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 209(5)(a)**; S.I. 2005/910, **art. 3(y)**

F161 Words in s. 59A(4)(b) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 209(5)(b)**; S.I. 2005/910, **art. 3(y)**

F162 Words in s. 59A(4)(b) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 209(5)(c)**; S.I. 2005/910, **art. 3(y)**

F163 S. 59A(7): definition of "the relevant designated officer" substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 209(6)**; S.I. 2005/910, **art. 3(y)**

Marginal Citations

M14 1972 c. 18

M15 1958 c. 39

M16 1950 c. 37

[F164 59B Maintenance orders: penalty for breach.

(1) In any case where—

(a) payments under a relevant English maintenance order are required to be made periodically in the manner mentioned in paragraph (a) or (b) of section 59A(1) above, and

(b) the debtor fails, on or after the date of commencement of this section, to comply with the order in so far as the order relates to the manner of payment concerned,

the person for whose benefit the payments are required to be made may make a complaint to a relevant justice giving details of the failure to comply.

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(2) If the relevant justice is satisfied that the nature of the alleged failure to comply may be such as to justify the relevant court in exercising its power under subsection (3) below, he shall issue a summons directed to the debtor requiring him to appear before the relevant court to answer the complaint.

(3) On the hearing of the complaint, the relevant court may order the debtor to pay a sum not exceeding £1000.

(4) Any sum ordered to be paid under subsection (3) above shall for the purposes of this Act be treated as adjudged to be paid by a conviction of a magistrates' court.

(5) In this section—

"debtor" has the same meaning as it has in section 59 above;

[[F165]"the relevant court", in relation to an order, means—

(a) in a case where payments under the order are required to be made to or through the designated officer for a magistrates' court, that magistrates' court;

(b) in a case where such payments are required to be made by any method of payment falling within section 59(6) and the order was made by a magistrates' court, that magistrates' court; and

(c) in a case where such payments are required to be made by any method of payment falling within section 59(6) and the order was not made by a magistrates' court, the magistrates' court in which the order is registered;**]**

"relevant English maintenance order" means—

(a) a maintenance order made by a magistrates' court, other than an order made by virtue of Part II of the [M17]Maintenance Orders (Reciprocal Enforcement) Act 1972; or

(b) an order made by the High Court or a county court (other than an order deemed to be made by the High Court by virtue of section 1(2) of the [M18]Maintenance Orders Act 1958) and registered under Part I of that Act of 1958 in a magistrates' court;

"relevant justice", in relation to a relevant court, means a justice of the peace **[**[F166]acting in the local justice area in**]** which the relevant court is acting;

and any reference to payments required to be made periodically includes a reference to instalments required to be paid in respect of a lump sum payable by instalments.**]**

Textual Amendments

F164 S. 59B inserted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), **s.3**; S.I. 1992/455, **art.2**

F165 S. 59B(5): definition of "the relevant court" substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 210(2)**; S.I. 2005/910, **art. 3(y)**

F166 S. 59B(5): words in the definition of "relevant justice" substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 210(3)**; S.I. 2005/910, **art. 3(y)**

Marginal Citations

M17 1972 c. 18

M18 1958 c. 39

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[F167 60 Revocation, variation, etc. of orders for periodical payment.

(1) Where a magistrates' court has made an order for money to be paid periodically by one person to another, the court may, by order on complaint, revoke, revive or vary the order.

(2) The power under subsection (1) above to vary an order shall include power to suspend the operation of any provision of the order temporarily and to revive the operation of any provision so suspended.

(3) Where the order mentioned in subsection (1) above is a maintenance order, the power under that subsection to vary the order shall include power, if the court is satisfied that payment has not been made in accordance with the order, to exercise one of its powers under paragraphs (a) to (d) of section 59(3) above.

(4) In any case where—

(a) a magistrates' court has made a maintenance order, and

(b) payments under the order are required to be made by any method of payment falling within section 59(6) above,

an interested party may apply in writing to F168. . . the court for the order to be varied as mentioned in subsection (5) below.

(5) Subject to subsection (8) below, where an application has been made under subsection (4) above, **[**F169a justices' clerk**]** , after giving written notice (by post or otherwise) of the application to any other interested party and allowing that party, within the period of 14 days beginning with the date of the giving of that notice, an opportunity to make written representations, may vary the order to provide that payments under the order shall be made **[**F170to the designated officer for the court**]**.

(6) The clerk may proceed with an application under subsection (4) above notwithstanding that any such interested party as is referred to in subsection (5) above has not received written notice of the application.

(7) In subsections (4) to (6) above "interested party", in relation to a maintenance order, means—

(a) the debtor;

(b) the creditor; and

(c) if the person who applied for the maintenance order is a person other than the creditor, that other person.

(8) Where an application has been made under subsection (4) above, the clerk may, if he considers it inappropriate to exercise his power under subsection (5) above, refer the matter to the court which may vary the order by exercising one of its powers under paragraphs (a) to (d) of section 59(3) above.

(9) Subsections (4), (5) and (7) of section 59 above shall apply for the purposes of subsections (3) and (8) above as they apply for the purposes of that section.

(10) None of the powers of the court, or of **[**F171a justices' clerk**]** , conferred by subsections (3) to (9) above shall be exercisable in relation to a maintenance order which is not a qualifying maintenance order (within the meaning of section 59 above).

(11) For the purposes of this section—

(a) "creditor" and "debtor" have the same meaning as they have in section 59 above; and

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(b) the reference in subsection (1) above to money paid periodically by one person to another includes, in the case of a maintenance order, a reference to a lump sum paid by instalments by one person to another.**]**

Textual Amendments

F167 S. 60 substituted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), **s. 4**; S.I. 1992/455, **art. 2**

F168 Words in s. 60(4) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 211(2), **Sch. 10**; S.I. 2005/910, **art. 3(y)(aa)**

F169 Words in s. 60(5) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 211(3)(a)**; S.I. 2005/910, **art. 3(y)**

F170 Words in s. 60(5) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 211(3)(b)**; S.I. 2005/910, **art. 3(y)**

F171 Words in s. 60(10) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 211(4)**; S.I. 2005/910, **art. 3(y)**

Modifications etc. (not altering text)

C70 S. 60 excluded (14.10.1991) by Children Act 1989 (c. 41, SIF 20), **s. 15(2)** (with s. 108(6), Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
S. 60 modified (1.4.1992) by Maintenance Orders (Facilities for Enforcement) Act 1920 (c. 33, SIF 49:3), **s. 4(6A)** (as substituted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s. 10, **Sch. 1 para. 1(2)**; S.I. 1992/455, **art. 2**)
S. 60 modified (1.4.1992) by Maintenance Orders (Reciprocal Enforcement) Act 1972 (c. 18, SIF 49:3), **s. 9(1ZA)** (as inserted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s. 10, **Sch. 1 para. 14**; S.I. 1992/455, **art. 2**)

C71 S. 60 restricted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 72(3), 263, **Sch. 6 para. 42(a)**; S.I. 2005/3175, **art. 2**, Sch. 1

C72 S. 60(1) modified (5.11.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1972 (c. 18), **s. 5(3A)** (as inserted (5.11.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1992 (c. 56), s. 1, **Sch. 1 Pt. II para. 7**); S.I. 1993/618, **art. 2**

C73 S. 60(3)-(11) excluded by 1972 c. 18, s. 34A(1) (as inserted (1.4.1992) by 1991 c. 17, **Sch. 1 para. 19(2)**; S.I. 1992/455, **art. 2**)

C74 S. 60(4)-(11) applied (with modifications) (1.4.1992) by Maintenance Orders Act 1950 (c. 37, SIF 49:3), **s. 22(1E)** (as inserted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s. 10, **Sch. 1 para. 5**; S.I. 1992/455, **art. 2**)
S. 60(4)-(11) applied (with modifications) (1.4.1992) by Maintenance Orders Act 1958 (c. 39, SIF 49:3), **s. 4(5A)** (as inserted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s. 10, **Sch. 1 para. 9(2)**; S.I. 1992/455, **art. 2**)

61 Periodical payments payable by one person under more than one order.

(1) **[**[F172]Rules of court may**]** make provision—

(a) for enabling a person to make one complaint for the recovery of payments required to be made to him by another person under more than one periodical payments order; and

(b) for apportioning between two or more periodical payments orders, in such manner as may be prescribed by the rules, any sum paid to **[**[F173]the designated officer for a magistrates' court**]** on any date by the person liable to make payments under the orders which is less than the total sum required to be paid on that date to **[**[F174]that designated officer**]** by that person in respect of

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those orders (being orders one of which requires payments to be made for the benefit of a child to the person with whom the child has his home and one or more of which requires payments to be made to that person either for his own benefit or for the benefit of another child who has his home with him) **[**F175and sums paid into court in pursuance of orders under section 35 of the Powers of Criminal Courts Act 1973 (compensation orders)**]**.

(2) In this section—

"child" means a person who has not attained the age of 18;

"periodical payments order" means an order made by a magistrates' court, or registered in a magistrates' court under Part II of the M19Maintenance Orders Act 1950 or Part I of the M20Maintenance Orders Act 1958, which requires the making of periodical payments,

and any payments required under a periodical payments order to be made to a child shall for the purposes of subsection (1) above be treated as if they were required to be made to the person with whom the child has his home.

Textual Amendments

F172 Words in s. 61(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 212(1)**; S.I. 2005/910, **art. 3(y)**

F173 Words in s. 61(1)(b) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 212(2)(a)**; S.I. 2005/910, **art. 3(y)**

F174 Words in s. 61(1)(b) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 212(2)(b)**; S.I. 2005/910, **art. 3(y)**

F175 Words added by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 123(6), 170(1), Sch. 8 para. 16, **Sch. 15 para. 63**

Modifications etc. (not altering text)

C75 S. 61 amended by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 81(8), 123(6), **Sch. 8 para. 16**

Marginal Citations

M19 1950 c. 37.

M20 1958 c. 39.

Payments to children

62 Provisions as to payments required to be made to a child, etc.

(1) Where—

(a) periodical payments are required to be made, or a lump sum is required to be paid, to a child under an order made by a magistrates' court, or

(b) periodical payments are required to be made to a child under an order which is registered in a magistrates' court,

any sum required under the order to be paid to the child may be paid to the person with whom the child has his home, and that person—

(i) may proceed in his own name for the variation, revival or revocation of the order, and

(ii) may either proceed in his own name for the recovery of any sum required to be paid under the order or **[**F176request or authorise the **[**F177designated officer

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for**]** the magistrates' court under subsection (1) or subsection (2) respectively of section 59A above**]**, to proceed for the recovery of that sum.

(2) Where a child has a right under any enactment to apply for the revival of an order made by a magistrates' court which provided for the making of periodical payments to or for the benefit of the child, the person with whom the child has his home may proceed in his own name for the revival of that order.

(3) Where any person by whom periodical payments are required to be paid to a child under an order made by or registered in a magistrates' court makes a complaint for the variation or revocation of that order, the person with whom the child has his home may answer the complaint in his own name.

(4) Nothing in subsections (1) and (2) above shall affect any right of a child to proceed in his own name for the variation, revival or revocation of an order or for the recovery of any sum payable thereunder.

[F178(5) In this section references to the person with whom a child has his home—

(a) in the case of any child who is being looked after by a local authority (within the meaning of section 22 of the Children Act 1989), are references to that local authority; and

(b) in any other case, are references to the person who, disregarding any absence of the child at a hospital or boarding school and any other temporary absence, has care of the child.**]**

(6) In this section any reference to an order registered in a magistrates' court is a reference to an order registered in a magistrates' court under Part II of the M21Maintenance Orders Act 1950 or Part I of the M22Maintenance Orders Act 1958.

(7) In this section "child" means a person who has not attained the age of 18.

Textual Amendments

F176 Words in s. 62(1)(ii) substituted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s. 11(1), **Sch. 2**, para. 5; S.I. 1992/455, **art. 2**

F177 Words in s. 62(1)(ii) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 213**; S.I. 2005/910, **art. 3(y)**

F178 S. 62(5) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(5), **Sch. 13 para. 44(2)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

Marginal Citations

M21 1950 c. 37.

M22 1958 c. 39.

Orders other than for payment of money

63 Orders other than for payment of money.

(1) Where under any Act passed after 31st December 1879 a magistrates' court has power to require the doing of anything other than the payment of money, or to prohibit the doing of anything, any order of the court for the purpose of exercising that power may contain such provisions for the manner in which anything is to be done, for the time

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within which anything is to be done, or during which anything is not to be done, and generally for giving effect to the order, as the court thinks fit.

(2) The court may by order made on complaint suspend or rescind any such order as aforesaid.

(3) Where any person disobeys an order of a magistrates' court made under an Act passed after 31st December 1879 to do anything other than the payment of money or to abstain from doing anything the court may—

(a) order him to pay a sum not exceeding £50 for every day during which he is in default or a sum not exceeding **[**F179£5,000**]**; or

(b) commit him to custody until he has remedied his default or for a period not exceeding 2 months;

but a person who is ordered to pay a sum for every day during which he is in default or who is committed to custody until he has remedied his default shall not by virtue of this section be ordered to pay more than £1,000 or be committed for more than 2 months in all for doing or abstaining from doing the same thing contrary to the order (without prejudice to the operation of this section in relation to any subsequent default).

(4) Any sum ordered to be paid under subsection (3) above shall for the purposes of this Act be treated as adjudged to be paid by a conviction of a magistrates' court.

(5) The preceding provisions of this section shall not apply to any order for the enforcement of which provision is made by any other enactment.

Textual Amendments

F179 Word in s. 63(3)(a) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 17(3)(a), 101(1), Sch. 4 Pt.I, **Sch. 12 para. 6** (with s. 28); S.I. 1992/333, art. 2(2), **Sch.2**

Modifications etc. (not altering text)

C76 S. 63(1)-(4) applied by 2000 c. 6, Sch. 1 Pt 1A para. 9F(2) (as inserted (27.2.2004) by Criminal Justice Act 2003 (c. 44), ss. 324, 336, **Sch. 34 para. 6**; S.I. 2004/81, **art. 5(2)(d)**

C77 S. 63(2) excluded by Public Order Act 1986 (c. 64, SIF 39:2), **s. 33(6)**

C78 S. 63(2) excluded by Football Spectators Act 1989 (c. 37, SIF 45A), **s. 17(6)**
S. 63(2) restricted (1.10.1997) by 1996 c. 27, **s. 59(3)** (with Sch. 9 paras. 8, 9, 10); S.I. 1997/1892, **art. 3(1)(a)**

C79 S. 63(1)-(4) applied by 2000 c. 6, Sch. 1 Pt 1A para. 9F(2) (as inserted (27.2.2004) by Criminal Justice Act 2003 (c. 44), ss. 324, 336, **Sch. 34 para. 6**; S.I. 2004/81, **art. 5(2)(d)**

C80 S. 63(2) restricted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 73(3), 263, **Sch. 6 para. 42(b)**; S.I. 2005/3175, **art. 2**, Sch. 1

C81 S. 63(3) amended by Contempt of Court Act 1981 (c. 49, SIF 39:3), **s. 17(1)**

C82 S. 63(3) extended (14.10.1991) by Children Act 1989 (c. 41, SIF 20) ss. 14(1), 108(6) (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

C83 S. 63(1)-(4) applied by 2000 c. 6, Sch. 1 Pt 1A para. 9F(2) (as inserted (27.2.2004) by Criminal Justice Act 2003 (c. 44), ss. 324, 336, **Sch. 34 para. 6**; S.I. 2004/81, **art. 5(2)(d)**

C84 S. 63(1)-(4) applied by 2000 c. 6, Sch. 1 Pt 1A para. 9F(2) (as inserted (27.2.2004) by Criminal Justice Act 2003 (c. 44), ss. 324, 336, **Sch. 34 para. 6**; S.I. 2004/81, **art. 5(2)(d)**

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Costs

64 Power to award costs and enforcement of costs.

(1) On the hearing of a complaint, a magistrates' court shall have power in its discretion to make such order as to costs—

(a) on making the order for which the complaint is made, to be paid by the defendant to the complainant;

(b) on dismissing the complaint, to be paid by the complainant to the defendant,

as it thinks just and reasonable; but if the complaint is for an order for the periodical payment of money, or for the revocation, revival or variation of such an order, or for the enforcement of such an order, the court may, whatever adjudication it makes, order either party to pay the whole or any part of the other's costs.

(2) The amount of any sum ordered to be paid under subsection (1) above shall be specified in the order, or order of dismissal, as the case may be.

(3) Subject to subsection (4) below, costs ordered to be paid under this section shall be enforceable as a civil debt.

[F180(4) Any costs awarded on a complaint for a maintenance order, or for the enforcement, variation, revocation, discharge or revival of such an order, against the person liable to make payments under the order shall be enforceable as a sum ordered to be paid by a magistrates' court maintenance order.**]**

(5) The preceding provisions of this section shall have effect subject to any other Act enabling a magistrates' court to order a successful party to pay the other party's costs.

Textual Amendments

F180 S. 64(4) substituted by Family Law Reform Act 1987 (c. 42, SIF 49:7), ss. 33(1)(2), Sch. 2 para. 81, Sch. 3 paras. 1, **6**

Domestic proceedings

65 Meaning of domestic proceedings.

(1) In this Act "**[**F181family proceedings**]**" means proceedings under any of the following enactments, that is to say—

(a) the M23Maintenance Orders (Facilities for Enforcement) Act 1920;

(b) section 43 F182 of the M24National Assistance Act 1948;

(c) section 3 of the M25Marriage Act 1949;

(d) F183

F184(e) . . . . . .

[F185(ee) section 35 of the Matrimonial Causes Act 1973;**]**

(f) Part I of the M26Maintenance Orders (Reciprocal Enforcement) Act 1972;

F184(g) . . . . . .

(h) the M27Adoption Act 1976, except proceedings under section 34 of that Act;

(i) section 18 F182 of the M28Supplementary Benefits Act 1976;

(j) Part I of the M29Domestic Proceedings and Magistrates" Courts Act 1978;

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F186(k) . . . . . .

(l) section 60 of this Act;

[F187(m) Part I of the Civil Jurisdiction and Judgments Act 1982, so far as that Part relates to the recognition or enforcement of maintenance orders;]

F188(m) . . . . . .

F189(m) . . . . . .

[F190(mm) section 55A of the M30Family Law Act 1986;]

[F191(n) the Children Act 1989]

[F192(na) section 30 of the Human Fertilisation and Embryology Act 1990;]

[F193(nb)] section 106 of the Social Security Administration Act 1992;

(o) section 20 (so far as it provides, by virtue of an order under section 45 F194, for appeals to be made to a court) F195. . . of the Child Support Act 1991; except that, subject to subsection (2) below, it does not include—

(i) proceedings for the enforcement of any order made, confirmed or registered under any of those enactments;

(ii) proceedings for the variation of any provision for the periodical payment of money contained in an order made, confirmed or registered under any of those enactments; or

(iii) proceedings on an information in respect of the commission of an offence under any of those enactments.

[F196(p) Part IV of the Family Law Act 1996;]

[F197(q) sections 11 and 12 of the Crime and Disorder Act 1998;]

[F198(r) Council Regulation (EC) No. 44/2001 of 22nd December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, so far as that Regulation relates to the recognition or enforcement of maintenance orders;]

[F199(s) Council Regulation (EC) No 2201/2003 of 27th November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and matters of parental responsibility, so far as that Regulation relates to jurisdiction, recognition and enforcement in parental responsibility matters;]

(2) The court before which there fall to be heard any of the following proceedings, that is to say—

(a) proceedings (whether under this Act or any other enactment) for the enforcement of any order made, confirmed or registered under any of the enactments specified in paragraphs (*a*) to (*k*) [F200(m), (n) and [F201, (p) and (r)]] of subsection (1) above;

(b) proceeding (whether under this Act or any other enactment) for the variation of any provision for the making of periodical payments contained in an order made, confirmed or registered under any of those enactments;

(c) proceedings for an attachment of earnings order to secure maintenance payments within the meaning of the M31Attachment of Earnings Act 1971 or for the discharge or variation of such an order; or

(d) proceedings for the enforcement of a maintenance order which is registered in a magistrates' court under Part II of the M32Maintenance Orders Act 1950 or Part I of the M33Maintenance Orders Act 1958 or for the variation of the rate of payments specified by such an order.

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[F202(e) **[**F203proceedings under**]]**section 20 (so far as it provides, by virtue of an order under section 45, for appeals to be made to a court) F195. . .of the Child Support Act 1991.

may if it thinks fit order that those proceedings and any other proceedings being heard therewith shall, notwithstanding anything in subsection (1) above, be treated as **[**F181family proceedings**]**for the purposes of this Act.

(3) Where the same parties are parties—

(a) to proceedings which are **[**F181family proceedings**]** by virtue of subsection (1) above, and

(b) to proceedings which the court has power to treat as **[**F181family proceedings**]** by virtue of subsection (2) above,

and the proceedings are heard together by a magistrates' court, the whole of those proceedings shall be treated as **[**F181family proceedings**]**for the purposes of this Act.

(4) No appeal shall lie from the making of, or refusal to make, an order under subsection (2) above.

(5) Until the M34Adoption Act 1976 comes into force subsection (1) above shall have effect as if for paragraph (h) thereof there were substituted the following paragraph—

"(h) The Adoption Act 1958,the Adoption Act 1960 or Part I of the Children Act 1975, except proceedings under section 42 or 43 of the Adoption Act 1958."

(6) Until the M35Child Care Act 1980 comes into force subsection (1) above shall have effect as if for paragraph (k) thereof there were substituted the following paragraph—

"(k) Section 87 or section 88 of the Children and Young Persons Act 1933 or section 26 of the Children Act 1948."

Textual Amendments

F181 Words in s. 65(1)(2)(3) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 92, 108(6), **Sch. 11 Pt. II para. 8(c)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

F182 Words repealed by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 33(2)(4), Sch. 3 paras. 1, 6, **Sch. 4**

F183 S. 65(*d*) repealed by Family Law Reform Act 1987 (c. 42, SIF 49:7), ss. 33(2)(4), Sch. 3 paras. 1, 6, **Sch. 4**

F184 S. 65(*e*)(*g*) repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(6)(7), Sch. 15 (with Sch. 14 paras. 1(1), **27(4)**); S.I. 1991/828, **art. 3(2)**.

F185 S. 65(*ee*) inserted by Matrimonial and Family Proceedings Act 1984 (c. 42, SIF 49:3), **s. 44**

F186 S. 65(*k*) repealed (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1, 82), ss. 116, 125(7), Sch. 16 para. 40, **Sch. 20**; S.I. 1991/1883, art. 3, **Sch.**

F187 S. 65(1)(*m*) commencing "Part I of the Civil Jurisdiction and Judgments Act 1982" inserted (1.1.1987) by Civil Jurisdiction and Judgments Act 1982 (c. 27, SIF 45:3), s. 15(4), **Sch. 12 Pt. I para. 7**(*a*)

F188 S. 65(1)(*m*) commencing "section 24" (which was added (E.W.S.) (11.4.1988) by Social Security Act 1986 (c. 50, SIF 113:1), s. 86(1), **Sch. 10 Pt. II para. 54**) repealed (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 3, 7(2), **Sch. 1** (subject as mentioned in Local Government Finance Act 1992 (c. 14), **s. 118**)

F189 S. 65(1)(*m*) commencing 'section 4' (which was inserted (1.4.1989) by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 33(1)(2), Sch. 2 para. 82, Sch. 3 paras. 1, **6**) repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(6)(7), Sch. 15 (with Sch. 14 paras. 1(1), **27(4)**); S.I. 1991/828, **art. 3(2)**

F190 S. 65(1)(mm) inserted (1.4.2001) by 2000 c. 19, s. 83, **Sch. 8 para. 2(2)** (with s. 83(6)); S.I. 2001/774, **art. 2(b)(c)**

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F191 S. 65(1)(n) inserted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 92(11), 108(6), **Sch. 11 Pt. II para. 8(a)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

F192 S. 65(1)(na) inserted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 214(2)**; S.I. 2005/910, **art. 3(y)**

F193 S. 65(1)(n) inserted (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 4, 7(2), **Sch. 2 para. 60**

F194 S.I. 1993/961 provides for appeals on parentage issues to be made to a court instead of to a child support appeals tribunal.

F195 Words in s. 65(1)(o)(2)(e) repealed (1.4.2001) by 2000 c. 19, s. 85, **Sch. 9 Pt. IX** (with s. 83(6)); S.I. 2001/774, **art. 2(d)**

F196 S. 65(1)(p) inserted (1.10.1997) by 1996 c. 27, s. 66(1), **Sch. 8 Pt. III para. 49** (with Sch. 9 paras. 8, 9, 10); S.I. 1997/1892, **art. 3(1)(b)**

F197 S. 65(1)(q) inserted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 42**; S.I. 1998/2327, **art. 2(1)(y)(2)(o)**

F198 S. 65(1)(r) inserted (1.3.2002) by S.I. 2001/3929, arts. 1(b), 5, **Sch. 3 para. 11(a)**

F199 S. 65(1)(s) inserted (1.3.2005) by The European Communities (Jurisdiction and Judgments in Matrimonial and Parental Responsibility Matters) Regulations 2005 (S.I. 2005/265), **art. 4**

F200 Words in s. 65(2)(a) substituted (1.10.1997) by virtue of S.I. 1997/1898, **art. 2**

F201 Words in s. 65(2)(a) substituted (1.3.2002) by S.I. 2001/3929, arts. 1(b), 5, **Sch. 3 para. 11(b)**

F202 S. 65(2)(e) inserted (5.4.1993) by S.I. 1993/623, art. 3, **Sch. 2 para. 2**

F203 Words in 65(2)(e) inserted (1.4.2001) by 2000 c. 19, s. 83, **Sch. 8 para. 2(3)** (with s. 83(6)); S.I. 2001/774, **art. 2(b)(c)**

Modifications etc. (not altering text)

C85 S. 65 excluded (14.10.1991) by Criminal Justice Act 1991 (c. 53, SIF 39:1), **s. 60(3)**; S.I. 1991/2208, art. 2(1), **Sch. 1**
S. 65 extended (30.9.1998) by 1998 c. 37, **s. 11(6)**; S.I. 1998/2327, **art. 2(1)(c)**

Marginal Citations

M23 1920 c. 33.
M24 1948 c. 29.
M25 1949 c. 76
M26 1972 c. 18.
M27 1976 c. 36
M28 1976 c. 71.
M29 1978 c. 22.
M30 1986 c. 55.
M31 1971 c. 32.
M32 1950 c. 37.
M33 1958 c. 39
M34 1976 c. 36.
M35 1980 c. 5.

[F204 66 Composition of magistrates' courts for family proceedings: general.

(1) A magistrates' court when hearing family proceedings shall be composed of—

(a) two or three lay justices; or

(b) a District Judge (Magistrates' Courts) as chairman and one or two lay justices;

or, if it is not practicable for such a court to be so composed, a District Judge (Magistrates' Courts) sitting alone.

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(2) Except where such a court is composed of a District Judge (Magistrates' Courts) sitting alone, it shall, so far as practicable, include both a man and a woman.

(3) In this section **[**F205"lay justice" has the same meaning as in the Courts Act 2003**]** .**]**

Textual Amendments

F204 S. 66 substituted (31.8.2000) by 1999 c. 22, ss. 78, 108(1), Sch. 11 paras. 26, 27 (with s. 107, Sch. 14 para. 7(2)); S.I. 2000/1920, **art. 3(a)**

F205 Words in s. 66(3) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 215**; S.I. 2005/910, **art. 3(y)**

[F206**67 Family proceedings courts.**

(1) Magistrates' courts—

(a) constituted in accordance with this section or section 66 of the Courts Act 2003 (judges having powers of District Judges (Magistrates' Courts)), and

(b) sitting for the purpose of hearing family proceedings,

are to be known as family proceedings courts.

(2) A justice of the peace is not qualified to sit as a member of a family proceedings court to hear family proceedings of any description unless he has an authorisation extending to the proceedings.

(3) He has an authorisation extending to the proceedings only if he has been authorised by the Lord Chancellor or a person acting on his behalf to sit as a member of a family proceedings court to hear—

(a) proceedings of that description, or

(b) all family proceedings.

(4) The Lord Chancellor may by rules make provision about—

(a) the grant and revocation of authorisations,

(b) the appointment of chairmen of family proceedings courts, and

(c) the composition of family proceedings courts.

(5) Rules under subsection (4) may confer powers on the Lord Chancellor with respect to any of the matters specified in the rules.

(6) Rules under subsection (4) may be made only after consultation with the Family Procedure Rule Committee.

(7) Rules under subsection (4) are to be made by statutory instrument.

(8) A statutory instrument containing rules under subsection (4) is subject to annulment in pursuance of a resolution of either House of Parliament.**]**

Textual Amendments

F206 S. 67 substituted (1.4.2005) by Courts Act 2003 (c. 39), **ss. 49(1)**, 110; S.I. 2005/910, **art. 3(r)** (with saving for the effect of the amending provision 2003 c. 39, s. 49(1) (1.4.2005) by virtue of The Courts Act 2003 (Transitional Provisions, Savings and Consequential Provisions) Order 2005 (S.I. 2005/911, **art. 8(1)**)

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Modifications etc. (not altering text)
C86 S. 67 modified (prosp.) by Courts Act 2003 (c. 39), **ss. 66(4)**, 110

68 Combined domestic court panels.

F207 . . . . . .

Textual Amendments
F207 S. 68 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 49(2), 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(r)(aa)**

69 Sittings of magistrates' courts for domestic proceedings.

(1) The business of magistrates' courts shall, so far as is consistent with the due dispatch of business, be arranged in such manner as may be requisite for separating the hearing and determination of **[**F208family proceedings**]** from other business.

(2) In the case of **[**F208family proceedings**]** in a magistrates' court other than proceedings under the M36Adoption Act 1976, no person shall be present during the hearing and determination by the court of the proceedings except—

(a) officers of the court;

(b) parties to the case before the court, their **[**F209legal representatives**]**, witnesses and other persons directly concerned in the case;

(c) representatives of newspapers or news agencies;

(d) any other person whom the court may in its discretion permit to be present, so, however, that permission shall not be withheld from a person who appears to the court to have adequate grounds for attendance.

(3) In relation to any **[**F208family proceedings**]** under the M37Adoption Act 1976, subsection (2) above shall apply with the omission of paragraphs (c) and (d).

(4) When hearing **[**F208family proceedings**]**, a magistrates' court may, if it thinks it necessary in the interest of the administration of justice or of public decency, direct that any persons, not being officers of the court or parties to the case, the parties' **[**F210legal representatives**]**, or other persons directly concerned in the case, be excluded during the taking of any indecent evidence.

(5) The powers conferred on a magistrates' court by this section shall be in addition and without prejudice to any other powers of the court to hear proceedings in camera.

(6) Nothing in this section shall affect the exercise by a magistrates' court of the power to direct that witnesses shall be excluded until they are called for examination.

(7) Until the coming into operation of the M38Adoption Act 1976 this section shall have effect as if for any reference to that Act there were substituted a reference to the M39Adoption Act 1958, the M40Adoption Act 1960 and Part I of the M41Children Act 1975.

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Textual Amendments

F208 Words in s. 69(1)-(4) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 92, 108(6), **Sch. 11 Pt. II para. 8(c)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

F209 Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 82), s. 125(3), **Sch. 18 para. 25(6)(a)**

F210 Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37, 82), s. 125(3), **Sch. 18 para. 25(6)(b)**

Marginal Citations

M36 1976 c. 36.

M37 1976 c. 36.

M38 1976 c. 36.

M39 1958 c. 5 (7 & 8 Eliz. 2).

M40 1960 c. 59.

M41 1975 c. 72.

70 Jurisdiction of magistrates' courts in inner London for domestic proceedings.

(1) A relevant court **[**F211acting in an inner London local justice**]** area shall, in addition to hearing proceedings which (apart from subsection (2) below) may be heard by a relevant court **[**F212acting in that**]** area, have jurisdiction to hear proceedings which could be heard before a relevant court **[**F213acting in any**]** other such area, but shall not exercise the jurisdiction conferred by this subsection except in such cases or classes of case as may be determined by the **[**F214Lord Chancellor**]**.

(2) A magistrates' court **[**F215acting in an inner London local justice**]** area shall not hear any **[**F216family proceedings**]** if the **[**F217Lord Chancellor so determines**]** .

(3) In this section—

"relevant court" means a magistrates' court when composed for the purpose of exercising jurisdiction to hear **[**F216family proceedings**]**;

[F218 "inner London local justice area" means any local justice**]** area falling wholly or partly within the area consisting of the inner London boroughs and the City of London.

Textual Amendments

F211 Words in s. 70(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 216(2)(a)**; S.I. 2005/910, **art. 3(y)**

F212 Words in s. 70(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 216(2)(b)**; S.I. 2005/910, **art. 3(y)**

F213 Words in s. 70(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 216(2)(c)**; S.I. 2005/910, **art. 3(y)**

F214 Words in s. 70(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 216(2)(d)**; S.I. 2005/910, **art. 3(y)**

F215 Words in s. 70(2) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 216(3)(a)**; S.I. 2005/910, **art. 3(y)**

F216 Words in s. 70(2)(3) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 92, 108(6), **Sch. 11 Pt. II para. 8(c)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

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F217 Words in s. 70(2) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 216(3)(b)**; S.I. 2005/910, **art. 3(y)**

F218 Words in s. 70(3) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 216(4)**; S.I. 2005/910, **art. 3(y)**

71 Newspaper reports of domestic proceedings.

[F219(1) In the case of **[**F220family proceedings**]** in a magistrates' court (other than proceedings under the Adoption Act 1976) it shall not be lawful for a person to whom this subsection applies—

(a) to print or publish, or cause or procure to be printed or published, in a newspaper or periodical, or

(b) to include, or cause or procure to be included, in a programme included in a programme service (within the meaning of the Broadcasting Act 1990) for reception in Great Britain,

any particulars of the proceedings other than such particulars as are mentioned in subsection (1A) below.

(1A) The particulars referred to in subsection (1) above are—

(a) the names, addresses and occupations of the parties and witnesses;

(b) the grounds of the application, and a concise statement of the charges, defences and counter-charges in support of which evidence has been given;

(c) submissions on any point of law arising in the course of the proceedings and the decision of the court on the submissions;

(d) the decision of the court, and any observations made by the court in giving it.

(1B) Subsection (1) above applies—

(a) in relation to paragraph (a) of that subsection, to the proprietor, editor or publisher of the newspaper or periodical, and

(b) in relation to paragraph (b) of that subsection, to any body corporate which provides the service in which the programme is included and to any person having functions in relation to the programme corresponding to those of an editor of a newspaper.**]**

(2) In the case of **[**F220family proceedings**]** in a magistrates' court under the M42Adoption Act 1976, **[**F221subsection (1A)**]**above shall apply with the omission of paragraphs (a) and (b) and the reference in that subsection to the particulars of the proceedings shall, in relation to any child concerned in the proceedings, include—

(a) the name, address or school of the child,

(b) any picture as being, or including, a picture of the child, and

(c) any other particulars calculated to lead to the identification of the child.

(3) Any person acting in contravention of this section shall be liable on summary conviction to a fine not exceeding **[**F222level 4 on the standard scale**]**.

(4) No prosecution for an offence under this section shall be begun without the consent of the Attorney General.

(5) Nothing in this section shall prohibit the printing or publishing of any matter in a newspaper or periodical of a technical character bona fide intended for circulation among members of the legal or medical professions.

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(6) Until the coming into operation of the [M43]Adoption Act 1976 this section shall have effect as if for any reference to that Act there were substituted a reference to the [M44]Adoption Act 1958, the [M45]Adoption Act 1960 and Part I of the [M46]Children Act 1975.

Textual Amendments

F219 S. 71(1)(1A)(1B) substituted (1.1.1991) for s. 71(1) by Broadcasting Act 1990 (c. 42, SIF 96), ss. 4(6), 87(6), 203(1), **Sch. 20 para. 29(2)**

F220 Words in s. 71(1)(2) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 92, 108(6), **Sch. 11 Pt. II para. 8(c)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

F221 Words substituted by Broadcasting Act 1990 (c. 42, SIF 96), s. 203(1), **Sch. 20 para. 29(2)**

F222 Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**

Modifications etc. (not altering text)

C87 S. 71 applied (14.10.1991) by Children Act 1989 (c. 41, SIF 20), **ss. 97(8)**, 108(6) (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

Marginal Citations

M42 1976 c. 36.

M43 1976 c. 36.

M44 1958 c. 5 (7 & 8 Eliz. 2).

M45 1960 c. 59.

M46 1975 c. 72.

[F223]72 Report by probation officer on means of parties.

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Textual Amendments

F223 S. 72 repealed (1.4.2001) by 2000 c. 43, ss. 74, 75, Sch. 7 Pt. II para. 61, **Sch. 8**; S.I. 2001/919, **art. 2(f)(ii)**

73 Examination of witnesses by court.

Where in any **[**[F224]family proceedings**]**, or in any proceedings for the enforcement or variation of an order made in **[**[F224]family proceedings**]**, it appears to a magistrates' court that any party to the proceedings who is not legally represented is unable effectively to examine or cross-examine a witness, the court shall ascertain from that party what are the matters about which the witness may be able to depose or on which the witness ought to be cross-examined, as the case may be, and shall put, or cause to be put, to the witness such questions in the interests of that party as may appear to the court to be proper.

Textual Amendments

F224 Words in s. 73 substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 92, 108(6), **Sch. 11 Pt. II para. 8(c)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

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74 Reasons for decisions in domestic proceedings.

(1) **[**F225Rules of court may**]** make provision for the recording by a magistrates' court, in such manner as may be prescribed by the rules, of reasons for a decision made in such **[**F226family proceedings**]** or class of **[**F226family proceedings**]** as may be so prescribed, and for making available a copy of any record made in accordance with those rules of the reasons for a decision of a magistrates' court to any person who requests a copy thereof for the purposes of an appeal against that decision or for the purpose of deciding whether or not to appeal against that decision.

(2) A copy of any record made by virtue of this section of the reasons for a decision of a magistrates' court shall, if certified by such officer of the court as may be prescribed, be admissible as evidence of those reasons.

Textual Amendments

F225 Words in s. 74(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 217**; S.I. 2005/910, **art. 3(y)**

F226 Words in s. 74(1) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 92, 108(6), **Sch. 11 Pt. II para. 8(c)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

PART III

SATISFACTION AND ENFORCEMENT

Modifications etc. (not altering text)

C88 Part III (ss. 75–96) modified: (E.W.) by Drug Trafficking Offences Act 1986 (c. 32, SIF 39:1), **s. 6(4)(6)**; by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 75(5)(6), 123(6), **Sch. 8 para. 16**; (3.2.1995) by 1994 c. 37, **ss. 9(4)(6)**, 69(2) (with s. 66(2))
Part III (ss. 75-96) extended (1.9.1994) by 1994 c. 22, **ss. 32(3)(a)**, 41(3)(a), 66(1)
Part III (ss. 75-96) applied (with modifications) (24.3.2003) (E.W.) by 2002 c. 29, ss. 35(3), 458(1)(3); S.I. 2003/333, **art. 2** Sch.

C89 Pt. III applied (1.10.2009) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 85**, 153; S.I. 2009/2606, **art. 2(f)**

C90 Pt. III restricted (prosp.) by Education and Skills Act 2008 (c. 25), ss. 56, 57, **58**, 173

General provisions

75 Power to dispense with immediate payment.

(1) A magistrates' court by whose conviction or order a sum is adjudged to be paid may, instead of requiring immediate payment, allow time for payment, or order payment by instalments.

(2) Where a magistrates' court has allowed time for payment, the court may, on application by or on behalf of the person liable to make the payment, allow further time or order payment by instalments.

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[F227(2A) An order under this section that a lump sum required to be paid under a maintenance order shall be paid by instalments (a "maintenance instalments order") shall be treated for the purposes of sections 59, 59B and 60 above as a maintenance order.

(2B) Subsections (5) and (7) of section 59 above (including those subsections as they apply for the purposes of section 60 above) shall have effect in relation to a maintenance instalments order—

(a) as if in subsection (5), paragraph (c) and the word "and" immediately preceding it were omitted; and

(b) as if in subsection (7)—

(i) the reference to the maintenance order were a reference to the maintenance order in respect of which the maintenance instalments order in question is made;

(ii) for the words "the person who applied for the maintenance order" there were substituted "the debtor".

(2C) Section 60 above shall have effect in relation to a maintenance instalments order as if in subsection (7), paragraph (c) and the word "and" immediately preceding it were omitted.**]**

(3) Where a court has ordered payment by instalments and default is made in the payment of any one instalment, proceedings may be taken as if the default had been made in the payment of all the instalments then unpaid.

Textual Amendments

F227 S. 75(2A)-(2C) inserted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s. 11(1), **Sch. 2 para.6**; S.I. 1992/455, **art.2**.

Modifications etc. (not altering text)

C91 S. 75 extended (with modifications) by Legal Aid Act 1988 (c. 34, SIF 77:1), ss. 24(6), 30, **Sch. 3 Pt. I para. 2(3)**

76 Enforcement of sums adjudged to be paid.

(1) Subject to the following provisions of this Part of this Act, and to section 132 below F228, where default is made in paying a sum adjudged to be paid by a conviction or order of a magistrates' court, the court may issue a warrant of distress for the purpose of levying the sum or issue a warrant committing the defaulter to prison.

(2) A warrant of commitment may be issued as aforesaid either—

(a) where it appears on the return to a warrant of distress that the money and goods of the defaulter are insufficient to satisfy the sum with the costs and charges of levying the sum; or

(b) instead of a warrant of distress.

(3) The period for which a person may be committed to prison under such a warrant as aforesaid shall not, subject to the provisions of any enactment passed after 31st December 1879, exceed the period applicable to the case under Schedule 4 to this Act.

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[F229(4) Where proceedings are brought for the enforcement of a magistrates' court maintenance order under this section, the court may vary the order by exercising one of its powers under paragraphs (a) to (d) of section 59(3) above.

(5) Subsections (4), (5) and (7) of section 59 above shall apply for the purposes of subsection (4) above as they apply for the purposes of that section.

(6) Subsections (4) and (5) above shall not have effect in relation to a maintenance order which is not a qualifying maintenance order (within the meaning of section 59 above).**]**

Textual Amendments

F228 Words repealed by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 78, **Sch. 16**

F229 S. 76(4)-(6) inserted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), **s.7**; S.I. 1992/455, **art.2**.

Modifications etc. (not altering text)

C92 S. 76 modified (1.4.1992) by Civil Jurisdiction and Judgments Act 1982 (c. 27, SIF 49:3), **s. 5(5B)** (which was inserted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s. 10, **Sch. 1 para. 21(2)**; S.I. 1992/455, **art.2**).

77 Postponement of issue of warrant.

(1) Where a magistrates' court has power to issue a warrant of distress under this Part of this Act, it may, if it thinks it expedient to do so, postpone the issue of the warrant until such time and on such conditions, if any, as the court thinks just.

(2) Where a magistrates' court has power to issue a warrant of commitment under this Part of this Act, it may, if it thinks it expedient to do so, fix a term of imprisonment **[**F230or detention under **[**F231section 108 of the powers of Criminal Courts (Sentencing) Act 2000**]** (detention of persons aged **[**F23118**]** to 20 for default)**]**and postpone the issue of the warrant until such time and on such conditions, if any, as the court thinks just.

[F232(3) A magistrates' court shall have power at any time to do either or both of the following—

(a) to direct that the issue of the warrant of commitment shall be postponed until a time different from that to which it was previously postponed;

(b) to vary any of the conditions on which its issue is postponed,

but only if it thinks it just to do so having regard to a change of circumstances since the relevant time.

(4) In this section "the relevant time" means—

(a) where neither of the powers conferred by subsection (3) above has been exercised previously, the date when the issue of the warrant was postponed under subsection (2) above; and

(b) in any other case, the date of the exercise or latest exercise of either or both of the powers.

(5) Without prejudice to the generality of subsection (3) above, if on an application by a person in respect of whom issue of a warrant has been postponed it appears to a justice of the peace acting **[**F233in the local justice**]** area in which the warrant has been or would have been issued that since the relevant time there has been a change of circumstances

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which would make it just for the court to exercise one or other or both of the powers conferred by that subsection, he shall refer the application to the court.

[[F234](6) Where such an application is referred to the court—

(a) the clerk of the court shall fix a time and place for the application to be heard; and

(b) the designated officer for the court shall give the applicant notice of that time and place.**]**

(7) Where such a notice has been given but the applicant does not appear at the time and place specified in the notice, the court may proceed with the consideration of the application in his absence.

(8) If a warrant of commitment in respect of the sum adjudged to be paid has been issued before the hearing of the application, the court shall have power to order that the warrant shall cease to have effect and, if the applicant has been arrested in pursuance of it, to order that he shall be released, but it shall only make an order under this subsection if it is satisfied that the change of circumstances on which the applicant relies was not put before the court when it was determining whether to issue the warrant.**]**

Textual Amendments

F230 Words inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 77, **Sch. 14 para. 50**

F231 Words in s. 77(2) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 66** (which Sch. 9 para. 66 of the amending Act is repealed (*prosp.*) by 2000 c. 43, ss. 74, 75, 80(1), Sch. 7 Pt. II para. 203(2), **Sch. 8**)

F232 S. 77(3)–(8) added (E.W.) by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 61(1)(2), 123(6), **Sch. 8 para. 16**

F233 Words in s. 77(5) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 218(2)**; S.I. 2005/910, **art. 3(y)**

F234 S. 77(6) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 218(3)**; S.I. 2005/910, **art. 3(y)**

Modifications etc. (not altering text)

C93 S. 77(1) extended by S.I. 1985/215, **art. 4(3)**, 1985/313, art. 4(3), 1985/487, art. 5(3), 1986/110, art. 4(3), 1986/250, art. 5(3), 1986/779, art. 3(3), 1986/2090, art. 5(3), 1987/213, art. 4(3), 1987/292, art. 3(3)

C94 S. 77(1) applied: by S.I. 1990/137, **art. 5(3)**; by S.I. 1991/138, **art. 5(3)**; by S.I. 1991/139, **reg. 7(3)**; by S.I. 1991/522, **art. 3(3)**; (31.1.1992) by S.I. 1992/130, **reg. 8(3)**; (8.2.1992) by S.I. 1992/190, **art. 5(3)**; (27.2.1993) by S.I. 1993/387, **art. 5(3)**; (5.5.1993) by S.I. 1993/1197, **art. 3(3)**; (1.9.1993) by S.I. 1993/2015, **art. 6(3)** and S.I. 1993/2016, **art. 5(3)**; (22.3.1994) by S.I. 1994/451, **art. 5(3)**; (15.7.1994) by S.I. 1994/1679, **art. 5(3)** and S.I. 1994/1681, **art. 4(3)**; (18.4.1995) by S.I. 1995/907, **art. 4(3)** and S.I. 1995/908, **art. 5(3)**; (29.2.1996) by S.I. 1996/247, **art. 5(3)**; (24.4.1996) by S.I. 1996/1036, **art. 5(3)**; (9.4.1997) by S.I. 1997/883, **art. 5(3)**; (12.8.1997) by S.I. 1997/1949, **art. 5(3)**; (14.3.1998) by S.I. 1998/268, **art. 5(3)**; (18.3.1999) by S.I. 1999/424, **art. 5(3)**; (8.2.2000) by S.I. 2000/51, **art. 5(2)**; (21.2.2000) by S.I. 2000/181, **art. 5(2)**; (25.2.2000) by S.I. 2000/435, **art. 5(2)**; (W.)(18.3.2000) by S.I. 2000/976, **art. 5(2)**; (W.)(1.4.2000) by S.I. 2000/1075, **art. 5(2)**; (W.) (7.4.2000) by S.I. 2000/1078, **art. 6(2)**; (11.4.2000) by S.I. 2000/827, **art. 5(2)**; (W.) (11.4.2000) by S.I. 2000/1096, **art. 5(2)**; (15.4.2000) by S.I. 2000/1081, **art. 5(2)**; (24.7.2000) by S.I. 2000/1843, **art. 6(2)**; (W.)(24.7.2000) by S.I. 2000/2230, **art. 5(2)**; S. 77(1) applied (29.5.2001) by S.I. 2001/1631, **art. 5(2)** (which was revoked (8.3.2002) by S.I. 2002/272, **art. 13**); S. 77(1) applied (8.3.2002) by S.I. 2002/272, **art. 5(2)**

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C95 S. 77(1) applied (8.2.2003) by The Sea Fishing (Restriction on Days at Sea) Order 2003 (S.I. 2003/229), **art. 13(2)**
S. 77(1) applied (7.7.2003) by The Sea Fishing (Restriction on Days at Sea)(No. 2) Order 2003 (S.I. 2003/1535), {art. 13(2)}
S. 77(1) applied (E.) (26.5.2004) by The Sea Fishing (Enforcement of Community Quota and Third Country Fishing Measures)(England) Order 2004 (S.I. 2004/1237), {art. 6(2)}
S. 77(1) applied (E.) (1.1.2005) by The Sea Fishing (Enforcement of Community Satellite Monitoring Measures) Order 2004 (S.I. 2004/3226), **art. 16(2)**
S. 77(1) applied (E.) (2.2.2005) by The Incidental Catches of Cetaceans in Fisheries (England) Order 2005 (S.I. 2005/17), **art. 6(2)** (subject to art. 1(3))
S. 77(1) applied (E.) (28.2.2005) by The Sea Fishing (Restriction on Days at Sea) Order 2005 (S.I. 2005/393), **art. 24(2)** (subject to art. 1(3))
S. 77(1) applied (1.6.2006) by The Sea Fishing (Restriction on Days at Sea)(Monitoring, Inspection and Surveillance) Order 2006 (S.I. 2006/1327), {art. 23(2)}
S. 77(1) applied (W.) (7.7.2006) by The Sea Fishing (Northern Hake Stock)(Wales) Order 2006 (S.I. 2006/1796), {art. 10(2)}
S. 77(1) applied (10.7.2006) by The Sea Fishing (Marking and Identification of Passive Fishing Gear and Beam Trawls)(England) Order 2006 (S.I. 2006/1549), {art. 6(2)}
S. 77(1) applied (15.8.2006) by The Sea Fishing (Enforcement of Annual Community and Third Country Fishing Measures)(England) Order 2006 (S.I. 2006/1970), {art. 11(2)}
S. 77(1) applied (20.4.2007) by The Sea Fishing (Restriction on Days at Sea) Order 2007 (S.I. 2007/927), **art. 18(2)**
S. 77(1) applied (1.10.2007) by The Sea Fishing (Prohibition on the Removal of Shark Fins) Order 2007 (S.I. 2007/2554), **art. 6(2)**

C96 S. 77(1) applied (30.9.2008) by The Sea Fishing (Recovery Measures) Order 2008 (S.I. 2008/2347), **art. 12(2)**

C97 S. 77(1) applied (12.8.2009) by The Sea Fishing (Landing and Weighing of Herring, Mackerel and Horse Mackerel) Order 2009 (S.I. 2009/1850), **art. 10(2)**

C98 S. 77(1) applied (25.1.2010) by The Sea Fishing (Illegal, Unreported and Unregulated Fishing) Order 2009 (S.I. 2009/3391), **art. 11(2)**

78 Defect in distress warrant and irregularity in its execution.

(1) A warrant of distress issued for the purpose of levying a sum adjudged to be paid by the conviction or order of a magistrates' court shall not, if it states that the sum has been so adjudged to be paid, be held void by reason of any defect in the warrant.

(2) A person acting under a warrant of distress shall not be deemed to be a trespasser from the beginning by reason only of any irregularity in the execution of the warrant.

(3) Nothing in this section shall prejudice the claim of any person for special damages in respect of any loss caused by a defect in the warrant or irregularity in its execution.

(4) If any person removes any goods marked in accordance with **[**[F235]rules of court**]** as articles impounded in the execution of a warrant of distress, or defaces or removes any such mark, he shall be liable on summary conviction to a fine not exceeding **[**[F236]level 1 on the standard scale**]**.

(5) If any person charged with the execution of a warrant of distress wilfully retains from the proceeds of a sale of the goods on which distress is levied, or otherwise exacts, any greater costs and charges than those properly payable, or makes any improper charge, he shall be liable on summary conviction to a fine not exceeding **[**[F236]level 1 on the standard scale**]**.

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Textual Amendments

F235 Words in s. 78(4) substituted (1.9.2004) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 219(a)**; S.I. 2004/2066, **art. 2(c)(xi)** (subject to art. 3)

F236 Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**

Modifications etc. (not altering text)

C99 S. 78 extended by S.I. 1985/215, **art. 4(3)**, 1985/313, art. 4(3), 1985/487, art. 5(3), 1986/110, art. 4(3), 1986/250, art. 5(3), 1986/779, art. 3(3), 1986/2090, art. 5(3), 1987/213, art. 4(3), 1987/292, art. 3(3)

C100 S. 78 applied: by S.I. 1990/137, **art. 5(3)**; by S.I. 1991/138, **art. 5(3)**; by S.I. 1991/139, **reg. 7(3)**; by S.I. 1991/522, **art. 3(3)**; (31.1.1992) by S.I. 1992/130, **reg. 8(3)**; (8.2.1992) by S.I. 1992/190, **art. 5(3)**; (27.2.1993) by S.I. 1993/387, **art. 5(3)**; (5.5.1993) by S.I. 1993/1197, **art. 3(3)**; (1.9.1993) by S.I. 1993/2015, **art. 6(3)** and S.I. 1993/2016, **art. 5(3)**; (22.3.1994) by S.I. 1994/451, **art. 5(3)**; (15.7.1994) by S.I. 1994/1679, **art. 5(3)** and S.I. 1994/1681, **art. 4(3)**; (18.4.1995) by S.I. 1995/907, **art. 4(3)** and S.I. 1995/908, **art. 5(3)**; (29.2.1996) by S.I. 1996/247, **art. 5(3)**; (24.4.1996) by S.I. 1996/1036, **art. 5(3)**; (9.4.1997) by S.I. 1997/883, **art. 5(3)**; (12.8.1997) by S.I. 1997/1949, **art. 5(3)**; (14.3.1998) by S.I. 1998/268, **art. 5(3)**; (W.) (18.3.1999) by S.I. 1999/424, **art. 5(3)**; (8.2.2000) by S.I. 2000/51, **art. 5(2)**; (21.2.2000) by S.I. 2000/181, **art. 5(2)**; (25.2.2000) by S.I. 2000/435, **art. 5(2)**; (W.)(18.3.2000) by S.I. 2000/976, **art. 5(2)**; (W.)(1.4.2000) by S.I. 2000/1075, **art. 5(2)**; (W.) (7.4.2000) by S.I. 2000/1078, **art. 6(2)**; (11.4.2000) by S.I. 2000/827, **art. 5(2)**; (W) (11.4.2000) by S.I. 2000/1096, **art. 5(2)**; (15.4.2000) by S.I. 2000/1081, **art. 5(2)**; (24.7.2000) by S.I. 2000/1843, **art. 6(2)**; (W.)(24.7.2000) by S.I. 2000/2230, **art. 5(2)**; S. 78 applied (29.5.2001) by S.I. 2001/1631, **art. 5(2)** (which was revoked (8.3.2002) by S.I. 2002/272 art. 13); s. 78 applied (8.2.2002) by S.I. 2002/272, **art. 5(2)**

C101 S. 78 applied (8.2.2003) by The Sea Fishing (Restriction on Days at Sea) Order 2003 (S.I. 2003/229), **art. 13(2)**
S. 78 applied (7.7.2003) by The Sea Fishing (Restriction on Days at Sea)(No. 2) Order 2003 (S.I. 2003/1535), {art. 13(2)}
S. 78 applied (with modifications) (temp.) (23.2.2004 and 29.3.2004 for certain purposes, otherwise 5.4.2004 until 31.3.2006) by The Fines Collection Regulations 2004 (S.I. 2004/176), regs. 1(3), **10** (with reg. 3) (as amended (30.3.2005) by S.I. 2005/484, regs. 1(1)(a)(2), 2)
S. 78 applied (E.) (26.5.2004) by The Sea Fishing (Enforcement of Community Quota and Third Country Fishing Measures)(England) Order 2004 (S.I. 2004/1237), {art. 6(2)}
S. 78 applied (E.) (1.1.2005) by The Sea Fishing (Enforcement of Community Satellite Monitoring Measures) Order 2004 (S.I. 2004/3226),{art. 16(2)}
S. 78 applied (E.) (2.2.2005) by The Incidental Catches of Cetaceans in Fisheries (England) Order 2005 (S.I. 2005/17), **art. 6(2)** (subject to art. 1(3))
S. 78 applied (E.) (28.2.2005) by The Sea Fishing (Restriction on Days at Sea) Order 2005 (S.I. 2005/393), **art. 24(2)**
S. 78 applied (1.6.2006) by The Sea Fishing (Restriction on Days at Sea)(Monitoring, Inspection and Surveillance) Order 2006 (S.I. 2006/1327), {art. 23(2)}
S. 78 applied (W.) (7.7.2006) by The Sea Fishing (Northern Hake Stock)(Wales) Order 2006 (S.I. 2006/1796), {art. 10(2)}
S. 78 applied (10.7.2006) by The Sea Fishing (Marking and Identification of Passive Fishing Gear and Beam Trawls)(England) Order 2006 (S.I. 2006/1549), {art. 6(2)}
S. 78 applied (15.8.2006) by The Sea Fishing (Enforcement of Annual Community and Third Country Fishing Measures)(England) Order 2006 (S.I. 2006/1970), {art. 11(2)}
S. 78 applied (20.4.2007) by The Sea Fishing (Restriction on Days at Sea) Order 2007 (S.I. 2007/927), **art. 18(2)**
S. 78 applied (1.10.2007) by The Sea Fishing (Prohibition on the Removal of Shark Fins) Order 2007 (S.I. 2007/2554), **art. 6(2)**

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C102 S. 78 applied (30.9.2008) by The Sea Fishing (Recovery Measures) Order 2008 (S.I. 2008/2347), **art. 12(2)**

C103 S. 78 applied (12.8.2009) by The Sea Fishing (Landing and Weighing of Herring, Mackerel and Horse Mackerel) Order 2009 (S.I. 2009/1850), **art. 10(2)**

C104 S. 78 applied (25.1.2010) by The Sea Fishing (Illegal, Unreported and Unregulated Fishing) Order 2009 (S.I. 2009/3391), **art. 11(2)**

79 Release from custody and reduction of detention on payment.

(1) Where imprisonment or other detention has been imposed on any person by the order of a magistrates' court in default of payment of any sum adjudged to be paid by the conviction or order of a magistrates' court or for want of sufficient distress to satisfy such a sum, then, on the payment of the sum, together with the costs and charges, if any, of the commitment and distress, the order shall cease to have effect; and if the person has been committed to custody he shall be released unless he is in custody for some other cause.

(2) Where, after a period of imprisonment or other detention has been imposed on any person in default of payment of any sum adjudged to be paid by the conviction or order of a magistrates' court or for want of sufficient distress to satisfy such a sum, payment is made in accordance with **[**[F237]rules of court**]** of part of the sum, the period of detention shall be reduced by such number of days as bears to the total number of days in that period less one day the same proportion as the amount so paid bears to so much of the said sum, and the costs and charges of any distress levied to satisfy that sum, as was due at the time the period of detention was imposed.

(3) In calculating the reduction required under subsection (2) above any fraction of a day shall be left out of account.

Textual Amendments

F237 Words in s. 79(2) substituted (1.9.2004) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 219(b)**; S.I. 2004/2066, **art. 2(c)(xi)** (subject to art. 3)

80 Application of money found on defaulter to satisfy sum adjudged.

(1) Where a magistrates' court has adjudged a person to pay a sum by a conviction or has ordered the enforcement of a sum due from a person under **[**[F238]a magistrates' court maintenance order**]**, the court may order him to be searched.

(2) Any money found on the arrest of a person adjudged to pay such a sum as aforesaid, or on a search as aforesaid, or on his being taken to a prison or other place of detention in default of payment of such a sum or for want of sufficient distress to satisfy such a sum, may, unless the court otherwise directs, be applied towards payment of the said sum; and the balance, if any, shall be returned to him.

(3) A magistrates' court shall not allow the application as aforesaid of any money found on a person if it is satisfied that the money does not belong to him or that the loss of the money would be more injurious to his family than would be his detention.

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Textual Amendments

F238 Words substituted by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 33(1), **Sch. 2 para. 83**

Modifications etc. (not altering text)

C105 S. 80 applied by Legal Aid Act 1988 (c. 34, SIF 77:1), ss. 24(6), 30, **Sch. 3 Pt. I para. 2(4)**
S. 80 applied (2.4.2001) by 1991 c. 48, **s. 40B(10)** (as inserted (2.4.2001) by 2000 c. 19, **s. 16(3)**,(with s. 86(3); S.I. 2000/3354, **art. 2(3)**)

Sums adjudged to be paid by a conviction

81 Enforcement of fines imposed on young offenders.

(1) Where a magistrates' court would, but for **[**F239section 89 of the Powers of Criminal Courts (Sentencing) Act 2000**]**, have power to commit to prison a person under **[**F240the age of 18**]** 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 recognizance 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.

(2) An order under subsection (1) 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.

(3) None of the following orders, namely—

(a) an order under **[**F241 section 60(1) of the said Act of 2000 M47**]** for attendance at an attendance centre; or

(b) any order under subsection (1) above,

shall be made by a magistrates' court in consequence of a default of a person under **[**F240the age of 18**]** 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.

(4) An order under subsection (1) 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.

(5) An order under subsection (1) 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.

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(6) A parent or guardian may appeal to the Crown Court against an order under subsection (1) above made in pursuance of paragraph (b) of that subsection.

(7) Any sum ordered under subsection (1)(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.

(8) In this section—

"guardian", in relation to a person under **[**F240the age of 18**]**, means a person appointed, according to law, to be his guardian F242, or by order of a court of competent jurisdiction;

. . . . . F243

"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 **[**F244section 130 of the said Act 2000 M48**]** (compensation orders) F242.

Textual Amendments

F239 Words in s. 81(1) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 67(1)(2)**

F240 Words in s. 81(1)(3)(8) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 68, 101(1), Sch. 8 para. 6(2), **Sch. 12 para. 22(1)**; S.I. 1992/333, art. 2(2), **Sch. 2**

F241 Words in s. 81(3) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 67(1)(3)**

F242 Words in s. 81(8) repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(6)(7), **Sch. 15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

F243 Definition of "the statutory restrictions upon the imprisonment of young offenders" repealed by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 78, **Sch. 16**

F244 Words in s. 81(8) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 67(1)(4)**

Modifications etc. (not altering text)

C106 S. 81 restricted (3.2.1995) by 1994 c. 37, **ss. 9(4)(a)**, 69(2) (with s. 66(2))
S. 81 modified (1.1.1998) by 1997 c. 43, **s. 35(2)**; S.I. 1997/2200, **art. 3(a)**
S. 81 amended (1.1.1998) by 1997 c. 43, **s. 40(2)**; S.I. 1997/2200, art., 3(c)

Marginal Citations

M47 2000 c.6

M48 2000 c. 6.

82 Restriction on power to impose imprisonment for default.

(1) A magistrates' court shall not on the occasion of convicting an offender of an offence issue a warrant of commitment for a default in paying any sum adjudged to be paid by the conviction unless—

(a) in the case of an offence punishable with imprisonment, he appears to the court to have sufficient means to pay the sum forthwith;

(b) it appears to the court that he is unlikely to remain long enough at a place of abode in the United Kingdom to enable payment of the sum to be enforced by other methods; or

(c) on the occasion of that conviction the court sentences him to immediate imprisonment **[**F245, youth custody**]**or detention in a detention centre for that or another offence or he is already serving **[**F246a sentence of custody for life,

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or a term of imprisonment, youth custody, detention under section 9 of the Criminal Justice Act 1982**]**or detention in a detention centre.

(2) A magistrates' court shall not in advance of the issue of a warrant of commitment fix a term of imprisonment which is to be served by an offender in the event of a default in paying a sum adjudged to be paid by a conviction, except where it has power to issue a warrant of commitment forthwith, but postpones issuing the warrant under section 77(2) above.

(3) Where on the occasion of the offender's conviction a magistrates' court does not issue a warrant of commitment for a default in paying any such sum as aforesaid or fix a term of imprisonment under the said section 77(2) which is to be served by him in the event of any such default, it shall not thereafter issue a warrant of commitment for any such default or for want of sufficient distress to satisfy such a sum unless—

(a) he is already serving **[**F246a sentence of custody for life, or a term of imprisonment, youth custody, detention under section 9 of the Criminal Justice Act 1982**]**or detention in a detention centre; or

(b) the court has since the conviction inquired into his means in his presence on at least one occasion.

(4) Where a magistrates' court is required by subsection (3) above to inquire into a person's means, the court may not on the occasion of the inquiry or at any time thereafter issue a warrant of commitment for a default in paying any such sum unless—

(a) in the case of an offence punishable with imprisonment, the offender appears to the court to have sufficient means to pay the sum forthwith; or

(b) the court—

(i) is satisfied that the default is due to the offender's wilful refusal or culpable neglect; and

(ii) has considered or tried all other methods of enforcing payment of the sum and it appears to the court that they are inappropriate or unsuccessful.

[F247(4A) The methods of enforcing payment mentioned in subsection (4)(b)(ii) above are—

(a) a warrant of distress under section 76 above;

(b) an application to the High Court or county court for enforcement under section 87 below;

(c) an order under section 88 below;

(d) an attachment of earnings order; and

(e) if the offender is **[**F248under the age of 25**]**, an order undersection 17 of the Criminal Justice Act 1982(attendance centre orders).**]**

[F249(4B) The cases in which the offender's default may be regarded for the purposes of subsection (4)(b)(i) as being attributable to his wilful refusal or culpable neglect include any case in which—

(a) he has refused, otherwise than on reasonable grounds, to consent to a work order proposed to be made under Schedule 6 to the Courts Act 2003 (discharge of fines by unpaid work), or

(b) he has without reasonable excuse failed to comply with such an order.**]**

(5) After the occasion of an offender's conviction by a magistrates' court, the court shall not, unless—

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(a) the court has previously fixed a term of imprisonment under section 77(2) above which is to be served by the offender in the event of a default in paying a sum adjudged to be paid by the conviction; or

(b) the offender is serving **[**F246a sentence of custody for life, or a term of imprisonment, youth custody, detention undersection 9 of the Criminal Justice Act 1982**]**or detention in a detention centre,

issue a warrant of commitment for a default in paying the sum or fix such a term except at a hearing at which the offender is present.

[F250(5A) A magistrates' court may not issue a warrant of commitment under subsection (5) above at a hearing at which the offender is not present unless the **[**F251designated officer for**]** the court has first served on the offender a notice in writing stating that the court intends to hold a hearing to consider whether to issue such a warrant and giving the reason why the court so intends.

(5B) Where after the occasion of an offender's conviction by a magistrates' court the court holds a hearing for the purpose of considering whether to issue a warrant of commitment for default in paying a sum adjudged to be paid by the conviction, it shall consider such information about the offender's means as is available to it unless it has previously—

(a) inquired into the offender's means; and

(b) postponed the issue of the warrant of commitment under section 77(2) above.

(5C) A notice under subsection (5A) above—

(a) shall state the time and place appointed for the hearing; and

(b) shall inform the offender that, if he considers that there are grounds why the warrant should not be issued, he may make representations to the court in person or in writing,

but the court may exercise its powers in relation to the issue of a warrant whether or not he makes representations.

(5D) Except as mentioned in subsection (5E) below, the time stated in a notice under subsection (5A) above shall not be earlier than 21 days after the issue of the notice.

(5E) Where a magistrates' court exercises in relation to an offender the power conferred by section 77(2) above and at the same hearing issues a notice under subsection (5A) above in relation to him, the time stated in the notice may be a time on any day following the end of the period for which the issue of the warrant of commitment has been postponed.

(5F) A notice under subsection (5A) above to be served on any person shall be deemed to be served on that person if it is sent by registered post or the recorded delivery service addressed to him at his last known address, notwithstanding that the notice is returned as undelivered or is for any other reason not received by that person.**]**

(6) Where a magistrates' court issues a warrant of commitment on the ground that one of the conditions mentioned in subsection (1) or (4) above is satisfied, it shall state that fact, specifying the ground, in the warrant.

Textual Amendments

F245 Words inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 77, **Sch. 14 para. 52**(*a*)

F246 Words substituted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 77, **Sch. 14 para. 52**(*b*)

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F247 S. 82(4A) added (E.W.) by Criminal Justice Act 1988 (c. 33, SIF 39:1), **s. 61(3)** (with s. 123(6), Sch. 8 para. 16)
F248 Words in s. 82(4A)(e) substituted (1.10.1997) by 1997 c. 43, s. 55(1), **Sch. 4 para. 10(1)**; S.I. 1997/2200, **art. 2(1)(l)(2)(e)**
F249 S. 82(4B) inserted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 220(2)**; S.I. 2005/910, **art. 3(y)**
F250 S. 82(5A)-(5F) added (E.W.) by Criminal Justice Act 1988 (c. 33, SIF 39:1), **s. 61(4)** (with s. 123(6), Sch. 8 para. 16)
F251 Words in s. 82(5A) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 220(3)**; S.I. 2005/910, **art. 3(y)**

Modifications etc. (not altering text)
C107 S. 82 amended (1.10.1997) by 1997 c. 43, **s. 55(2)**; S.I. 1997/2200, **art. 2(1)(m)**

83 Process for securing attendance of offender for purposes of section 82.

(1) A magistrates' court may, for the purpose of enabling inquiry to be made under section 82 above or for securing the attendance of an offender at a hearing required to be held by subsection (5) of that section—

(a) issue a summons requiring the offender to appear before the court at the time and place appointed in the summons; or

(b) issue a warrant to arrest him and bring him before the court.

(2) On the failure of the offender to appear before the court in answer to a summons under this section the court may issue a warrant to arrest him and bring him before the court.

(3) A warrant issued under this section may be executed in like manner, and the like proceedings may be taken with a view to its execution, in any part of the United Kingdom, as if it had been issued under section 13 above.

F252(4) . . . . . .

Textual Amendments
F252 S. 83(4) repealed (19.2.2001) by 1999 c. 22, ss. 97(2), 106, **Sch. 15 Pt. V(8)** (with s. 107, Sch. 14 para. 7(2), 36(9)); S.I. 2001/168, **arts. 1**, 2 (subject to the transitional provisions in art. 3)

84 Power to require statement of means.

(1) A magistrates' court may, either before or on inquiring into a person's means under section 82 above, and a justice of the peace acting **[**F253in the same local justice**]** area as that court may before any such inquiry, order him to furnish to the court within a period specified in the order such a statement of his means as the court may require.

(2) A person who fails to comply with an order under subsection (1) above shall be liable on summary conviction to a fine not exceeding **[**F254level 3 on the standard scale**]**.

(3) If a person in furnishing any statement in pursuance of an order under subsection (1) above makes a statement which he knows to be false in a material particular or recklessly furnishes a statement which is false in a material particular, or knowingly fails to disclose any material fact, he shall be liable on summary conviction to

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imprisonment for a term not exceeding 4 months or a fine not exceeding **[**F254level 3 on the standard scale**]**or both.

(4) Proceedings in respect of an offence under subsection (3) above may, notwithstanding anything in section 127(1) below, be commenced at any time within 2 years from the date of the commission of the offence or within 6 months from its first discovery by the prosecutor, whichever period expires the earlier.

Textual Amendments

F253 Words in s. 84(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 221**; S.I. 2005/910, **art. 3(y)**

F254 Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46

Modifications etc. (not altering text)

C108 S. 84(2)-(4) applied (21.9.2004) by Courts Act 2003 (c. 39), ss. 97(2), 110, **Sch. 6 para. 2(4)**; S.I. 2004/2195, **art. 2**

C109 S. 84(2)-(4) applied (21.9.2004) by Courts Act 2003 (c. 39), ss. 97(2), 110, **Sch. 6 para. 2(4)**; S.I. 2004/2195, **art. 2**

C110 S. 84(2)-(4) applied (21.9.2004) by Courts Act 2003 (c. 39), ss. 97(2), 110, **Sch. 6 para. 2(4)**; S.I. 2004/2195, **art. 2**

[F255**85 Power to remit fine.**

(1) Where a fine has been imposed on conviction of an offender by a magistrates' court, the court may at any time remit the whole or any part of the fine, but only if it thinks it just to do so having regard to a change of circumstances which has occurred—

(a) where the court is considering whether to issue a warrant of commitment after the issue of such a warrant in respect of the fine has been postponed under subsection (2) of **[**F256section 77**]** above, since the relevant time as defined in subsection (4) of that section; and

(b) in any other case, since the date of the conviction.

(2) Where the court remits the whole or part of the fine after a term of imprisonment has been fixed, it shall also reduce the term by an amount which bears the same proportion to the whole term as the amount remitted bears to the whole or, as the case may be, shall remit the whole term.

[F257(2A) Where the court remits the whole or part of the fine after an order has been made under section 35(2)(a) or (b) of the Crime (Sentences) Act 1997, it shall also reduce the total number of hours or days to which the order relates by a number which bears the same proportion as the amount remitted bears to the whole sum or, as the case may be, shall revoke the order.

[F258(2B) Where the court remits the whole or part of the fine after a work order has been made under Schedule 6 to the Courts Act 2003 (discharge of fines by unpaid work), it shall also reduce the number of hours specified in the order by a number which bears the same proportion as the amount remitted bears to the whole sum or, as the case may be, shall revoke the order.**]**

(3) In calculating any reduction required by subsection (2) or **[**F259, (2A) or (2B)**]** above any fraction of a day or hour shall be left out of account.**]**

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(4) Notwithstanding the definition of "fine" in section 150(1) below, references in this section to a fine do not include any other sum adjudged to be paid on conviction, whether as a pecuniary penalty, forfeiture, compensation or otherwise.**]**

Textual Amendments

F255 S. 85 substituted by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 61(5), 123(6), **Sch. 8 para. 16**

F256 Words in s. 85(1)(a) expressed to be substituted (30.9.1998) by 1998 c. 37, s. 106, **Sch. 7 para.32**; S.I. 1998/2327, **art.2(1)(w)**

F257 S. 85(2A)(3) substituted (1.1.1998) for s. 85(3) by 1997 c. 43, s. 55(1), **Sch. 4 para. 10(2)**; S.I. 1997/2200, **art. 3(d)**

F258 S. 85(2B) inserted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 222(2)**; S.I. 2005/910, **art. 3(y)**

F259 Words in s. 85(3) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 222(3)**; S.I. 2005/910, **art. 3(y)**

Modifications etc. (not altering text)

C111 S. 85 modified by Road Traffic Offenders Act 1988 (c. 53, SIF 107:1), **ss. 71(8)**, 92
S. 85 restricted (3.2.1995) by 1994 c. 37, **ss. 9(4)(a)**, 69(2) (with s. 66(2))
S. 85 amended (1.1.1998) by 1997 c. 43, **s. 55(2)**; S.I. 1997/2200, **art. 2(1)(m)**

C112 S. 85(1) restricted (25.8.2000) by 2000 c. 6, **ss. 140(5)**, 168(1)

[F260 85A Variation of instalments of sum adjudged to be paid by conviction.

Where under section 75 above a magistrates' court orders that a sum adjudged to be paid by a conviction shall be paid by instalments, the court, on an application made by the person liable to pay that sum, shall have power to vary that order by varying the number of instalments payable, the amount of any instalment payable, and the date on which any instalment becomes payable.**]**

Textual Amendments

F260 S. 85A inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 51(1)**

86 Power of magistrates' court to fix day for appearance of offender at means inquiry etc.

[F261 (1) A magistrates' court which has exercised in relation to a sum adjudged to be paid by a conviction either of the powers conferred by section 75(1) above shall have power, either then or later, to fix a day on which, if the relevant condition is satisfied, the offender must appear in person before the court for either or both of the following purposes, namely—

(a) to enable an inquiry into his means to be made under section 82 above;

(b) to enable a hearing required by subsection (5) of the said section 82 to be held.

(1A) Where the power which the court has exercised is the power to allow time for payment of a sum ("the adjudged sum"), the relevant condition is satisfied if any part of that sum remains unpaid on the day fixed by the court.

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(1B) Where the power which the court has exercised is the power to order payment by instalments, the relevant condition is satisfied if an instalment which has fallen due remains unpaid on the day fixed by the court.**]**

(2) Except as provided in subsection (3) below, the power to fix a day under this section shall be exercisable only in the presence of the offender.

(3) Where a day has been fixed under this section, the court may fix a later day in substitution for the day previously fixed, and may do so—

(a) when composed of a single justice; and

(b) whether the offender is present or not.

(4) Subject to subsection (5) below, if on the day fixed under this section—

[F262(a) the relevant condition is satisfied; and**]**

(b) the offender fails to appear in person before the court,

the court may issue a warrant to arrest him and bring him before the court; and **[**F263subsection (3)**]** of section 83 above shall apply in relation to a warrant issued under this section.

(5) Where under subsection (3) above a later day has in the absence of the offender been fixed in substitution for a day previously fixed under this section, the court shall not issue a warrant under this section unless it is proved to the satisfaction of the court, on oath or in such other manner as may be prescribed, that notice in writing of the substituted day was served on the offender not less than what appears to the court to be a reasonable time before that day.

Textual Amendments

F261 S. 86(1)(1A)(1B) substituted for subsection (1) by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 51(2)**(*a*)

F262 S. 86(4)(*a*) substituted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 51(2)**(*b*)

F263 Words in s. 86(4) substituted (19.2.2001) by 1999 c. 22, **s. 97(3)** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/168, **arts. 1**, 2(a) (subject to the transitional provisions in art. 3)

87 Enforcement of payment of fines by High Court and county court.

(1) Subject to the provisions of subsection (2) below, payment of a sum adjudged to be paid by a conviction of a magistrates' court may be enforced by the High Court or a county court (otherwise than by issue of a writ of fieri facias or other process against goods or by imprisonment or attachment of earnings) as if the sum were due to the **[**F264designated officer for**]** the magistrates' court in pursuance of a judgment or order of the High Court or county court, as the case may be.

F265(2) . . . . . .

F266(2A) . . . . . .

(3) The **[**F267designated officer for the magistrates' court**]** shall not take proceedings by virtue of subsection (1) above to recover any sum adjudged to be paid by a conviction of the court from any person unless **[**F268there has been an inquiry under section 82 above into that person's means and he appeared to the court to have sufficient means to pay the sum forthwith.**]**

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(4) [F269] . . . . . .

Textual Amendments

F264 Words in s. 87(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 223(2)**; S.I. 2005/910, **art. 3(y)**

F265 S. 87(2) omitted (1.7.1991) by virtue of S.I. 1991/724, art. 2(8), **Sch. Pt. I** (with art. 12)

F266 S. 87(2A) omitted (1.7.1991) by virtue of S.I. 1991/724, art. 2(8), **Sch. Pt. I** (with art. 12)

F267 Words in s. 87(3) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 223(3)**; S.I. 2005/910, **art. 3(y)**

F268 Words in s. 87(3) substituted (4.7.1996, with effect (1.10.1996) as mentioned in s. 50(2)(3) of the substituting Act) by 1996 c. 25, **s. 50(1)** (with s. 78(1)); S.I. 1996/2343, **art. 2**

F269 S. 87(4) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 223(4), **Sch. 10**; S.I. 2005/910, **art. 3(y)(aa)**

Modifications etc. (not altering text)

C113 S. 87 extended (1.7.1991) by S.I. 1991/724, **art. 2(1)(j)** (with art. 12)
S. 87 modified (3.2.1995) by 1994 c. 37, **ss. 9(4)(b)(6)**, 69(2) (with s. 66(2))
S. 87 applied (with modifications) (temp.) (23.2.2004 and 29.3.2004 for certain purposes, otherwise 5.4.2004 until 31.3.2006) by The Fines Collection Regulations 2004 (S.I. 2004/176), regs. 1(3), **9** (with reg. 3) (as amended (30.3.2005) by S.I. 2005/484, regs. 1(1)(a)(2), 2, 4, 9)

[F270 87A Fines imposed on companies.

(1) Where—

(a) a magistrates' court has, or is treated by any enactment as having, adjudged a company by a conviction to pay a sum; and

(b) the court has issued a warrant of distress under section 76(1) above for the purpose of levying the sum; and

(c) it appears on the return to the warrant that the money and goods of the company are insufficient to satisfy the sum with the costs and charges of levying the same,

the **[**F271 designated officer for **]** the court may make an application in relation to the company under **[**F272 section 124 of, or paragraph 12 of Schedule B1 to, the Insolvency Act 1986**]** (administration or winding up).

(2) [F273] . . . . . .**]**

Textual Amendments

F270 S. 87A inserted (E.W.) by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 62(1), 123(6), **Sch. 8 para. 16**

F271 Words in s. 87A(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 224(2)**; S.I. 2005/910, **art. 3(y)**

F272 Words in s. 87A(1) substituted (15.9.2003) by 2002 c. 40, ss. 248, 279, Sch. 17 para. 2 (with s. 249(1)-(3)); S.I. 2003/2093, **art. 2**, Sch. 1(subject to arts. 3-8 (as amended by S.I. 2003/2332, art. 2))

F273 S. 87A(2) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 224(3), **Sch. 10**; S.I. 2005/910, **art. 3(y)(aa)**

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88 Supervision pending payment.

(1) Where any person is adjudged to pay a sum by a summary conviction and the convicting court does not commit him to prison forthwith in default of payment, the court may, either on the occasion of the conviction or on a subsequent occasion, order him to be placed under the supervision of such person as the court may from time to time appoint.

(2) An order placing a person under supervision in respect of any sum shall remain in force so long as he remains liable to pay the sum or any part of it unless the order ceases to have effect or is discharged under subsection (3) below.

(3) An order under this section shall cease to have effect on the making of a transfer of fine order under section 89 below with respect to the sum adjudged to be paid and may be discharged by the court that made it, without prejudice in either case to the making of a new order.

(4) Where a person under 21 years old has been adjudged to pay a sum by a summary conviction and the convicting court does not commit him to **[**F274detention under**][**F275section 108 of the Powers of Criminal Courts (Sentencing) Act 2000**]**forthwith in default of payment, the court shall not commit him to **[**F276to such detention**]**in default of payment of the sum, or for want of sufficient distress to satisfy the sum, unless he has been placed under supervision in respect of the sum or the court is satisfied that it is undesirable or impracticable to place him under supervision.

(5) Where a court, being satisfied as aforesaid, commits a person under 21 years old to **[**F277such detention**]**without an order under this section having been made, the court shall state the grounds on which it is so satisfied in the warrant of commitment.

(6) Where an order placing a person under supervision with respect to a sum is in force, a magistrates' court shall not commit him to prison in default of payment of the sum, or for want of sufficient distress to satisfy the sum, unless the court has before committing him taken such steps as may be reasonably practicable to obtain from the person appointed for his supervision an oral or written report on the offender's conduct and means and has considered any report so obtained, in addition, in a case where an inquiry is required by section 82 above, to that inquiry.

Textual Amendments

F274 Words substituted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 77, **Sch. 14 para. 53**(*a*)(i)

F275 Words in s. 88(4) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 68**

F276 Words substituted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 77, **Sch. 14 para. 53**(*a*)(ii)

F277 Words substituted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 77, **Sch. 14 para. 53**(*b*)

89 Transfer of fine order.

(1) Where a magistrates' court **[**F278in a local justice area**]** has, or is treated by any enactment as having, adjudged a person by a conviction to pay a sum and it appears to the court that the person is residing **[**F279in England and Wales**]** , the court may make a transfer of fine order, that is to say, an order making payments enforceable in **[**F280another local justice area**]** and that area shall be specified in the order.

(2) As from the date on which a transfer of fine order is made with respect to any sum, all functions under this Part of this Act relating to that sum which, if no such order had

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been made, would have been exercisable by the court which made the order, or the **[**[F281]designated officer for**]** that court, shall be exercisable by a court acting **[**[F282]in the local justice area**]** specified in the order, or the **[**[F281]designated officer for**]** that court, as the case may be, and not otherwise.

[[F283](2A) The functions of the court to which subsection (2) above relates shall be deemed to include the court's power to apply to the Secretary of State under any regulations made by him under section 24(1)(a) of the [M49]Criminal Justice Act 1991 (power to deduct fines etc. from income support).**]**

[[F284](3) A court by which functions in relation to any sum are for the time being exercisable by virtue of a transfer of fine order may make a further transfer of fine order with respect to that sum.**]**

(4) In this section and sections 90 and 91 below, references to this Part of this Act do not include references to section 81(1) above.

Textual Amendments

F278 Words in s. 89(1) inserted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 225(2)(a)**; S.I. 2005/910, **art. 3(y)**

F279 Words in s. 89(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 225(2)(b)**; S.I. 2005/910, **art. 3(y)**

F280 Words in s. 89(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 225(2)(c)**; S.I. 2005/910, **art. 3(y)**

F281 Words in s. 89(2) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 225(3)(a)**; S.I. 2005/910, **art. 3(y)**

F282 Words in s. 89(2) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 225(3)(b)**; S.I. 2005/910, **art. 3(y)**

F283 S. 89(2A) inserted (3.2.1995) by 1994 c. 33, **s. 47(1)**; S.I. 1995/127, art. 2(1), **Sch. 1**

F284 S. 89(3) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 225(4)**; S.I. 2005/910, **art. 3(y)**

Modifications etc. (not altering text)

C114 S. 89 applied (with modifications) (temp.) (23.2.2004 and 29.3.2004 for certain purposes, otherwise 5.4.2004 until 31.3.2006) by The Fines Collection Regulations 2004 (S.I. 2004/176), regs. 1(3), **6(a)** (with reg. 3) (as amended (30.3.2005) by S.I. 2005/484, regs. 1(1)(a)(2), 2, 4, 6)

Marginal Citations

M49 1991 c. 53.

90 Transfer of fines to Scotland or Northern Ireland.

(1) Where a magistrates' court has, or is treated by any enactment as having, adjudged a person by a conviction to pay a sum, and it appears to the court that he is residing—

(a) within the jurisdiction of a court of summary jurisdiction in Scotland, or

(b) in any petty sessions district in Northern Ireland,

the court may order that payment of the sum shall be enforceable by that court of summary jurisdiction or, as the case may be, in that petty sessions district.

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(2) An order under this section shall specify the court of summary jurisdiction by which or petty sessions district in which payment of the sum in question is to be enforceable; and if—

(a) that sum is more than £100 or is a fine originally imposed by the Crown Court or the sheriff court, and

(b) payment is to be enforceable in Scotland,

the court to be so specified shall be the sheriff court.

(3) Where an order is made under this section with respect to any sum, any functions under this Part of this Act relating to that sum which, if no such order had been made, would have been exercisable by the court which made the order or by the **[**F285designated officer for**]** that court shall cease to be so exercisable.

[F286(3A) The functions of the court which shall cease to be exercisable by virtue of subsection (3) above shall be deemed to include the court's power to apply to the Secretary of State under regulations made by him under section 24(1)(a) of the Criminal Justice Act 1991 (power to deduct fines from income support).**]**

Textual Amendments

F285 Words in s. 90(3) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 110, 109(1), **Sch. 8 para. 226**; S.I. 2005/910, **art. 3(y)**

F286 S. 90(3A) inserted (E.W.) (3.2.1995) by 1994 c. 33, **s. 47(2)**; S.I. 1995/127, art. 2(1), **Sch. 1**

Modifications etc. (not altering text)

C115 S. 90 applied (with modifications) (temp.) (23.2.2004 and 29.3.2004 for certain purposes, otherwise 5.4.2004 until 31.3.2006) by The Fines Collection Regulations 2004 (S.I. 2004/176), regs. 1(3), **6(b)** (with reg. 3) (as amended (30.3.2005) by S.I. 2005/484, regs. 1(1)(a)(2), 2, 4, 6(3))

91 Transfer of fines from Scotland or Northern Ireland.

(1) Where a transfer of fine order under section 403 of the M50Criminal Procedure (Scotland) Act 1975 or **[**F287Article 95 of the Magistrates' Courts (Northern Ireland) Order 1981**]** provides that payment of a sum shall be enforceable **[**F288by a magistrates' court in England and Wales, a magistrates' court acting in the area in which the person subject to the order resides,**]** and the **[**F289designated officer for**]** that court, shall, subject to the provisions of this section, have all the like functions under this Part of this Act in respect of the sum (including power to make an order under section 89 or section 90 above) as if the sum were a sum adjudged to be paid by a conviction of that court and as if any order made under the said Act of 1975 or, as the case may be, **[**F290the said Order of 1981**]** in respect of the sum before the making of the transfer of fine order had been made by that court.

(2) For the purpose of determing the period of imprisonment which may be imposed under this Act in default of payment of a fine originally imposed by a court in Scotland, Schedule 4 to this Act shall have effect as if for the Table set out in paragraph 1 there were substituted the Table set out in section 407 of the M51Criminal Procedure (Scotland) Act 1975.

(3) Where a transfer of fine order under section 403 of the M52Criminal Procedure (Scotland) Act 1975 or **[**F291Article 95 of the Magistrates' Courts (Northern Ireland) Order 1981**]**provides for the enforcement **[**F292by a magistrates' court**]** in England and

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Wales of a fine originally imposed by the Crown Court, a magistrates' court **[**F293acting in the area in which the person subject to the order resides**]** shall have all the like functions under this Part of this Act, exercisable subject to the like restrictions, as if it were the magistrates' court by which payment of the fine fell to be enforced by virtue of **[**F294section 140(1) of the M53Powers of Criminal Courts (Sentencing)Act 2000**]**, and as if any order made under the said Act of 1975 or, as the case may be, **[**F295the said Order of 1981**]** in respect of the fine before the making of the transfer of fine order had been made by that court.

Textual Amendments

F287 Words substituted by S.I. 1981/1675 (N.I. 26), art. 170(2), **Sch. 6 Pt. I para. 59**(*a*)(i)

F288 Words in s. 91(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 227(2)(a)**; S.I. 2005/910, **art. 3(y)**

F289 Words in s. 91(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 227(2)(b)**; S.I. 2005/910, **art. 3(y)**

F290 Words substituted by S.I. 1981/1675 (N.I. 26), art. 170(2), **Sch. 6 Pt. I para. 59**(*a*)(ii)

F291 Words substituted by S.I. 1981/1675 (N.I. 26), art. 170(2), **Sch. 6 para. 59**(*b*)(i)

F292 Words in s. 91(3) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 227(3)(a)**; S.I. 2005/910, **art. 3(y)**

F293 Words in s. 91(3) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 227(3)(b)**; S.I. 2005/910, **art. 3(y)**

F294 Words in s. 91(3) substituted (28.5.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 69**

F295 Words substituted by S.I. 1981/1675 (N.I. 26), art. 170(2), **Sch. 6 Pt. I para. 56**(*b*)(ii)

Modifications etc. (not altering text)

C116 S. 91 amended by Criminal Justice (Scotland) Act 1980 (c. 62, SIF 39:1), **s. 66**
S. 91 modified (S.) (1.4.1996) by 1995 c. 43, **ss. 14(1)**, 50(2) and by 1995 c. 46, **ss. 252(1)**, 309(2) (with s. 24(2))
S. 91 amended (S.) (*prosp.*) by 1995 c. 20, **ss. 70(2)**, 80(1) (with s. 113(1)) (which amending Act was repealed (S.) (1.4.1996) by 1995 c. 40, ss. 3(1), 6(1), 7(2), Sch. 3 para. 16(3), **Sch. 5**)

C117 S. 91 applied (with modifications) (temp.) (23.2.2004 and 29.3.2004 for certain purposes, otherwise 5.4.2004 until 31.3.2006) by The Fines Collection Regulations 2004 (S.I. 2004/176), regs. 1(3), **6(c)** (with reg. 3) (as amended (30.3.2005) by S.I. 2005/484, regs. 1(1)(a)(2), 2, 4, 6(3))

Marginal Citations

M50 1975 c. 21.

M51 1975 c. 21.

M52 1975 c. 21.

M53 2000 c. 6.

Sums adjudged to be paid by an order

92 Restriction on power to impose imprisonment for default.

(1) A magistrates' court shall not exercise its power under section 76 above to issue a warrant to commit to prison a person who makes default in paying a sum adjudged to be paid by an order of such a court except where the default is under—

(a) a magistrates' court maintenance order;

(b) an order under **[**F296section 17(2) of the Access to Justice Act 1999 (payment by individual in respect of**]** cost of his defence in a criminal case); or

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(c) an order for the payment of any of the taxes, contributions, premiums or liabilities specified in Schedule 4 to the [M54]Administration of Justice Act 1970.

(2) This section does not affect the power of a magistrates' court to issue such a warrant as aforesaid in the case of default in paying a sum adjudged to be paid by a conviction, or treated (by any enactment relating to the collection or enforcement of fines, costs, compensation or forfeited recognizances) as so adjudged to be paid.

(3) . . . . . [F297]

Textual Amendments

F296 Words in s. 92(1)(b) substituted (2.4.2001) by 1999 c. 22, s. 24, Sch. 4 paras. 15, **17** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 3(a)(ii)** (with Sch. 2 para. 2)

F297 S. 92(3) repealed by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 33(2)(4), Sch. 3 paras. 1, 6, **Sch. 4**

Marginal Citations

M54 1970 c. 31.

93 Complaint for arrears.

(1) Where default is made in paying a sum ordered to be paid by **[**[F298]a magistrates' court maintenance order**]**, the court shall not enforce payment of the sum under section 76 above except by an order made on complaint.

(2) A complaint under this section shall be made not earlier than the fifteenth day after the making of the order for the enforcement of which it is made; but subject to this such a complaint may be made at any time notwithstanding anything in this or any other Act.

(3) In relation to complaints under this section, section 55 above shall not apply and section 56 above shall have effect as if the words "if evidence has been received on a previous occasion" were omitted.

(4) Where at the time and place appointed for the hearing or adjourned hearing of a complaint under this section the complainant appears but the defendant does not, the court may proceed in his absence; but the court shall not begin to hear the complaint in the absence of the defendant unless either it is proved to the satisfaction of the court, on oath or in such other manner as may be prescribed, that the summons was served on him within what appears to the court to be a reasonable time before the hearing or adjourned hearing or the defendant has appeared on a previous occasion to answer the complaint.

(5) If a complaint under this section is substantiated on oath, any justice of the peace acting **[**[F299]in the same local justice**]** area as a court having jurisdiction to hear the complaint may issue a warrant for the defendant's arrest, whether or not a summons has been previously issued.

(6) A magistrates' court shall not impose imprisonment in respect of a default to which a complaint under this section relates unless the court has inquired in the presence of the defendant whether the default was due to the defendant's wilful refusal or culpable neglect, and shall not impose imprisonment as aforesaid if it is of opinion that the default was not so due; and, without prejudice to the preceding provisions of this subsection, a magistrates' court shall not impose imprisonment as aforesaid—

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[F300(a) in the absence of the defendant; or

(b) in a case where the court has power to do so, if it is of the opinion that it is appropriate—

(i) to make an attachment of earnings order; or

(ii) to order that payments under the order be made by any method of payment falling within section 59(6) above; or

(c) where the sum to which the default relates comprises only interest which the defendant has been ordered to pay by virtue of section 94A(1) below.**]**

(7) Notwithstanding anything in section 76(3) above, the period for which a defendant may be committed to prison under a warrant of commitment issued in pursuance of a complaint under this section shall not exceed 6 weeks.

(8) The imprisonment or other detention of a defendant under a warrant of commitment issued as aforesaid shall not operate to discharge the defendant from his liability to pay the sum in respect of which the warrant was issued.

Textual Amendments

F298 Words substituted by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 33(1)(2), Sch. 2 para. 84, Sch. 3 paras. 1, **6**

F299 Words in s. 93(5) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 228**; S.I. 2005/910, **art. 3(y)**

F300 S. 93(6)(a)-(c) substituted (1.4.1992) for s. 93(6)(a)(b) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s. 11(1), **Sch. 2 para.7**; S.I. 1992/455, **art.2**.

Modifications etc. (not altering text)

C118 S. 93 applied by Legal Aid Act 1988 (c. 34, SIF 77:1), ss. 24(6), 30, **Sch. 3 Pt. I para. 2(4)**

C119 S. 93(6) modified (1.4.1992) by Civil Jurisdiction and Judgments Act 1982 (c. 27, SIF 49:3), **s. 5(5C)** (wich was inserted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3) s. 10, Sch. 1 para. 21(2); S.I. 1992/455, **art.2**).

94 Effect of committal on arrears.

Where a person is committed to custody under this Part of this Act for failure to pay a sum due under **[**F301a magistrates' court maintenance order**]**, then, unless the court that commits him otherwise directs, no arrears shall accrue under the order while he is in custody.

Textual Amendments

F301 Words substituted by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 33(1)(2), Sch. 2 para. 85, Sch. 3 paras. 1, **6**

Modifications etc. (not altering text)

C120 S. 94 applied by Legal Aid Act 1988 (c. 34, SIF 77:1), ss. 24(6), 30, **Sch. 3 Pt. I para. 2(4)**

Status: *Point in time view as at 01/04/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Magistrates' Courts Act 1980 is up to date with all changes known to be in force on or before 27 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F302 94A Interest on arrears.

(1) The [F303 Lord Chancellor] may by order provide that a magistrates' court, on the hearing of a complaint for the enforcement, revocation, revival, variation or discharge of an English maintenance order, may order that interest of an amount calculated at the prescribed rate shall be paid on so much of the sum due under the order as they may determine.

(2) In subsection (1) above "the prescribed rate" means such rate of interest as the [F303 Lord Chancellor] may by order prescribe.

(3) An order under this section may make provision for the manner in which and the periods by reference to which interest is to be calculated.

(4) Where, by virtue of subsection (1) above, a magistrates' court orders the payment of interest on any sum due under a maintenance order—

(a) then if it orders that the whole or any part of the interest be paid by instalments that order shall be regarded as an instalments order for the purposes of section 95 below and that section shall accordingly apply in relation to it; and

(b) the whole of the interest shall be enforceable as a sum adjudged to be paid by the maintenance order.

(5) In this section—

"English maintenance order" means—

(a) a qualifying maintenance order made by a magistrates' court, other than an order made by virtue of Part II of the Maintenance Orders (Reciprocal Enforcement) Act 1972; or

(b) an order made by the High Court or a county court (other than an order deemed to be made by the High Court by virtue of section 1(2) of the Maintenance Orders Act 1958) and registered under Part I of that Act of 1958 in a magistrates' court;

"qualifying maintenance order" has the same meaning as it has in section 59 above.

(6) The power of the [F303 Lord Chancellor] to make an order under this section shall be exercisable by statutory instrument made with the concurrence of the Treasury and any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

F302 S. 94A inserted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), **s. 8**; S.I. 1992/455, **art.2**

F303 Words in s. 94A(1)(2)(6) substituted (1.4.1992) by S.I. 1992/709, art. 3(2), **Sch.2**

Modifications etc. (not altering text)

C121 S. 94A(1)(2)(6) functions of the Secretary of State transferred (1.4.1992) to the Lord Chancellor by S.I. 1992/709, art. 3(1), **Sch.2**

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[F304 95 Remission of arrears and manner in which arrears to be paid.

(1) On the hearing of a complaint for the enforcement, revocation, revival, variation or discharge of a magistrates' court maintenance order, a magistrates' court may remit the whole or any part of the sum due under the order.

(2) If, on the hearing of a complaint for the enforcement, revocation, revival, variation or discharge of a magistrates' court maintenance order, a magistrates' court orders that the whole or any part of the sum due under the order be paid by instalments (an "instalments order"), then—

(a) if the maintenance order is an English maintenance order, the court shall at the same time exercise one of its powers under paragraphs (a) to (d) of section 59(3) above in relation to the instalments order;

(b) if the maintenance order is a non-English maintenance order, the court shall at the same time exercise one of its powers under subsection (3) below in relation to the instalments order.

(3) The powers of the court referred to in subsection (2)(b) above are—

(a) the power to order that payments under the order be made directly to **[**F305the designated officer for the court or for any other magistrates' court**]**;

(b) the power to order that payments under the order be made to **[**F306the designated officer for the court or for any other magistrates' court**]** by such method of payment falling within section 59(6) above as may be specified;

(c) the power to make an attachment of earnings order under the Attachment of Earnings Act 1971 to secure payments under the order.

(4) The court may in the course of any proceedings concerning an instalments order or the magistrates' court maintenance order to which it relates vary the instalments order by exercising—

(a) in respect of an English maintenance order, one of the powers referred to in subsection (2)(a) above;

(b) in respect of a non-English maintenance order, one of its powers under subsection (3) above.

(5) In respect of an English maintenance order, subsections (4), (5) and (7) of section 59 above shall apply for the purposes of subsections (2)(a) and (4)(a) above as they apply for the purposes of that section.

(6) In respect of a non-English maintenance order—

(a) subsection (4) of section 59 above shall apply for the purposes of subsections (2)(b) and (4)(b) above as it applies for the purposes of that section but as if for paragraph (a) there were substituted—

"(a) the court proposes to exercise its power under paragraph (b) of section 95(3) below;"; and

(b) in deciding which of the powers under subsection (3) above it is to exercise the court shall have regard to any representations made by the debtor (within the meaning of section 59 above).

(7) In this section—

"English maintenance order" has the same meaning as it has in section 94A above;

"non-English maintenance order" means—

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(a) a maintenance order registered in, or confirmed by, a magistrates' court—

(i) under the Maintenance Orders (Facilities for Enforcement) Act 1920;

(ii) under Part II of the Maintenance Orders Act 1950;

(iii) under Part I of the Maintenance Orders (Reciprocal Enforcement) Act 1972; [F307]. . .

(iv) under Part I of the Civil Jurisdiction and Judgments Act 1982; **[**[F308]or**]**

(v) **[**[F309]under Council Regulation (EC) No. 44/2001 of 22nd December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters;**]**

(b) an order deemed to be made by the High Court by virtue of section 1(2) of the Maintenance Orders Act 1958 and registered under Part I of that Act in a magistrates' court; or

(c) a maintenance order made by a magistrates' court by virtue of Part II of the Maintenance Orders (Reciprocal Enforcement) Act 1972.**]**

Textual Amendments

F304 S. 95 substituted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s. 11(1), **Sch. 2 para. 8**; S.I. 1992/455, **art. 2**.

F305 Words in s. 95(3) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 229**; S.I. 2005/910, **art. 3(y)**

F306 Words in s. 95(3) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 229**; S.I. 2005/910, **art. 3(y)**

F307 Word in s. 95(7) omitted (1.3.2002) by virtue of S.I. 2001/3929, arts. 1(b), 5, **Sch. 3 para. 12(a)**

F308 Word in s. 95(7)(iv) added (1.3.2002) by S.I. 2001/3929, arts. 1(b), 5, **Sch. 3 para. 12(b)**

F309 S. 95(7)(v) inserted (1.3.2002) by S.I. 2001/3929, arts. 1(b), 5, **Sch. 3 para. 12(c)**

Modifications etc. (not altering text)

C122 S. 95 applied by Legal Aid Act 1988 (c. 34, SIF 77:1), ss. 24(6), 30, **Sch. 3 Pt. I**, para. 2(4)

96 Civil debt: complaint for non-payment.

(1) A magistrates' court shall not commit any person to prison or other detention in default of payment of a sum enforceable as a civil debt or for want of sufficient distress to satisfy such a sum except by an order made on complaint and on proof to the satisfaction of the court that that person has, or has had since the date on which the sum 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.

(2) A complaint under this section may be made at any time notwithstanding anything in this or any other Act.

(3) Where on any such complaint the defendant is committed to custody, such costs incurred by the complainant in proceedings for the enforcement of the sum as the court may direct shall be included in the sum on payment of which the defendant may be released from custody.

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[F310 96A Application of Part III to persons aged 17 to 20.

This Part of this Act shall have effect in relation to a person [F311 aged 18] or over but less than 21 as if any reference to committing a person to prison, or fixing a term of imprisonment for a default, were a reference to committing the person to, or, as the case may be, to fixing a term of, detention under [F312 section 108 of the M55 Powers of Criminal Courts (Sentencing) Act 2000]; and any reference to warrants of commitment, or to periods of imprisonment imposed for default, shall be construed accordingly.]

Textual Amendments

F310 S. 96A inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 77, **Sch. 14 para. 54**

F311 Words in s. 96A substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 68, 101(1), Sch. 8 para. 6(3), **Sch. 12 para. 22(1)**; S.I. 1992/333, art. 2(2), **Sch. 2**

F312 Words in s. 96A substituted (28.5.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 70** (which Sch. 9 para. 70 of the amending Act is repealed (*prosp.*) by 2000 c. 43, ss. 74, 75, 80(1), Sch. 7 Pt. II para. 203(2), **Sch. 8**)

Marginal Citations

M55 2000 c. 6.

PART IV

WITNESSES AND EVIDENCE

Procuring attendance of witness

97 Summons to witness and warrant for his arrest.

(1) Where a justice of the peace F313 . . . is satisfied that any person in England or Wales is likely to be able to give material evidence, or produce any document or thing likely to be material evidence, F314 . . . at the summary trial of an information or hearing of a complaint by [F315 a magistrates' court F316 . . .] and that that person will not voluntarily attend as a witness or will not voluntarily produce the document or thing, the justice shall issue a summons directed to that person requiring him to attend before the court at the time and place appointed in the summons to give evidence or to produce the document or thing.

(2) If a justice of the peace is satisfied by evidence on oath of the matters mentioned in subsection (1) above, and also that it is probable that a summons under that subsection would not procure the attendance of the person in question, the justice may instead of issuing a summons issue a warrant to arrest that person and bring him before such a court as aforesaid at a time and place specified in the warrant; but a warrant shall not be issued under this subsection where the attendance is required for the hearing of a complaint.

[F317 (2A) A summons may also be issued under subsection (1) above if the justice is satisfied that the person in question is outside the British Islands but no warrant shall be issued under subsection (2) above unless the justice is satisfied by evidence on oath that the person in question is in England or Wales.]

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[F318(2B) A justice may refuse to issue a summons under subsection (1) above in relation to the summary trial of an information if he is not satisfied that an application for the summons was made by a party to the case as soon as reasonably practicable after the accused pleaded not guilty.

(2C) In relation to the summary trial of an information, subsection (2) above shall have effect as if the reference to the matters mentioned in subsection (1) above included a reference to the matter mentioned in subsection (2B) above.**]**

(3) On the failure of any person to attend before a magistrates' court in answer to a summons under this section, if—

(a) the court is satisfied by evidence on oath that he is likely to be able to give material evidence or produce any document or thing likely to be material evidence in the proceedings; and

(b) it is proved on oath, or in such other manner as may be prescribed, that he has been duly served with the summons, and that a reasonable sum has been paid or tendered to him for costs and expenses; and

(c) it appears to the court that there is no just excuse for the failure,

the court may issue a warrant to arrest him and bring him before the court at a time and place specified in the warrant.

(4) If any person attending or brought before a magistrates' court refuses without just excuse to be sworn or give evidence, or to produce any document or thing, the court may commit him to custody until the expiration of such period not exceeding **[**F319one month**]** as may be specified in the warrant or until he sooner gives evidence or produces the document or thing **[**F320or impose on him a fine not exceeding **[**F321£2,500**]** or both**]**.

[F322(5) A fine imposed under subsection (4) above shall be deemed, for the purposes of any enactment, to be a sum adjudged to be paid by a conviction.**]**

Textual Amendments

F313 Words in s. 97(1) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 230(a), **Sch. 10**; S.I. 2005/910, **art. 3(y)(aa)**

F314 Words in s. 97(1) repealed (4.7.1996, with effect as mentioned in Sch. 1 Pt. III para. 39 of the repealing Act) by 1996 c. 25, ss. 47, 80, Sch. 1 Pt. I para. 7(a), **Sch. 5 para. 2** Table10 (with s. 78(1)); S.I. 1997/683, **art. 1(2)**

F315 Words in s. 97(1) substituted (4.7.1996, with effect as mentioned in Sch. 1 Pt. III para. 39 of the substituting Act) by 1996 c. 25, s. 47, **Sch. 1 para. 7(b)** (with s. 78(1)); S.I. 1997/683, **art. 1(2)**

F316 Words in s. 97(1) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 230(b), **Sch. 10**; S.I. 2005/910, **art. 3(y)(aa)**

F317 S. 97(2A) inserted (10.6.1991) by Criminal Justice (International Co-operation) Act 1990 (c. 5, SIF 39:1), s. 31(1), **Sch. 4 para. 2**; S.I. 1991/1072, art. 2(a), **Sch**edule Pt. I.

F318 S. 97(2A)(2B) inserted (4.7.1996, with effect as mentioned in s. 51(2)(3) of the inserting Act) by 1996 c. 25, **s. 51(1)** (with s. 78(1)); S.I. 1997/682, **art. 2(1)(b)**

F319 Words substituted by Contempt of Court Act 1981 (c. 49, SIF 39:3), s. 14(5), **Sch. 2 Pt. III para. 7**

F320 Words added by Contempt of Court Act 1981 (c. 49, SIF 39:3), s. 14(5), **Sch. 2 Pt. III para. 7**

F321 Word in s. 97(4) substituted (1.10.1992) by virtue of Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 17(3)(a), Sch. 4 Pt. I, **Sch. 12 para. 6** (with s. 28); S.I. 1992/333, art. 2(2), **Sch. 2**.

F322 S. 97(5) substituted (20.9.1993) by 1993 c. 36, s. 65(3), **Sch. 3 para. 6(3)**; S.I. 1993/1968, art. 2(2), **Sch. 2**

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Modifications etc. (not altering text)

C123 S. 97 extended (14.10.1991) by S.I. 1991/1395, **rule 33**
S. 97 extended (14.10.1991) by S.I. 1991/1991, **rule 16(2)**

C124 S. 97 extended by Licensing Act 1964 (c. 26, SIF 68A:1), **s. 196A** (as inserted by Licensing Act 1988 (c.17, SIF 68A:1), s. 19, **Sch. 3 para. 19**)

C125 S. 97 applied (5.4.1993) by S.I. 1993/617, rule 3, **Sch. 2 para. 13**

C126 S. 97(1) extended by Licensing (Occasional Permissions) Act 1983 (c. 24, SIF 68A:1), **s. 2(7)**
S. 97(1) applied (with modifications) (1.4.1997) by S.I. 1997/704, **rule5(2)(3)(4)(e)**

C127 S. 97(1)(3)(4) extended (1.1.1996) by 1995 c. 21, **ss. 268(3)**, 316(2) (with s. 312(1))

C128 S. 97(3) extended by Licensing (Occasional Permissions) Act 1983 (c. 24, SIF 68A:1), **s. 2(7)**

C129 S. 97(4) extended by Licensing (Occasional Permissions) Act 1983 (c. 24, SIF 68A:1), **s. 2(7)**

[F323 97A Summons or warrant as to committal proceedings.

(1) Subsection (2) below applies where a justice of the peace F324. . . is satisfied that—

(a) any person in England or Wales is likely to be able to make on behalf of the prosecutor a written statement containing material evidence, or produce on behalf of the prosecutor a document or other exhibit likely to be material evidence, for the purposes of proceedings before a magistrates' court inquiring into an offence as examining justices, **[**F325and**]**

(b) the person will not voluntarily make the statement or produce the document or other exhibit, F326. . .

(c) F326. . . . . .

(2) In such a case the justice shall issue a summons directed to that person requiring him to attend before a justice at the time and place appointed in the summons to have his evidence taken as a deposition or to produce the document or other exhibit.

(3) If a justice of the peace is satisfied by evidence on oath of the matters mentioned in subsection (1) above, and also that it is probable that a summons under subsection (2) above would not procure the result required by it, the justice may instead of issuing a summons issue a warrant to arrest the person concerned and bring him before a justice at the time and place specified in the warrant.

(4) A summons may also be issued under subsection (2) above if the justice is satisfied that the person concerned is outside the British Islands, but no warrant may be issued under subsection (3) above unless the justice is satisfied by evidence on oath that the person concerned is in England or Wales.

(5) If—

(a) a person fails to attend before a justice in answer to a summons under this section,

(b) the justice is satisfied by evidence on oath that he is likely to be able to make a statement or produce a document or other exhibit as mentioned in subsection (1)(a) above,

(c) it is proved on oath, or in such other manner as may be prescribed, that he has been duly served with the summons and that a reasonable sum has been paid or tendered to him for costs and expenses, and

(d) it appears to the justice that there is no just excuse for the failure,

the justice may issue a warrant to arrest him and bring him before a justice at a time and place specified in the warrant.

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(6) Where—

(a) a summons is issued under subsection (2) above or a warrant is issued under subsection (3) or (5) above, and

(b) the summons or warrant is issued with a view to securing that a person has his evidence taken as a deposition,

the time appointed in the summons or specified in the warrant shall be such as to enable the evidence to be taken as a deposition before a magistrates' court begins to inquire into the offence concerned as examining justices.

(7) If any person attending or brought before a justice in pursuance of this section refuses without just excuse to have his evidence taken as a deposition, or to produce the document or other exhibit, the justice may do one or both of the following—

(a) commit him to custody until the expiration of such period not exceeding one month as may be specified in the summons or warrant or until he sooner has his evidence taken as a deposition or produces the document or other exhibit;

(b) impose on him a fine not exceeding £2,500.

(8) A fine imposed under subsection (7) above shall be deemed, for the purposes of any enactment, to be a sum adjudged to be paid by a conviction.

(9) If in pursuance of this section a person has his evidence taken as a deposition, the **[**F327designated officer for**]** the justice concerned shall as soon as is reasonably practicable send a copy of the deposition to the prosecutor.

(10) If in pursuance of this section a person produces an exhibit which is a document, the **[**F327designated officer for**]** the justice concerned shall as soon as is reasonably practicable send a copy of the document to the prosecutor.

(11) If in pursuance of this section a person produces an exhibit which is not a document, the **[**F327designated officer for**]** the justice concerned shall as soon as is reasonably practicable inform the prosecutor of the fact and of the nature of the exhibit.**]**

Textual Amendments

F323 S. 97A inserted (4.7.1996, with effect as mentioned in Sch. 1 Pt. III para. 39 of the inserting Act) by 1996 c. 25, s. 47, **Sch. 1 Pt. I para. 8** (with s. 78(1)); S.I. 1997/683, **art. 1(2)**

F324 Words in s. 97A(1) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 231(2)(a), **Sch. 10**; S.I. 2005/910, **art. 3(y)(aa)**

F325 Words in s. 97A(1)(a) inserted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 231(2)(b)**; S.I. 2005/910, **art. 3(y)**

F326 S. 97A(1)(c) and the preceding word "and" repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 231(2)(c), **Sch. 10**; S.I. 2005/910, **art. 3(y)(aa)**

F327 Words in s. 97A(9)-(11) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 231(3)**; S.I. 2005/910, **art. 3(y)**

Evidence generally

98 Evidence on oath.

Subject to the provisions of any enactment or rule of law authorising the reception of unsworn evidence, evidence given before a magistrates' court shall be given on oath.

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99 Proof of non-payment of sum adjudged.

Where a magistrates' court has ordered one person to pay to another any sum of money, and proceedings are taken before that or any other magistrates' court to enforce payment of that sum, then—

(a) if the person to whom the sum is ordered to be paid is **[**F328the designated officer for a magistrates' court**]** , a certificate purporting to be signed by **[**F329the designated officer**]** that the sum has not been paid to him; and

(b) in any other case a document purporting to be a statutory declaration by the person to whom the sum is ordered to be paid that the sum has not been paid to him,

shall be admissible as evidence that the sum has not been paid to him, unless the court requires **[**F330the designated officer**]** or other person to be called as a witness.

Textual Amendments

F328 Words in s. 99 substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 232(a)**; S.I. 2005/910, **art. 3(y)**

F329 Words in s. 99 substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 232(b)**; S.I. 2005/910, **art. 3(y)**

F330 Words in s. 99 substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 232(b)**; S.I. 2005/910, **art. 3(y)**

100 Statement of wages to be evidence.

A statement in writing to the effect that wages of any amount have been paid to a person during any period, purporting to be signed by or on behalf of his employer, shall be evidence of the facts therein stated in any proceedings taken before a magistrates' court—

(a) for enforcing payment by the person to whom the wages are stated to have been paid of a sum adjudged to be paid by a summary conviction or order; or

[F331(b) on any application made by or against that person for the making of a magistrates' court maintenance order, or for the variation, revocation, discharge or revival of such an order**]**

Textual Amendments

F331 S. 100(b) substituted by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 33(1)(2), Sch. 2 para. 87, Sch. 3 paras. 1, **6**

101 Onus of proving exceptions, etc.

Where the defendant to an information or complaint relies for his defence on any exception, exemption, proviso, excuse or qualification, whether or not it accompanies the description of the offence or matter of complaint in the enactment creating the offence or on which the complaint is founded, the burden or proving the exception, exemption, proviso, excuse or qualification shall be on him; and this notwithstanding that the information or complaint contains an allegation negativing the exception, exemption, proviso, excuse or qualification.

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Modifications etc. (not altering text)
C130 S. 101 applied (with modifications) (1.4.1997) by S.I. 1997/704, **rule5(2)(3)(4)(f)**

Evidence in criminal cases

F332 102 . . . . . .

Textual Amendments
F332 S. 102 repealed (4.7.1996, with effect as mentioned in Sch. 1 Pt. III para. 39 of the repealing Act) by 1996 c. 25, ss. 47, 80, Sch. 1 Pt I para. 9, **Sch. 5** table10 (with s. 78(1)); S.I. 1997/683, **art. 1(2)**

[F333 103 Evidence of persons under 14 in committal proceedings for assault, sexual offences etc.

[In any proceedings before a magistrates' court inquiring as examining justices into F334(1) an offence to which this section applies, a statement made in writing by or taken in writing from a child shall be admissible in evidence of any matter.**]**

(2) This section applies—

(a) to an offence which involves an assault, or injury or a threat of injury to, a person;

(b) to an offence under section 1 of the M56Children and Young Persons Act 1933 (cruelty to persons under 16);

(c) to an offence under the M57 Sexual Offences Act 1956, F335. . . M58the Protection of Children Act 1978 **[**F336or Part 1 of the Sexual Offences Act 2003**]** ; and

(d) to an offence which consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling within paragraph (a), (b) or (c) above.

F337(3) . . . . . .

F337(4) . . . . . .

[In this section "child" has the same meaning as in section 53 of the Criminal Justice F338(5) Act 1991.**]]**

Textual Amendments
F333 S. 103 substituted by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 33, 123(6), **Sch. 8 para. 16**
F334 S. 103(1) substituted (4.7.1996, with effect as mentioned in Sch. 1 Pt. III para. 39 of the substituting Act) by 1996 c. 25, s. 47, **Sch. 1 Pt. I para. 10(2)** (with s. 78(1)); S.I. 1997/683, **art. 1(2)**
F335 Words in s. 103(2)(c) repealed (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 140, 141, **Sch. 7**; S.I. 2004/874, **art. 2**
F336 Words in s. 103(2)(c) inserted (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 139, 141, **Sch. 6 para. 26(2)**; S.I. 2004/874, **art. 2**

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F337 S. 103(3)(4) repealed (4.7.1996, with effect as mentioned in Sch. 1 Pt. III para. 39 of the repealing Act) by 1996 c. 25, ss. 47, 80, Sch. 1 Pt. I para. 10(3), **Sch. 5** table10 (with s. 78(1)); S.I. 1997/683, **art. 1(2)**

F338 S. 103(5) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), **s. 55(1)**; S.I. 1992/333, art. 2(2), **Sch. 2**

Modifications etc. (not altering text)

C131 S. 103(2)(d) modified (1.10.2008) by Serious Crimes Act 2007 (c. 27), ss. 63(1), 94, **Sch. 6 para. 5(b)** (with Sch. 13 para. 5); S.I. 2008/2504, **art. 2(a)(g)**

Marginal Citations

M56 1933 c. 12 (**20**).

M57 1956 c. 69

M58 1978 c. 37

104 Proof of previous convictions.

Where a person is convicted of a summary offence by a magistrates' court, other than a **[**[F339]youth court**]**, and—

(a) it is proved to the satisfaction of the court, on oath or in such other manner as may be prescribed, that not less than 7 days previously a notice was served on the accused in the prescribed form and manner specifying any alleged previous conviction of the accused of a summary offence proposed to be brought to the notice of the court in the event of his conviction of the offence charged; and

(b) the accused is not present in person before the court,

the court may take account of any such previous conviction so specified as if the accused had appeared and admitted it.

Textual Amendments

F339 Words in s. 104 substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, **Sch. 11 para. 40(2)(n)**; S.I. 1992/333, art. 2(2), **Sch.2**

Modifications etc. (not altering text)

C132 S. 104 restricted (1.9.1998) by 1988 c. 53, **s. 13(3A)(3B)** (as inserted (1.9.1998)) by 1998 c. 15, **s. 2(1)**; S.I. 1998/1837, **art.2** (with transitional savings in art. 3))

[F340]105 . . . . . .

Textual Amendments

F340 S. 105 repealed (4.7.1996, with effect as mentioned in Sch. 1 Pt. III para. 39 of the repealing Act) by 1996 c. 25, ss. 47, 80, Sch. 1 Pt. I para. 11, **Sch. 5** table10 (with s. 78(1)); S.I. 1997/683, **art. 1(2)**

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Offences

106 False written statements tendered in evidence.

(1) If any person in a written statement **[**F341admitted**]** in evidence in criminal proceedings by virtue of **[**F341section 5B**]** above wilfully makes a statement material in those proceedings which he knows to be false or does not believe to be true, he shall be liable on conviction on indictment to imprisonment for a term not exceeding 2 years or a fine or both.

(2) The M59Perjury Act 1911 shall have effect as if this section were contained in that Act.

Textual Amendments

F341 Words in s. 106(1) substituted (4.7.1996 with effect as mentioned in Sch. 1 Pt. III para. 39 of the substituting Act) by 1996 c. 25, s. 47, **Sch. 1 Pt. I para.12** (with s. 78(1)); S.I. 1997/683, **art. 1(2)**

Modifications etc. (not altering text)

C133 S. 106 extended (4.7.1996) by 1972 c. 71, **s. 46(1A)** (as inserted (4.7.1996 with effect as mentioned in Sch. 1 Pt. III para. 39 of the inserting Act) by 1996 c. 25, s. 47, **Sch. 1 Pt. II para. 22(3)** (with s. 78(1)); S.I. 1997/683, **art. 1(2)**

Marginal Citations

M59 1911 c. 6.

107 False statements in declaration proving service, etc.

If, in any solemn declaration, certificate or other writing made or given for the purpose of its being used in pursuance of **[**F342rules of court**]** as evidence of the service of any document or the handwriting or seal of any person, a person makes a statement that he knows to be false in a material particular, or recklessly makes any statement that is false in a material particular, he shall be liable on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding **[**F343level 3 on the standard scale**]** or both.

Textual Amendments

F342 Words in s. 107 substituted (1.9.2004) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 233**; S.I. 2004/2066, **art. 2(c)(xi)** (subject to art. 3)

F343 Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46

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PART V

APPEAL AND CASE STATED

Appeal

108 Right of appeal to the Crown Court.

(1) A person convicted by a magistrates' court may appeal to the Crown Court—

(a) if he pleaded guilty, against his sentence;

(b) if he did not, against the conviction or sentence.

[F344(1A) **[**F345Section 14 of the M60Powers of Criminal Courts(Sentencing) Act 2000**]** (under which a conviction of an offence for which F346. . . an order for conditional or absolute discharge is made is deemed not to be a conviction except for certain purposes) shall not prevent an appeal under this Act, whether against conviction or otherwise.**]**

(2) A person sentenced by a magistrates' court for an offence in respect of which F347. . . an order for conditional discharge has been previously made may appeal to the Crown Court against the sentence.

(3) In this section "sentence" includes any order made on conviction by a magistrates' court, not being—

(a) F348

(b) an order for the payment of costs;

(c) an order under F349. . . section 2 of the M61Protection of Animals Act 1911 (which enables a court to order the destruction of an animal); or

(d) an order made in pursuance of any enactment under which the court has no discretion as to the making of the order or its terms

[F350and also includes a declaration of relevance under the Football Spectators Act 1989**]**.

Textual Amendments

F344 S. 108(1A) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 66(2)**

F345 Words in s. 108(1A) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 71**

F346 Words in s. 108(1A) repealed (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 101(2), **Sch. 13**; S.I. 1992/333, art. 2(2), **Sch. 2**.

F347 Words in s. 108(2) repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 43, **Sch. 10**; S.I. 1998/2327, **art. 2**

F348 S. 108(3)(a) repealed by Criminal Justice Act 1982 (c. 48, SIF 39:1), **Sch. 16**

F349 Words in s. 108(3)(c) repealed (28.8.2000) by 2000 c. 25, s. 1, **Sch. 3**; S.I. 2000/2125, **art. 2**

F350 Words inserted by Football Spectators Act 1989 (c. 37, SIF 45A), **s. 23(3)(c)**

Modifications etc. (not altering text)

C134 S. 108(1) extended (31.3.1997) by 1995 c. 35, **s. 11(2)(3)**; S.I. 1997/402, **art. 3**

C135 S. 108(1)(b) extended (19.2.2001) by 2000 c. 11, **s. 7(7)(b)**; S.I. 2001/421, **art. 2**
S. 108(1)(b) extended (11.3.2005) by Prevention of Terrorism Act 2005 (c. 2), **s. 12(7)(d)**

Marginal Citations

M60 2000 c. 6.

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M61 1911 c. 27.

109 Abandonment of appeal.

(1) Where notice to abandon an appeal has been duly given by the appellant—

(a) the court against whose decision the appeal was brought may issue process for enforcing that decision, subject to anything already suffered or done under it by the appellant; and

(b) the said court may, on the application of the other party to the appeal, order the appellant to pay to that party such costs as appear to the court to be just and reasonable in respect of expenses properly incurred by that party in connection with the appeal before notice of the abandonment was given to that party.

(2) In this section "appeal" means an appeal from a magistrates' court to the Crown Court, and the reference to a notice to abandon an appeal is a reference to a notice shown to the satisfaction of the magistrates' court to have been given in accordance with **[**[F351]rules of court**]** .

Textual Amendments

F351 Words in s. 109(2) substituted (1.9.2004) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 234**; S.I. 2004/2066, **art. 2(c)(xi)** (subject to art. 3)

110 Enforcement of decision of the Crown Court.

After the determination by the Crown Court of an appeal from a magistrates' court the decision appealed against as confirmed or varied by the Crown Court, or any decision of the Crown Court substituted for the decision appealed against, may, without prejudice to the powers of the Crown Court to enforce the decision, be enforced—

(a) by the issue by the court by which the decision appealed against was given of any process that it could have issued if it had decided the case as the Crown Court decided it;

(b) so far as the nature of any process already issued to enforce the decision appealed against permits, by that process;

and the decision of the Crown Court shall have effect as if it had been made by the magistrates' court against whose decision the appeal is brought.

Case stated

111 Statement of case by magistrates' court.

(1) Any person who was a party to any proceeding before a magistrates' court or is aggrieved by the conviction, order, determination or other proceeding of the court may question the proceeding on the ground that it is wrong in law or is in excess of jurisdiction by applying to the justices composing the court to state a case for the opinion of the High Court on the question of law or jurisdiction involved; but a person shall not make an application under this section in respect of a decision against which he has a right of appeal to the High Court or which by virtue of any enactment passed after 31st December 1879 is final.

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(2) An application under subsection (1) above shall be made within 21 days after the day on which the decision of the magistrates' court was given.

(3) For the purpose of subsection (2) above, the day on which the decision of the magistrates' court is given shall, where the court has adjourned the trial of an information after conviction, be the day on which the court sentences or otherwise deals with the offender.

(4) On the making of an application under this section in respect of a decision any right of the applicant to appeal against the decision to the Crown Court shall cease.

(5) If the justices are of opinion that an application under this section is frivolous, they may refuse to state a case, and, if the applicant so requires, shall give him a certificate stating that the application has been refused; but the justices shall not refuse to state a case if the application is made by or under the direction of the Attorney General.

(6) Where justices refuse to state a case, the High Court may, on the application of the person who applied for the case to be stated, make an order of mandamus requiring the justices to state a case.

Modifications etc. (not altering text)
C136 S. 111 applied (1.7.1999) by S.I. 1999/1517, reg. 12(3), **Sch. 4 para. 9(4)**
C137 S. 111 referred to (11.3.2005) by Prevention of Terrorism Act 2005 (c. 2), **s. 12(7)(b)**

VALID FROM 06/04/2009

[F352 111A Appeals on ground of error of law etc in family proceedings

(1) This section applies in relation to family proceedings in a magistrates' court.

(2) Any person who was a party to any proceeding before the court, or is aggrieved by the order, determination or other proceeding of the court, may question the proceeding on the ground that it is wrong in law or is in excess of jurisdiction by appealing to a county court.

(3) But a person may not appeal under subsection (2) in respect of a decision if-

(a) the person has a right of appeal to a county court against the decision otherwise than under this section, or

(b) the decision is final by virtue of any enactment passed after 31st December 1879.

(4) A notice of appeal under subsection (2) shall be filed within 21 days after the day on which the decision of the magistrates' court was given.

(5) In this section "family proceedings" means —

(a) proceedings which, by virtue of section 65 of this Act, are or may be treated as family proceedings for the purposes of this Act; and

(b) proceedings under the Child Support Act 1991.**]**

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Textual Amendments

F352 S. 111A inserted (6.4.2009) by The Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) Order 2009 (S.I. 2009/871), **art. 4(3)**

112 Effect of decision of High Court on case stated by magistrates' court.

Any conviction, order, determination or other proceeding of a magistrates' court varied by the High Court on an appeal by case stated, and any judgment or order of the High Court on such an appeal, may be enforced as if it were a decision of the magistrates' court from which the appeal was brought.

Supplemental provisions as to appeal and case stated

113 Bail on appeal or case stated.

(1) Where a person has given notice of appeal to the Crown Court against the decision of a magistrates' court or has applied to a magistrates' court to state a case for the opinion of the High Court, then, if he is in custody, the magistrates' court may **[**F353, subject to section 25 of the Criminal Justice and Public Order Act 1994,**]** grant him bail.

(2) If a person is granted bail under subsection (1) above, the time and place at which he is to appear (except in the event of the determination in respect of which the case is stated being reversed by the High Court) shall be—

(a) if he has given notice of appeal, the Crown Court at the time appointed for the hearing of the appeal;

(b) if he has applied for the statement of a case, the magistrates' court at such time within 10 days after the judgment of the High Court has been given as may be specified by the magistrates' court;

and any recognizance that may be taken from him or from any surety for him shall be conditioned accordingly.

(3) Subsection (1) above shall not apply where the accused has been committed to the Crown Court for sentence under section 37 **[**F354section 3 of the Powers of Criminal Courts (Sentencing) Act 2000**]**.

(4) Section 37(6) of the M62Criminal Justice Act 1948 (which relates to the currency of a sentence while a person is released on bail by the High Court) shall apply to a person released on bail by a magistrates' court under this section pending the hearing of a case stated as it applies to a person released on bail by the High Court under section 22 of the M63Criminal Justice Act 1967.

Textual Amendments

F353 Words in s. 113(1) inserted (10.4.1995) by 1994 c. 33, s. 168(2), **Sch. 10 para. 44**; S.I. 1995/721, art. 2, **Sch.** Appendix A

F354 Words in s. 113(3) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 72**

Marginal Citations

M62 1948 c. 58.

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M63 1967 c. 80.

114 Recognizances and fees on case stated.

Justices to whom application has been made to state a case for the opinion of the High Court on any proceeding of a magistrates' court shall not be required to state the case until the applicant has entered into a recognizance, with or without sureties, before the magistrates' court, conditioned to prosecute the appeal without delay and to submit to the judgment of the High Court and pay such costs as that Court may award; and (except in any criminal matter) **[**F355a justices' clerk**]** shall not be required to deliver the case to the applicant until the applicant has paid **[**F356the fees payable for the case and for the recognizances to the **[**F357designated officer**]** for the court**]**.

Textual Amendments

F355 Words in s. 114 substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 235(a)**; S.I. 2005/910, {art. 3(y)}

F356 Words in s. 114 substituted (1.4.2001) by 1999 c. 22, s. 90, Sch. 13 paras. 95, **113** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)

F357 Words in s. 114 substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 235(b)**; S.I. 2005/910, {art. 3(y)}

PART VI

RECOGNIZANCES

Recognizances to keep the peace or be of good behaviour

115 Binding over to keep the peace or be of good behaviour.

(1) The power of a magistrates' court on the complaint of any person to adjudge any other person to enter into a recognizance, with or without sureties, to keep the peace or to be of good behaviour towards the complainant shall be exercised by order on complaint.

(2) Where a complaint is made under this section, the power of the court to remand the defendant under subsection (5) of section 55 above shall not be subject to the restrictions imposed by subsection (6) of that section.

(3) If any person ordered by a magistrates' court under subsection (1) above to enter into a recognizance, with or without sureties, to keep the peace or to be of good behaviour fails to comply with the order, the court may commit him to custody for a period not exceeding 6 months or until he sooner complies with the order.

116 Discharge of recognizance to keep the peace or be of good behaviour on complaint of surety.

(1) On complaint being made to a justice of the peace F358. . . by a surety to a recognizance to keep the peace or to be of good behaviour entered into before a magistrates' court that the person bound by the recognizance as principal has been, or is about to be, guilty of conduct constituting a breach of the conditions of the recognizance, the justice

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may[F359]. . . issue a warrant to arrest the principal and bring him before a magistrates' court [F360]. . . or a summons requiring the principal to appear before such a court; but the justice shall not issue a warrant unless the complaint is in writing and substantiated on oath.

(2) The magistrates' court before which the principal appears or is brought in pursuance of such a summons or warrant as aforesaid may, unless it adjudges the recognizance to be forfeited, order the recognizance to be discharged and order the principal to enter into a new recognizance, with or without sureties, to keep the peace or to be of good behaviour.

(3) [F361]. . . . . .

Textual Amendments

F358 Words in s. 116(1) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 236(2), **Sch.10**; S.I. 2005/910 ,{art. 3(y)(aa)}

F359 Words in s. 116(1) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 236(2), **Sch.10**; S.I. 2005/910, **art. 3(y)(aa)**

F360 Words in s. 116(1) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 236(2), **Sch.10**; S.I. 2005/910, **art. 3(y)(aa)**

F361 S. 116(3) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 236(3), **Sch.10**; S.I. 2005/910, **art. 3(y)(aa)**

Other provisions

117 Warrant endorsed for bail.

(1) A justice of the peace on issuing a warrant for the arrest of any person may grant him bail by endorsing the warrant for bail, that is to say, by endorsing the warrant with a direction in accordance with subsection (2) below.

(2) A direction for bail endorsed on a warrant under subsection (1) above shall—

(a) in the case of bail in criminal proceedings, state that the person arrested is to be released on bail subject to a duty to appear before such magistrates' court and at such time as may be specified in the endorsement;

(b) in the case of bail otherwise than in criminal proceedings, state that the person arrested is to be released on bail on his entering into such a recognizance (with or without sureties) conditioned for his appearance before a magistrates' court as may be specified in the endorsement;

and the endorsement shall fix the amounts in which any sureties and, in a case falling within paragraph (b) above, that person is or are to be bound.

[[F362](3) Where a warrant has been endorsed for bail under subsection (1) above—

(a) where the person arrested is to be released on bail on his entering into a recognizance without sureties, it shall not be necessary to take him to a police station, but if he is so taken, he shall be released from custody on his entering into the recognizance; and

(b) where he is to be released on his entering into a recognizance with sureties, he shall be taken to a police station on his arrest, and the custody officer there shall (subject to his approving any surety tendered in compliance with the endorsement) release him from custody as directed in the endorsement.**]**

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Textual Amendments

F362 S. 117(3) substituted by Police and Criminal Evidence Act 1984 (c. 60, SIF 95), **ss. 47(8)**(*b*), 51, 52

118 Varying or dispensing with requirement as to sureties.

(1) Subject to subsection (2) below, where a magistrates' court has committed a person to custody in default of finding sureties, the court may, on application by or on behalf of the person committed, and after hearing fresh evidence, reduce the amount in which it is proposed that any surety should be bound or dispense with any of the sureties or otherwise deal with the case as it thinks just.

(2) Subsection (1) above does not apply in relation to a person granted bail in criminal proceedings.

119 Postponement of taking recognizance.

(1) Where a magistrates' court has power to take any recognizance, the court may, instead of taking it, fix the amount in which the principal and his sureties, if any, are to be bound; and thereafter the recognizance may be taken by any such person as may be prescribed.

(2) Where, in pursuance of this section, a recognizance is entered into otherwise than before the court that fixed the amount of it, the same consequences shall follow as if it had been entered into before that court; and references in this or any other Act to the court before which a recognizance was entered into shall be construed accordingly.

(3) Nothing in this section shall enable a magistrates' court to alter the amount of a recognizance fixed by the High Court **[**F363or the Crown Court**]**.

Textual Amendments

F363 Words added by Criminal Justice Act 1982 (c. 48, SIF 39:1) s. 77, Sch. 14 para. 55

120 Forfeiture of recognizance.

[F364(1) This section applies where—

(a) a recognizance to keep the peace or to be of good behaviour has been entered into before a magistrates' court; or

(b) any recognizance is conditioned for the appearance of a person before a magistrates' court, or for his doing any other thing connected with a proceeding before a magistrates' court.

(1A) If, in the case of a recognizance which is conditioned for the appearance of an accused before a magistrates' court, the accused fails to appear in accordance with the condition, the court shall—

(a) declare the recognizance to be forfeited;

(b) issue a summons directed to each person bound by the recognizance as surety, requiring him to appear before the court on a date specified in the summons to show cause why he should not be adjudged to pay the sum in which he is bound;

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and on that date the court may proceed in the absence of any surety if it is satisfied that he has been served with the summons.

(2) If, in any other case falling within subsection (1) above, the recognizance appears to the magistrates' court to be forfeited, the court may—

(a) declare the recognizance to be forfeited; and

(b) adjudge each person bound by it, whether as principal or surety, to pay the sum in which he is bound;

but in a case falling within subsection (1)(a) above, the court shall not declare the recognizance to be forfeited except by order made on complaint.**]**

(3) The court which declares the recognizance to be forfeited may, instead of adjudging any person to pay the whole sum in which he is bound, adjudge him to pay part only of the sum or remit the sum.

(4) Payment of any sum adjudged to be paid under this section, including any costs awarded against the defendant, may be enforced, and any such sum shall be applied, as if it were a fine and as if the adjudication were a summary conviction of an offence not punishable with imprisonment and so much of section 85(1) above as empowers a court to remit fines shall not apply to the sum but so much thereof as relates to remission after a term of imprisonment has been imposed shall so apply; but at any time before the issue of a warrant of commitment to enforce payment of the sum, or before the sale of goods under a warrant of distress to satisfy the sum, the court may remit the whole or any part of the sum either absolutely or on such conditions as the court thinks just.

(5) A recognizance such as is mentioned in this section shall not be enforced otherwise than in accordance with this section, and accordingly shall not be transmitted to the Crown Court nor shall its forfeiture be certified to that Court.

Textual Amendments

F364 S. 120(1)(1A)(2) substituted (30.9.1998) for s. 120(1)(2) by 1998 c. 37, **s.55**; S.I. 1998/2327, **art.2**

Modifications etc. (not altering text)

C138 S. 120 extended (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 58(3), 101(1), **Sch. 12 para. 14**; S.I. 1992/333, art. 2(2), **Sch. 2**
S. 120 applied (25.8.2000) by 2000 c. 6, **ss. 150(5)**, 168(1)
S. 120 restricted (25.8.2000) by 2000 c. 6, **ss. 140(5)**, 168(1)

PART VII

MISCELLANEOUS AND SUPPLEMENTARY

Constitution and place of sitting of magistrates' courts

121 Constitution and place of sitting of court.

(1) A magistrates' court shall not try an information summarily or hear a complaint except when composed of at least 2 justices unless the trial or hearing is one that by virtue of any enactment may take place before a single justice.

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(2) A magistrates' court shall not hold an inquiry into the means of an offender for the purposes of section 82 above **[**F365or determine under that section at a hearing at which the offender is not present whether to issue a warrant of commitment**]** except when composed of at least 2 justices.

(3) F366. . . . . .

[F367(4) Subject to the provisions of any enactment to the contrary, a magistrates' court must sit in open court if it is—

(a) trying summarily an information for an indictable offence,

(b) trying an information for a summary offence,

(c) imposing imprisonment,

(d) hearing a complaint, or

(e) holding an inquiry into the means of an offender for the purposes of section 82.**]**

(5) A magistrates' court composed of a single justice F368. . . , shall not impose imprisonment for a period exceeding 14 days or order a person to pay more than £1.

(6) Subject to the provisions of subsection (7) below, the justices composing the court before which any proceedings take place shall be present during the whole of the proceedings; but, if during the course of the proceedings any justice absents himself, he shall cease to act further therein and, if the remaining justices are enough to satisfy the requirements of the preceding provisions of this section, the proceedings may continue before a court composed of those justices.

(7) Where the trial of an information is adjourned after the accused has been convicted and before he is sentenced or otherwise dealt with, the court which sentences or deals with him need not be composed of the same justices as that which convicted him; but, where among the justices composing the court which sentences or deals with an offender there are any who were not sitting when he was convicted, the court which sentences or deals with the offender shall before doing so make such inquiry into the facts and circumstances of the case as will enable the justices who were not sitting when the offender was convicted to be fully acquainted with those facts and circumstances.

(8) This section shall have effect subject to the provisions of this Act relating to **[**F369family proceedings**]**.

Textual Amendments

F365 Words inserted by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 61(6), 123(6), **Sch. 8 para. 16**

F366 S. 121(3) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 237(2), **Sch.10**; S.I. 2005/910, **art. 3(y)(aa)**

F367 S. 121(4) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 237(3)**; S.I. 2005/910, **art. 3(y)**

F368 Words in s. 121(5) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 237(4), **Sch.10**; S.I. 2005/910, **art. 3(y)(aa)**

F369 Words in 121(8) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 92, 108(6), **Sch. 11 Pt. II para. 8(c)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

Modifications etc. (not altering text)

C139 S. 121(1)(3)(a) applied (with modifications) (1.4.1997) by S.I. 1997/704, **rule 5(1)(3)(4)(g)**

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Appearance by counsel or solicitor

122 Appearance by counsel or solicitor.

(1) A party to any proceedings before a magistrates' court may be represented by **[**F370a legal representative**]**.

(2) Subject to subsection(3) below, an absent party so represented shall be deemed not to be absent.

(3) Appearance of a party by **[**F370a legal representative**]** shall not satisfy any provision of any enactment or any condition of a recognizance expressly requiring his presence.

Textual Amendments

F370 Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37, 82), s. 125(3), **Sch. 18 para. 25(3)(b)**

Process

123 Defect in process.

(1) No objection shall be allowed to any information or complaint, or to any summons or warrant to procure the presence of the defendant, for any defect in it in substance or in form, or for any variance between it and the evidence adduced on behalf of the prosecutor or complainant at the hearing of the information or complaint.

(2) If it appears to a magistrates' court that any variance between a summons or warrant and the evidence adduced on behalf of the prosecutor or complainant is such that the defendant has been misled by the variance, the court shall, on the application of the defendant, adjourn the hearing.

Modifications etc. (not altering text)

C140 S. 123 applied (with modifications) (1.4.1997) by S.I. 1997/704, **rule 5(1)(3)(4)(h)(6)**

124 Process valid notwithstanding death, etc., of justice.

A warrant or summons issued by a justice of the peace shall not cease to have effect by reason of his death or his ceasing to be a justice.

125 Warrants.

(1) A warrant of arrest issued by a justice of the peace shall remain in force until it is executed or withdrawn **[**F371or it ceases to have effect in accordance with **[**F372rules of court**]]**.

(2) A warrant of arrest, warrant of commitment, **[**F373warrant of detention,**]** warrant of distress or search warrant issued by a justice of the peace may be executed anywhere in England and Wales by any person to whom it is directed or by any constable acting within his police area.

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F374 . . . . . .

This subsection does not apply to a warrant of commitment or a warrant of distress issued under Part VI of the M64General Rate Act 1967.

F375(3) . . . . . .

F376(4) . . . . . .

Textual Amendments

F371 Words in s. 125(1) inserted (19.2.2001) by 1999 c. 22, **s. 97(4)** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/168, **arts. 1**, 2(a) (subject to transitional provisions in art. 3 of that S.I.)

F372 Words in s. 125(1) substituted (1.9.2004) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 238**; S.I. 2004/2066, **art. 2(c)(xi)** (subject to art. 3)

F373 Words in s. 125(2) inserted (8.1.2001) by 1999 c. 22, **s. 95(1)** (with s. 107, Sch. 14 para. 7(2)); S.I. 2000/3280, **art. 2(b)** (with transitional provisions in art. 3)

F374 S. 125(2): the second paragraph (which was inserted by Criminal Justice Act 1988 (c. 33), ss. 65(1), 123(6), **Sch. 8 para. 16**) repealed (8.1.2001) by 1999 c. 22, s. 108(1), **Sch. 15 Pt. V(8)** (with s. 107, Sch. 14 paras. 7(2), 36(9)); S.I. 2000/3280, **art.2(c)(i)**

F375 S. 125(3) repealed (19.2.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. V(8)** (with s. 107, Sch. 14 paras. 7(2), 36(9)); S.I. 2001/168, **arts. 1**, 2(b)

F376 S. 125(4) repealed (19.2.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. V(8)** (with s. 107, Sch. 14 paras. 7(2), 36(9)); S.I. 2001/168, **arts. 1**, 2(b)

Modifications etc. (not altering text)

C141 S. 125-126 applied (temp.) (23.2.2004 and 29.3.2004 for certain purposes, otherwise 5.4.2004 until 31.3.2006) by The Fines Collection Regulations 2004 (S.I. 2004/176), regs. 1(3), **10** (with reg. 3) (as amended (30.3.2005) by S.I. 2005/484, regs. 1(1)(a)(2), 2, 4)

Marginal Citations

M64 1967 c. 9.

VALID FROM 06/04/2014

[F377125ZAWarrants of control

(1) This section applies to a warrant of control issued by a justice of the peace.

(2) The person to whom it is directed must endorse the warrant as soon as possible after receiving it.

(3) For the purposes of this section a person endorses a warrant by inserting on the back the date and time when he received it.

(4) No fee may be charged for endorsing a warrant under this section.]

Textual Amendments

F377 S. 125ZA inserted (prosp.) by Tribunals, Courts and Enforcement Act 2007 (c. 15), **ss. 68**, 148 (with s. 89)

Status: *Point in time view as at 01/04/2005. This version of this Act contains provisions that are not valid for this point in time.*
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[F378 125A Civilian enforcement officers.

(1) A warrant to which this subsection applies may be executed anywhere in England and Wales by a civilian enforcement officer.

(2) In this section "civilian enforcement officer", in relation to a warrant, means a person who—

(a) is employed by an authority of a prescribed class which performs functions in relation to any area specified in the warrant; and

(b) is authorised in the prescribed manner to execute warrants.

(3) The warrants to which subsection (1) above applies are any warrant of arrest, commitment, detention or distress issued by a justice of the peace—

(a) under any provision specified for the purposes of this subsection by an order made by the Lord Chancellor and the Secretary of State, acting jointly; or

(b) for the enforcement of a court order of any description so specified.

(4) Where a warrant has been executed by a civilian enforcement officer, a written statement indicating—

(a) the name of the officer;

(b) the authority by which he is employed; and

(c) that he is authorised in the prescribed manner to execute warrants,

shall, on the demand of the person arrested, committed or detained or against whom distress is levied, be shown to him as soon as practicable.

(5) The power to make orders conferred by subsection (3) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

F378 S. 125A inserted (8.1.2001) by 1999 c. 22, **s. 92**, (with s. 107, Sch. 14 para. 7(2)); S.I. 2000/3280, **art. 2(b)**

Modifications etc. (not altering text)

C142 S. 125-126 applied (temp.) (23.2.2004 and 29.3.2004 for certain purposes, otherwise 5.4.2004 until 31.3.2006) by The Fines Collection Regulations 2004 (S.I. 2004/176), regs. 1(3), **10** (with reg. 3) (as amended (30.3.2005) by S.I. 2005/484, regs. 1(1)(a)(2), 2, 4)

[F379 125B Execution by approved enforcement agency.

(1) A warrant to which section 125A(1) above applies may also be executed anywhere in England and Wales—

(a) by an individual who is an approved enforcement agency;

(b) by a director of a company which is an approved enforcement agency;

(c) by a partner in a partnership which is an approved enforcement agency; or

(d) by an employee of an approved enforcement agency who is authorised in writing by the agency to execute warrants.

(2) In this section "approved enforcement agency", in relation to a warrant, means a person or body approved [F380 by the Lord Chancellor] .

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[The Lord Chancellor must maintain a register containing the names of all persons and F381(2A) bodies approved by him under subsection (2) and must make such arrangements as he considers appropriate for making the register available for inspection.**]**

(3) F382. . . . . .

(4) Where a warrant has been executed by a person mentioned in subsection (1) above, a written statement indicating the matters specified in subsection (5) below shall, on the demand of the person arrested, committed or detained or against whom distress is levied, be shown to him as soon as practicable.

(5) The matters referred to in subsection (4) above are—

(a) the name of the person by whom the warrant was executed;

(b) if he is a director of, or partner in, an approved enforcement agency, the fact that he is a director of, or partner in, that agency;

(c) if he is an employee of an approved enforcement agency, the fact that he is an employee authorised in writing by that agency to execute warrants; and

(d) the fact that his name, or (where paragraph (b) or (c) above applies) that of the agency indicated, is contained in the register maintained **[**F383by the Lord Chancellor under subsection (2A)**]** .

[A decision by the Lord Chancellor to revoke the approval of a person or body under F384(6) subsection (2) does not have effect to revoke the approval until the Lord Chancellor has informed the person or body of the decision.**]]**

Textual Amendments

F379 S. 125B inserted (8.1.2001) by 1999 c. 22, **s. 93(2)**, (with s. 107, Sch. 14 para. 7(2)); S.I. 2000/3280, **art. 2(b)**

F380 Words in s. 125B(2) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 239(2)**; S.I. 2005/910, **art. 3(y)**

F381 Words in s. 125B(2A) inserted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 239(3)**; S.I. 2005/910, **art. 3(y)**

F382 S. 125B(3) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 239(4), **Sch. 10**; S.I. 2005/910, **art. 3(y)(aa)**

F383 Words in s. 125B(5)(d) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 239(5)**; S.I. 2005/910, **art. 3(y)**

F384 S. 125B(6) inserted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 239(6)**; S.I. 2005/910, **art. 3(y)**

Modifications etc. (not altering text)

C143 S. 125-126 applied (temp.) (23.2.2004 and 29.3.2004 for certain purposes, otherwise 5.4.2004 until 31.3.2006) by The Fines Collection Regulations 2004 (S.I. 2004/176), regs. 1(3), **10** (with reg. 3) (as amended (30.3.2005) by S.I. 2005/484, regs. 1(1)(a)(2), 2, 4)

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VALID FROM 18/07/2005

[F385 125BA Powers of persons authorised under section 125A or 125B

Schedule 4A to this Act, which confers powers on persons authorised under section 125A or 125B for the purpose of executing warrants for the enforcement of fines and other orders, shall have effect.]

Textual Amendments

F385 S. 125BA inserted (18.7.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), **ss. 27(1)**, 60; S.I. 2005/1821, **art. 2**

[F385F386 125C Disclosure of information for enforcing warrants.

(1) Basic personal information held by a relevant public authority may, on the application of [F387 the designated officer for a magistrates' court] , be supplied by the authority to him (or to a justices' clerk F388 . . . who is specified in the application) for the purpose of facilitating the enforcement of a section 125A(1) warrant which is so specified.

(2) In this section—

"basic personal information" means a person's name, date of birth or national insurance number or the address (or any of the addresses) of a person;

"relevant public authority" means a Minister of the Crown, government department, local authority or chief officer of police specified in an order made by the Lord Chancellor; and

"a section 125A(1) warrant" means a warrant to which section 125A(1) above applies F389 . . .

(3) Information supplied to any person under subsection (1) above, or this subsection, for the purpose of facilitating the enforcement of a section 125A(1) warrant may be supplied by him for that purpose to—

(a) any person entitled to execute the warrant;

(b) any employee of a body or person who, for the purposes of section 125B above, is an approved enforcement agency in relation to the warrant; or

[F390 (c) any justices' clerk or other person appointed under section 2(1) of the Courts Act 2003.]

(4) A person who intentionally or recklessly—

(a) discloses information supplied to him under this section otherwise than as permitted by subsection (3) above; or

(b) uses information so supplied otherwise than for the purpose of facilitating the enforcement of the section 125A(1) warrant concerned,

commits an offence.

(5) But it is not an offence under subsection (4) above—

(a) to disclose any information in accordance with any enactment or order of a court or for the purposes of any proceedings before a court; or

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(b) to disclose any information which has previously been lawfully disclosed to the public.

(6) A person guilty of an offence under subsection (4) above is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum; or

(b) on conviction on indictment, to a fine.

(7) The power to make orders conferred by subsection (2) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.**]**

Textual Amendments

F385 S. 125BA inserted (18.7.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), **ss. 27(1)**, 60; S.I. 2005/1821, **art. 2**

F386 S. 125C inserted (8.1.2001) by 1999 c. 22, **s. 94**, (with s. 107, Sch. 14 para. 7(2)); S.I. 2000/3280, **art. 2(b)** (with transitional provisions in art. 3)

F387 Words in s. 125C(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 240(2)(a)**; S.I. 2005/910, **art. 3(y)**

F388 Words in s. 125C(1) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 240(2)(b), **Sch. 10**; S.I. 2005/910, **art. 3(y)(aa)**

F389 Words in s. 125C(2) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 240(3), **Sch. 10**; S.I. 2005/910, **art. 3(y)(aa)**

F390 S. 125C(3)(c) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 240(4)**; S.I. 2005/910, **art. 3(y)**

Modifications etc. (not altering text)

C144 S. 125C extended (8.1.2001) by S.I. 2000/3277, **art. 2**

C145 S. 125-126 applied (23.2.2004) by S.I. 2004/176, **reg. 10**

[F391 125CA Power to make disclosure order

(1) A magistrates' court may make a disclosure order if satisfied that it is necessary to do so for the purpose of executing a warrant to which this section applies.

(2) This section applies to a warrant of arrest, commitment, detention or distress issued by a justice of the peace in connection with the enforcement of a fine or other order imposed or made on conviction.

(3) A disclosure order is an order requiring the person to whom it is directed to supply the designated officer for the court with any of the following information about the person to whom the warrant relates—

(a) his name, date of birth or national insurance number;

(b) his address (or any of his addresses).

(4) A disclosure order may be made only on the application of a person entitled to execute the warrant.

(5) This section applies to the Crown as it applies to other persons.

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Textual Amendments

F391 Ss. 125CA, 125CB inserted (31.3.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), **ss. 28**, 60; S.I. 2005/579, **art. 3(c)**

125CB Use of information supplied under disclosure order

(1) Information supplied to a person under a disclosure order, or under this subsection, may be supplied by him to—

(a) the applicant for the order or any other person entitled to execute the warrant concerned;

(b) any employee of a body or person who, for the purposes of section 125B above, is an approved enforcement agency in relation to the warrant;

(c) any justices' clerk or other person appointed under section 2(1) of the Courts Act 2003.

(2) A person who intentionally or recklessly—

(a) discloses information supplied under a disclosure order otherwise than as permitted by subsection (1) above, or

(b) uses information so supplied otherwise than for the purpose of facilitating the execution of the warrant concerned,

commits an offence.

(3) But it is not an offence under subsection (2) above—

(a) to disclose any information in accordance with any enactment or order of a court or for the purposes of any proceedings before a court; or

(b) to disclose any information which has previously been lawfully disclosed to the public.

(4) A person guilty of an offence under subsection (2) above is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine.

(5) In this section "disclosure order" has the meaning given by section 125CA(3) above.**]**

Textual Amendments

F391 Ss. 125CA, 125CB inserted (31.3.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), **ss. 28**, 60; S.I. 2005/579, **art. 3(c)**

[F392 125D Execution by person not in possession of warrant.

(1) A warrant to which section 125A(1) above applies may be executed by any person entitled to execute it even though it is not in his possession at the time.

(2) A warrant to which this subsection applies (and which is not a warrant to which section 125A(1) above applies) may be executed by a constable even though it is not in his possession at the time.

(3) Subsection (2) above applies to—

(a) a warrant to arrest a person in connection with an offence;

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(b) a warrant under section 186(3) of the [M65]Army Act 1955, section 186(3) of the [M66]Air Force Act 1955, section 105(3) of the [M67]Naval Discipline Act 1957 or Schedule 2 to the [M68]Reserve Forces Act 1996 (desertion etc.);

(c) a warrant under section 102 or 104 of the [M69]General Rate Act 1967 (insufficiency of distress);

(d) a warrant under section 47(8) of the [M70]Family Law Act 1996 (failure to comply with occupation order or non-molestation order);

(e) a warrant under paragraph 4 of Schedule 3 to the [M71]Crime and Disorder Act 1998 (unwilling witnesses);

(f) a warrant under paragraph 3(2) of Schedule 1 to the [M72]Youth Justice and Criminal Evidence Act 1999 (offenders referred to court by youth offender panel); and

(g) a warrant under section 55, 76, 93, 97 or 97A above.

(4) Where by virtue of this section a warrant is executed by a person not in possession of it, it shall, on the demand of the person arrested, committed or detained or against whom distress is levied, be shown to him as soon as practicable.**]**

Textual Amendments

F392 S. 125D inserted (19.2.2001) by 1999 c. 22, **s. 96** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/168, **arts. 1**, 2(a) (subject to transitional provisions in art. 3 of that S.I.)

Modifications etc. (not altering text)

C146 Ss. 125-126 applied (temp.) (23.2.2004 and 29.3.2004 for certain purposes, otherwise 5.4.2004 until 31.3.2006) by The Fines Collection Regulations 2004 (S.I. 2004/176), regs. 1(3), **10** (with reg. 3) (as amended (30.3.2005) by S.I. 2005/484, regs. 1(1)(a)(2), 2, 4)

Marginal Citations

M65 1955 c.18.
M66 1955 c.19.
M67 1957 c.53.
M68 1966 c.14.
M69 1967 c.9.
M70 1996 c.27.
M71 1998 c.37.
M72 1999 c.23.

126 Execution of certain warrants outside England and Wales.

[[F393]Section 13(1) and (2)**]** of the [M73]Indictable Offences Act 1848 (which relate, among other things, to the execution in Scotland, Northern Ireland, the Isle of Man and the Channel Islands of warrants of arrest for the offences referred to in those sections) shall, so far as applicable, apply to—

(a) warrants of arrest issued under section 1 above for offences other than **[**[F394]indictable offences**]** ;

(b) warrants of arrest issued under section 13 above;

(c) warrants of arrest issued under section 97 above other than warrants issued in bastardy proceedings to arrest a witness;[F395]. . .

[[F396](cc) warrants of arrest issued under section 97A above;**]**

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(d) warrants of commitment issued under this Act **[**F397;and

(e) warrants of arrest issued under paragraph 4 of Schedule 3 to the Crime and Disorder Act 1998**]**; **[**F398and**]**

(f) warrants of arrest issued under paragraph 3(2) of Schedule 1 to **[**F399the Powers of Criminal Courts (Sentencing) Act 2000**]** (offender referred to court by youth offender panel).

Textual Amendments

F393 Words in s. 126 substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 241(a)**; S.I. 2005/910, **art. 3(y)**

F394 Words in s. 126 substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 241(b)**; S.I. 2005/910, **art. 3(y)**

F395 Word "and" at the end of s. 126(c) repealed (4.1.1999 for the purpose of sending any person for trial under s. 51 of the substituting Act from any area specified in S.I. 1998/2327, **Sch. 2** (as amended by S.I. 1998/2412 and S.I. 2000/924) otherwise 15.1.2001) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 45(a), **Sch. 10**; S.I. 1998/2327, art. 4(2)(c), **Sch. 2**; S.I. 2000/3283, **art. 2(c)** (subject to art. 3)

F396 S. 126(cc) inserted (4.1.1999 for the purpose of sending any person for trial under s. 51 of the substituting Act from any area specified in S.I. 1998/2327, **Sch. 2** (as amended by S.I. 1998/2412 and S.I. 2000/924) otherwise 15.1.2001) by 1998 c. 37, s. 119, **Sch. 8 para. 45(b)**; S.I. 1998/2327, art. 4(2)(c), **Sch. 2**; S.I. 2000/3283, **art. 2(c)** (subject to art. 3)

F397 S. 126(e) and the word "and" immediately preceding it inserted (4.1.1999 for the purpose of sending any person for trial under s. 51 of the substituting Act from any area specified in S.I. 1998/2327, **Sch. 2** (as amended by S.I. 1998/2412 and S.I. 2000/924) otherwise 15.1.2001) by 1998 c. 37, s. 119, **Sch. 8 para. 45(c)**; S.I. 1998/2327, art. 4(2)(c), **Sch. 2**; S.I. 2000/3283, **art. 2(c)** (subject to art. 3)

F398 S. 126(f) and the preceding "and" inserted (26.6.2000) by 1999 c. 23, s. 67, **Sch. 4 para. 9** (with Sch. 7 paras. 3(3), 5(2)); S.I. 2000/1587, **art. 2(b)**

F399 Words in s. 126(f) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 74**

Modifications etc. (not altering text)

C147 S. 125-126 applied (temp.) (23.2.2004 and 29.3.2004 for certain purposes, otherwise 5.4.2004 until 31.3.2006) by The Fines Collection Regulations 2004 (S.I. 2004/176), regs. 1(3), **10** (with reg. 3) (as amended (30.3.2005) by S.I. 2005/484, regs. 1(1)(a)(2), 2, 4)

Marginal Citations

M73 1848 c. 42.

Limitation of time

127 Limitation of time.

(1) Except as otherwise expressly provided by any enactment and subject to subsection (2) below, a magistrates' court shall not try an information or hear a complaint unless the information was laid, or the complaint made, within 6 months from the time when the offence was committed, or the matter of complaint arose.

(2) Nothing in—

(a) subsection (1) above; or

(b) subject to subsection (4) 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

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information summarily or impose a limitation on the time for taking summary proceedings,

shall apply in relation to any indictable offence.

(3) Without prejudice to the generality of paragraph (b) of subsection (2) 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).

(4) Where, as regards any indictable offence, there is imposed by any enactment (however framed or worded, and whether falling within subsection (2) (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.

Modifications etc. (not altering text)

C148 S. 127 excluded by Insurance Companies Act 1982 (c. 50, SIF 67), **s. 94(2)**

C149 S. 127 excluded by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 121(2), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
S. 127 excluded (25.11.1991) by Town and Country Planning Act 1990 (c. 8, SIF 123:1), **ss. 65(9)**, 194(3) (as substituted (25.11.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **ss. 16(1)** and 10(1) respectively; S.I. 1991/2728, **art. 2** (for limited purposes))

C150 S. 127 excluded (1.12.1991) by Water Resources Act 1991 (c. 57, SIF 130), **ss. 101**, 225(2) (with ss. 16(6), 179, 222(3), Sch. 22 para. 1, Sch. 23 para. 6)

C151 S. 127 excluded: (1.12.1991) by Water Resources Act 1991 (c. 57, SIF 130), **ss. 202(5)**, 225(2) (with ss. 16(6), 179, 222(3), Sch. 22 para. 1, Sch. 23 para. 6); and (28.10.1992) by S.I. 1992/2372, **reg.90**
S. 127 excluded (1.4.1997) by S.I. 1997/704, **rule 5(1)(7)(a)**
S. 127 excluded (25.7.2003 for specified purposes and 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), **ss. 174(1)**, 411(5) (with Sch. 18); S.I. 2003/1900, art. 1(2), **2**, 3(1), Sch. 1; S.I. 2003/3142, **art. 3(2)** (with art. 11)
S. 127 excluded (5.4.2004) by 1976 c. 63, s. 6(10) (as inserted by Criminal Justice Act 2003 (c. 44), **ss. 15(3)**, 336 (with s. 141); S.I. 2004/829, **art. 2(2)(b)** (subject to art. 2(3)-(6))
S. 127 excluded (7.3.2005) by S.I. 2005/281, **reg. 93**
S. 127 excluded (1.10.2005) by S.I. 2005/1803, **reg. 41(1)**
S. 127 excluded (8.2.2007) by 2006 c. 36, **ss. 41(8)(a)**, 126
S. 127 excluded (20.7.2007) by 2006/3418, {reg. 54} (with regs. 7-14, 63, 64)

C152 S. 127 restricted (1.10.2009) by Planning Act 2008 (c. 29), **ss. 58(6)(7)**, 226, 241; S.I. 2009/2260, **art. 2**

C153 S. 127(1) modified by Transport Act 1982 (c. 49, SIF 107:1), **ss. 38(3)(8)**, 49(13)(*b*)

C154 S. 127(1) excluded by Companies Act 1985 (c. 6, SIF 27), **s. 731(2)**

C155 S. 127(1) modified by Surrogacy Arrangements Act 1985 (c. 49, SIF 39:2), **s. 4(6)**

C156 S. 127(1) excluded by Animals (Scientific Procedures) Act 1986 (c. 14, SIF 4:5), **s. 26(3)**

C157 S. 127(1) excluded by Insolvency Act 1986 (c. 45, SIF 66), **s. 431(2)**

C158 S. 127(1) excluded by Banking Act 1987 (c. 22, SIF 10), **s. 97(2)**
S. 127(1) excluded (23.5.1994) by S.I. 1994/1323, **art. 17(7)**
S. 127(1) excluded (19.10.1994) by S.I. 1994/2673, **art. 13(7)**
S. 127 excluded (1.4.1997) by S.I. 1997/704, **rule 5(1)(7)(a)**
S. 127(1) excluded (1.7.1999) by 1985 c. 23, **s. 22B(4)** (as inserted by 1998 c. 37, **ss.45**, 121(2); S.I. 1999/1279, **art. 2**)
S. 127(1) excluded (3.2.1995) by 1991 c. 53, **s. 20A** (as inserted by 1994 c. 33, s. 168(1), **Sch. 9 para.43**; S.I. 1995/127, art. 2(1), **Sch. 1A**ppendix A)
S. 127(1) excluded (1.11.1997) (*temp.*) by S.I. 1997/2592, **art. 12(7)**

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C159 S. 127(1) modified by Road Traffic Offenders Act 1988 (c. 53, SIF 107:1), **ss. 64(7)(b)**, 66(4), 92
S. 127(1) modified (21.7.1997) by 1997 c. 22, **s. 21(4)(a)**; S.I. 1997/1672, **art. 2**

C160 S. 127(1) excluded by S.I. 1989/438, **reg. 29(3)**

C161 S. 127(1) excluded by S.I. 1989/1058, **reg. 12(3)**

C162 S. 127(1) excluded (14.10.1991) by Children Act 1989 (c. 41, SIF 20), **ss. 70(8)**, 108(6), (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

C163 S. 127(1) excluded by S.I. 1990/1768, **art. 8(6)** (as replaced by S.I. 1990/2144, **art. 3**)

C164 S. 127(1) excluded: (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 20(4), 101(1), **Sch. 12 para. 6** (with s. 28); S.I. 1992/333, art. 2(2), **Sch.2**; and (1.4.1992) by S.I. 1992/613, **reg. 34(3)**; and (15.4.1992) by S.I. 1992/975, **art. 16(7)**; and (5.6.1992) by S.I. 1992/1302, **art. 17(7)**; and (1.5.1993) by S.I. 1993/1188, **art. 16(6)**; and (24.5.1993) by S.I. 1993/1244, **art. 22(8)**; and (22.7.1993) by S.I. 1993/1784, **art. 13(7)**; and (22.7.1993) by S.I. 1993/1787, **art. 10(7)**; and (1.10.1993) by S.I. 1993/2355, **art. 12(7)**; and (1.12.1993) by S.I. 1993/2807, **art. 19(7)**
S. 127(1) excluded (25.10.1999) by 1973 c. 35, **s. 11A(2)** (as inserted (25.10.1999) by 1999 c. 26, s. 31, Sch. 7 paras. 1, **5**; S.I. 1999/2830, 2(1), Sch. 1 Pt. I)
S. 127(1) excluded (26.11.1999) by S.I. 1999/3133, **art. 8(7)**

C165 S. 127(1) amended (4.7.1996) by 1996 c. 25, **s. 56** (with s. 78(1))
S. 127(1) excluded (3.6.1999) by S.I. 1999/1516, **reg. 9(4)**
S. 127(1) excluded (16.6.2000) by S.I. 2000/1556, **art. 17**
S. 127(1) excluded (25.8.2000) by 2000 c. 6, **ss. 126(6)**, 168(1)
S. 127(1) excluded (16.2.2001) by 2000 c. 41, **s. 151(2)** (with s. 156(6)); S.I. 2001/222, art. 2, **Sch. 1 Pt. I**
S. 127(1) excluded (16.3.2001) by S.I. 2001/947, **art. 16(7)**
S. 127(1) excluded (10.10.2001) by S.I. 2001/3365, **art. 10(5)**
S. 127(1) excluded (14.12.2001) by 2001 c. 24, ss. 6, 127(2), **Sch. 3 para. 8(4)** (with s. 14(3))
S. 127(1) excluded (24.10.2002) by S.I. 2002/2628, **art. 16(7)**
S. 127(1) excluded (25.1.2002) by S.I. 2002/111, **art. 20(8)**
S. 127(1) excluded (14.1.2003) by 1981 c. 22, **s. 71A** (as inserted by 2002 c. 42, **s. 14**); S.I. 2002/3044 art. 2(a)
S. 127(1) excluded (14.6.2003) by S.I. 2003/1519, **art. 20(7)**
S. 127(1) excluded (13.2.2004) by S.I. 2004/348, **art. 15(7)**
S. 127(1) excluded (11.2.2005) by S.I. 2005/253, **reg. 9(7)**
S. 127(1) excluded (4.4.2005) by Criminal Justice Act 2003 (c. 44), **ss. 162(6)**, 336; S.I. 2005/950, **art. 2**, Sch. 1 para. 7 (subject to art. 2(2) and Sch. 2)
S. 127(1) excluded (21.8.2006) by 1984 c. 55, s. 35A(1) (as inserted by Climate Change and Sustainable Energy Act 2006 (c. 19), **ss. 13(1)**, 28
S. 127(1) excluded (21.5.2007) by Gambling Act 2005 (c. 19), **ss. 347(2)**, 361 (with ss. 352, 354); S.I. 2006/3272, **art. 2(4)**, Sch. 2 (as amended by S.I. 2007/1157, arts. 3(3), **4(2)(3)(c)**)
S. 127(1) excluded (27.3.2007 for W. and 6.4.2007 for E.) by Animal Welfare Act 2006 (c. 45), **ss. 31(1)**, 68 (with ss. 1(2), 58(1), 59 and 60); S.I. 2007/1030, **art. 2(1)(e)**; S.I. 2007/499, **art. 2(2)(g)**

C166 S. 127(1) modified (7.2.2005) by Licensing Act 2003 (c. 17), **ss. 186(3)**, 201 (with ss.2(3), 15(2), 195); S.I. 2004/2360, **art. 2**

C167 S. 127(1) excluded by 1998 c. 37, s. 13B(7) (as inserted (20.7.2006 for certain purposes, otherwise prosp.) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 144, 178, **Sch. 10 para. 2**; S.I. 2006/1871, **art. 2**, Sch.

C168 S. 127(1) excluded (26.5.2008) by The Business Protection from Misleading Marketing Regulations 2008 (S.I. 2008/1276), **reg. 10(3)**

C169 S. 127(1) excluded (26.5.2008) by The Consumer Protection from Unfair Trading Regulations 2008 (S.I. 2008/1277), **reg. 14(3)** (with savings in reg. 28(2)(3))

C170 S. 127(1) excluded (10.10 a.m. on 8.10.2008) by The Landsbanki Freezing Order 2008 (S.I. 2008/2668), **art. 10(3)**

C171 S. 127(1) excluded (prosp.) by the Public Health (Control of Disease) Act 1984 (c. 22)1984 c. 22, ss. 64A(1) (as inserted by the Health and Social Care Act 2008 (c. 14), ss. 130, 170, **Sch. 11 para. 22**)

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C172 S. 127(1) excluded (10.4.2009) by The Iran (United Nations Sanctions) Order 2009 (S.I. 2009/886), **art. 12(6)**

C173 S. 127(1) excluded (10.7.2009) by The North Korea (United Nations Sanctions) Order 2009 (S.I. 2009/1749), **art. 14(6)**

Remand

128 Remand in custody or on bail.

(1) Where a magistrates' court has power to remand any person, then, subject to section 4 of the [M74]Bail Act 1976 and to any other enactment modifying that power, the court may—

(a) remand him in custody, that is to say, commit him to custody to be brought before the court **[**[F400], subject to subsection (3A) below,**]** at the end of the period of remand or at such earlier time as the court may require; or

(b) where it is inquiring into or trying an offence alleged to have been committed by that person or has convicted him of an offence, remand him on bail in accordance with the [M75]Bail Act 1976, that is to say, by directing him to appear as provided in subsection (4) below; or

(c) except in a case falling within paragraph (b) above, remand him on bail by taking from him a recognizance (with or without sureties) conditioned as provided in that subsection;

and may, in a case falling within paragraph (c) above, instead of taking recognizances in accordance with that paragraph, fix the amount of the recognizances with a view to their being taken subsequently in accordance with section 119 above.

[[F401](1A) Where—

(a) on adjourning a case under section 5, 10(1) **[**[F402], 17C**]** or 18(4) above the court proposes to remand or further remand a person in custody; and

(b) he is before the court; and

[F403](c) . . . . . .

(d) he is legally represented in that court,

it shall be the duty of the court—

(i) to explain the effect of subsections (3A) and (3B) below to him in ordinary language; and

(ii) to inform him in ordinary language that, notwithstanding the procedure for a remand without his being brought before a court, he would be brought before a court for the hearing and determination of at least every fourth application for his remand, and of every application for his remand heard at a time when it appeared to the court that he had no **[**[F404]legal representative**]**acting for him in the case.

(1B) For the purposes of subsection (1A) above a person is to be treated as legally represented in a court if, but only if, he has the assistance of **[**[F405]a legal representative**]** to represent him in the proceedings in that court.

(1C) After explaining to an accused as provided by subsection (1A) above the court shall ask him whether he consents to hearing and determination of such applications in his absence.**]**

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(2) Where the court fixes the amount of a recognizance under subsection (1) above or section 8(3) of the [M76]Bail Act 1976 with a view to its being taken subsequently the court shall in the meantime commit the person so remanded to custody in accordance with paragraph (a) of the said subsection (1).

(3) Where a person is brought before the court after remand, the court may further remand him.

[[F406](3A) Subject to subsection (3B) below, where a person has been remanded in custody **[**[F407]and the remand was not a remand under section 128A below for a period exceeding 8 clear days,**]**, the court may further remand him **[**[F407](otherwise than in the exercise of the power conferred by that section)**]**on an adjournment under section 5, 10(1) **[**[F402], 17C**]** or 18(4) above without his being brought before it if it is satisfied—

(a) that he gave his consent, either in response to a question under subsection (1C) above or otherwise, to the hearing and determination in his absence of any application for his remand on an adjournment of the case under any of those provisions; and

(b) that he has not by virtue of this subsection been remanded without being brought before the court on more than two such applications immediately preceding the application which the court is hearing; and

[F408](c) . . . . . .

(d) that he has not withdrawn his consent to their being so heard and determined.

(3B) The court may not exercise the power conferred by subsection (3A) above if it appears to the court, on an application for a further remand being made to it, that the person to whom the application relates has no **[**[F409]legal representative**]** acting for him in the case (whether present in court or not).

(3C) Where—

(a) a person has been remanded in custody on an adjournment of a case under section 5, 10(1) **[**[F402], 17C**]** or 18(4) above; and

(b) an application is subsequently made for his further remand on such an adjournment; and

(c) he is not brought before the court which hears and determines the application; and

(d) that court is not satisfied as mentioned in subsection (3A) above,

the court shall adjourn the case and remand him in custody for the period for which it stands adjourned.

(3D) An adjournment under subsection (3C) above shall be for the shortest period that appears to the court to make it possible for the accused to be brought before it.

(3E) Where—

(a) on an adjournment of a case under section 5, 10(1) **[**[F402], 17C**]** or 18(4) above a person has been remanded in custody without being brought before the court; and

(b) it subsequently appears—

(i) to the court which remanded him in custody; or

(ii) to an alternate magistrates' court to which he is remanded under section 130 below,

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that he ought not to have been remanded in custody in his absence, the court shall require him to be brought before it at the earliest time that appears to the court to be possible.**]**

(4) Where a person is remanded on bail under subsection (1) above the court may, where it remands him on bail in accordance with the Bail Act 1976 direct him to appear or, in any other case, direct that his recognizance be conditioned for his appearance—

(a) before that court at the end of the period of remand; or

(b) at every time and place to which during the course of the proceedings the hearing may be from time to time adjourned;

and, where it remands him on bail conditionally on his providing a surety during an inquiry into an offence alleged to have been committed by him, may direct that the recognizance of the surety be conditioned to secure that the person so bailed appears—

(c) at every time and place to which during the course of the proceedings the hearing may be from time to time adjourned and also before the Crown Court in the event of the person so bailed being committed for trial there.

(5) Where a person is directed to appear or a recognizance is conditioned for a person's appearance in accordance with paragraph (b) or (c) of subsection (4) above, the fixing at any time of the time for him next to appear shall be deemed to be a remand; but nothing in this subsection or subsection (4) above shall deprive the court of power at any subsequent hearing to remand him afresh.

(6) Subject to the provisions of **[**F410sections 128A and**]** 129 below, a magistrates' court shall not remand a person for a period exceeding 8 clear days, except that—

(a) if the court remands him on bail, it may remand him for a longer period if he and the other party consent;

(b) where the court adjourns a trial under section 10(3) **[**F411above or section 11 of the Powers of Criminal Courts (Sentencing) Act 2000**]**, the court may remand him for the period of the adjournment;

(c) where a person is charged with an offence triable either way, then, if it falls to the court to try the case summarily but the court is not at the time so constituted, and sitting in such a place, as will enable it to proceed with the trial, the court may remand him until the next occasion on which it will be practicable for the court to be so constituted, and to sit in such a place, as aforesaid, notwithstanding that the remand is for a period exceeding 8 clear days.

(7) A magistrates' court having power to remand a person in custody may, if the remand is for a period not exceeding 3 clear days, commit him to **[**F412detention at a police station**]**.

[F413(8) Where a person is committed to detention at a police station under subsection (7) above—

(a) he shall not be kept in such detention unless there is a need for him to be so detained for the purposes of inquiries into other offences;

(b) if kept in such detention, he shall be brought back before the magistrates' court which committed him as soon as that need ceases;

(c) he shall be treated as a person in police detention to whom the duties under section 39 of the Police and Criminal Evidence Act 1984 (responsibilities in relation to persons detained) relate;

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(d) his detention shall be subject to periodic review at the times set out in section 40 of that Act (review of police detention).**]**

Textual Amendments

F400 Words inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 59(1), **Sch. 9 para. 2**
F401 S. 128(1A)—(1C) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 59(1), **Sch. 9 para. 3**
F402 Words in s. 128(1A)(3A)(3C)(3E) inserted (4.7.1996 with effect as mentioned in s. 49(6) of the inserting Act) by 1996 c. 25, **s. 49(5)(a)(6)** (with s. 78(1)); S.I. 1997/2199, **art. 2**
F403 S. 128(1A)(C) repealed (4.7.1996 with effect as mentioned in s. 52(3)(4) of the repealing Act) by 1996 c. 25, ss. 52(1)(3), 80, **Sch. 5** Table 4 (with s. 78(1)); S.I. 1997/36, **art. 2**
F404 Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37, 82), s. 125(3), **Sch. 18 para. 25(4)(a)**
F405 Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37, 82), s. 125(3), **Sch. 18 para. 25(3)(a)(b)**
F406 S. 128(3A)–(3E) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 59(1), **Sch. 9 para. 4**
F407 Words inserted by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 123(6), 170(1), **Sch. 15 para. 69(1)**
F408 S. 128(3A)(c) repealed (4.7.1996 with effect as mentioned in s. 52(3)(4) of the repealing Act) by 1996 c. 25, ss. 52(1)(3), 80, **Sch. 5** Table 4 (with s. 78(1)); S.I. 1997/36, **art. 2**
F409 Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37, 82), s. 125(3), **Sch. 18 para. 25(4)(a)**
F410 Words substituted by Criminal Justice Act 1988 (c. 33, SIF 39:1), **ss. 123(6)** 170(1), Sch. 15 para. 69(2)
F411 Words in s. 128(6)(b) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 75**
F412 Words substituted by Police and Criminal Evidence Act 1984 (c. 60, SIF 95), **ss. 48**(*a*), 51, 52
F413 S. 128(8) inserted by Police and Criminal Evidence Act 1984 (c. 60, SIF 95), **ss. 48**(*b*), 51, 52

Modifications etc. (not altering text)

C174 S. 128 amended by Mental Health Act 1983 (c. 20, SIF 85), **s. 52(3)**
C175 S. 128 restricted (30.9.1998) by 1998 c. 37, **s. 47(3)(a)**; S.I. 1998/2327, **art. 2(1)(k)**
C176 S. 128 applied (with modifications) (25.8.2000) by 2000 c. 6, **ss. 9(2)(a)**, 10(3)(a), 168(1)
S. 128 modified (28.8.2000) by 1989 c. 37, **s. 21C(4)** (as inserted (28.8.2000) by 2000 c. 25, s. 1, **Sch. 1 para. 4**; S.I. 2000/2125, **art. 2**)
S. 128 modified (25.8.2000) by 2000 c. 6, ss. 28, 168(1), **Sch. 1 Pt. I para. 4(4)**
C177 S. 128 modified (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 2, 153, **Sch. 2 para. 21(7)(b)**; S.I. 2009/3074, **art. 2(b)(n)**
C178 S. 128 applied (with modifications) (prosp.) by Street Offences Act 1959 (c. 57), Sch. para. 10(3) (as inserted by 2009 c. 26, ss. 17(4), 116(1), **Sch. 1**)
C179 S. 128(7) modified (1.10.1992) by Children and Young Persons Act 1969 (c. 54, SIF 20), **s. 23(14)** (as substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), **s. 60(1)**; S.I. 1992/333, art. 2(2), **Sch. 2**)

Marginal Citations

M74 1976 c. 63.
M75 1976 c.63.
M76 1976 c. 63.

[F414 128A Remands in custody for more than eight days.

(1) The Secretary of State may by order made by statutory instrument provide that this section shall have effect—

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(a) in an area specified in the order; or

(b) in proceedings of a description so specified,

in relation to any accused person ("the accused") [F415]. . ..

(2) A magistrates' court may remand the accused in custody for a period exceeding 8 clear days if—

(a) it has previously remanded him in custody for the same offence; and

(b) he is before the court,

but only if, after affording the parties an opportunity to make representations, it has set a date on which it expects that it will be possible for the next stage in the proceedings, other than a hearing relating to a further remand in custody or on bail, to take place, and only—

(i) for a period ending not later than that date; or

(ii) for a period of 28 clear days,

whichever is the less.

(3) Nothing in this section affects the right of the accused to apply for bail during the period of the remand.

(4) A statutory instrument containing an order under this section shall not be made unless a draft of the instrument has been laid before Parliament and been approved by a resolution of each House.**]**

Textual Amendments

F414 S. 128A inserted (E.W.) by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 123(6), 155(1), **Sch. 8 para. 16**

F415 Words in s. 128(A)(1) repealed (4.7.1996 with effect as mentioned in s. 52(3)(4) of the repealing Act) by 1996 c. 25, ss. 52(2), 80, **Sch. 5 para. 2** Table 4 (with s. 78(1)); S.I. 1997/36, **art.2**

Modifications etc. (not altering text)

C180 S. 128A extended (2.12.1991) by S.I. 1991/2667, **art. 2**

129 Further remand.

(1) If a magistrates' court is satisfied that any person who has been remanded is unable by reason of illness or accident to appear or be brought before the court at the expiration of the period for which he was remanded, the court may, in his absence, remand him for a further time; and section 128(6) above shall not apply.

(2) Notwithstanding anything in section 128(1) above, the power of a court under subsection (1) above to remand a person on bail for a further time—

(a) where he was granted bail in criminal proceedings, includes power to enlarge the recognizance of any surety for him to a later time;

(b) where he was granted bail otherwise than in criminal proceedings, may be exercised by enlarging his recognizance and those of any sureties for him to a later time.

(3) Where a person remanded on bail is bound to appear before a magistrates' court at any time and the court has no power to remand him under subsection (1) above, the court may in his absence—

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(a) where he was granted bail in criminal proceedings, appoint a later time as the time at which he is to appear and enlarge the recognizances of any sureties for him to that time;

(b) where he was granted bail otherwise than in criminal proceedings, enlarge his recognizance and those of any sureties for him to a later time;

and the appointment of the time or the enlargement of his recognizance shall be deemed to be a further remand.

(4) Where a magistrates' court commits a person for trial on bail and the recognizance of any surety for him has been conditioned in accordance with paragraph (a) of subsection (4) of section 128 above the court may, in the absence of the surety, enlarge his recognizance so that he is bound to secure that the person so committed for trial appears also before the Crown Court.

130 Transfer of remand hearings.

(1) A magistrates' court adjourning a case under section 5, 10(1) **[**F416, 17C**]** or 18(4) above, and remanding the accused in custody, may, if he has attained the age of 17, 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 **[**F417the grant of a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service**]** 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.

[F418(4A) Where a magistrates' court is satisfied as mentioned in section 128(3A) above—

(a) subsection (1) above shall have effect as if for the words "he be brought up for any subsequent remands before" there were substituted the words "applications for any subsequent remands be made to";

(b) subsection (2) above shall have effect as if for the words "the accused to be brought before" there were substituted the words "an application for a further remand to be made to" and

(c) subsection (4) above shall have effect as if for the words "him to be brought before" there were substituted the words "an application for a further remand to be made to".**]**

(5) Schedule 5 to this Act shall have effect to supplement this section.

Textual Amendments

F416 Words in s. 130(1) inserted (4.7.1996 with effect as mentioned in s. 49(6) of the inserting Act) by 1996 c. 25, **s. 49(5)(b)(6)** (with s. 78(1)); S.I. 1997/2199, **art. 2**

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F417 Words in s. 130(3) substituted (2.4.2001) by 1999 c. 22, s. 24, Sch. 4 paras. 15, **18** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 3(a)(ii)** (with Sch. 2 para. 2)
F418 S. 130(4A) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 59(1), **Sch. 9 para. 5**

131 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 inquire 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.

[F419(2A) Where the accused person is serving a sentence of imprisonment to which an intermittent custody order under section 183 of the Criminal Justice Act 2003 relates, the reference in subsection (2) to the expected date of his release is to be read as a reference to the expected date of his next release on licence.**]**

(3) F420

Textual Amendments
F419 S. 131(2A) inserted (29.1.2004 for certain purposes) by Criminal Justice Act 2003 (c. 44), ss. 304, 336, **Sch. 32 Pt. 1 para. 29**; S.I. 2003/3282, **art. 2**, Sch.
F420 S. 131(3) repealed by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 59(1), Sch. 9 para. 6, **Sch. 16**

Modifications etc. (not altering text)
C181 S. 131 modified by Extradition Act 2003 (c. 41), ss. 23(3), 89(3(a) (as inserted (15.1.2007) by Police and Justice Act 2006 (c. 48), ss. 42, 53, **Sch. 13 para. 7**); S.I. 2006/3364, **art. 2**
C182 S. 131 modified (25.1.2010) by Extradition Act 2003 (c. 41), s. 76B(3)(a) (as inserted by 2009 c. 26, **ss. 70**, 116(1); S.I. 2009/3096, **art. 3(m)** (with art. 4))

Restrictions on imprisonment

132 Minimum term.

A magistrates' court shall not impose imprisonment for less than 5 days.

133 Consecutive terms of imprisonment.

(1) **[**F421 Subject to section 84 of the Powers of Criminal Courts (Sentencing) Act 2000,**]**a magistrates' court imposing imprisonment **[**F422or youth custody**]**on any person may order that the term of imprisonment **[**F422or youth custody**]**shall commence on the expiration of any other term of imprisonment **[**F422or youth custody**]**imposed by that or any other court; but where a magistrates' court imposes two or more terms of imprisonment **[**F422or youth custody**]**to run consecutively the aggregate of such terms shall not, subject to the provisions of this section, exceed 6 months.

(2) If two or more of the terms imposed by the court are imposed in respect of an offence triable either way which was tried summarily otherwise than in pursuance of section 22(2) above, the aggregate of the terms so imposed and any other terms

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imposed by the court may exceed 6 months but shall not, subject to the following provisions of this section, exceed 12 months.

[F423(2A) In relation to the imposition of terms of detention in a young offender institution subsection (2) above shall have effect as if the reference to an offence triable either way were a reference to such an offence or an offence triable only on indictment.**]**

(3) The limitations imposed by the preceding subsections shall not operate to reduce the aggregate of the terms that the court may impose in respect of any offences below the term which the court has power to impose in respect of any one of those offences.

(4) Where a person has been sentenced by a magistrates' court to imprisonment and a fine for the same offence, a period of imprisonment imposed for non-payment of the fine, or for want of sufficient distress to satisfy the fine, shall not be subject to the limitations imposed by the preceding subsections.

(5) For the purposes of this section a term of imprisonment shall be deemed to be imposed in respect of an offence if it is imposed as a sentence or in default of payment of a sum adjudged to be paid by the conviction or for want of sufficient distress to satisfy such a sum.

Textual Amendments

F421 Words in s. 133(1) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 76**

F422 Words inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 77, **Sch. 14 para. 56**

F423 S. 133(2A) inserted by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 123(6), 170(1), **Sch. 15 para. 70**

Detention for short periods

134 . . . . . F424

Textual Amendments

F424 S. 134 repealed by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 49, 123, 170(2), Sch. 8 para. 16, **Sch. 16**

135 Detention of offender for one day in court-house or police station.

(1) A magistrates' court that has power to commit to prison a person convicted of an offence, or would have that power but for section 82 or 88 above, may order him to be detained within the precincts of the court-house or at any police station until such hour, not later than 8 o'clock in the evening of the day on which the order is made, as the court may direct, and, if it does so, shall not, where it has power to commit him to prison, exercise that power.

(2) A court shall not make such an order under this section as will deprive the offender of a reasonable opportunity of returning to his abode on the day of the order.

[F425(3) This section shall have effect in relation to a person **[**F426aged 18**]** or over but less than 21 as if references in it to prison were references to detention under **[**F427section 108 of

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the Powers of Criminal Courts (Sentencing) Act 2000**]** (detention of persons **[**F426aged 18**]** to 20 for default).**]**

Textual Amendments

F425 S. 135(3) added by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 77, **Sch. 14 para. 58**

F426 Words in s. 135(3) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 68, 101(1), Sch. 8 para. 6(3), **Sch. 12 para. 22(1)**; S.I. 1992/333, art. 2(2), **Sch. 2**

F427 Words in s. 135(3) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 77**

Modifications etc. (not altering text)

C183 S. 135 restricted (prosp.) by Education and Skills Act 2008 (c. 25), ss. 56, 57, **58**, 173

136 Committal to custody overnight at police station for non-payment of sum adjudged by conviction.

(1) A magistrates' court that has power to commit to prison a person in default of payment of a sum adjudged to be paid by a summary conviction, or would have that power but for section 82 or 88 above, may issue a warrant for his detention in a police station, and, if it does so, shall not, where it has power to commit him to prison, exercise that power.

(2) A warrant under this section **[**F428—

(a) shall authorise the person executing it**]**to arrest the defaulter and take him to a police station, and

(b) shall require the officer in charge of the station to detain him there until 8 o'clock in the morning of the day following that on which he is arrested, or, if he is arrested between midnight and 8 o'clock in the morning, until 8 o'clock in the morning of the day on which he is arrested.

(3) Notwithstanding subsection (2)(b) above, the officer may release the defaulter at any time within 4 hours before 8 o'clock in the morning if the officer thinks it expedient to do so in order to enable him to go to his work or for any other reason appearing to the officer to be sufficient.

[F429(4) This section shall have effect in relation to a person **[**F430aged 18**]** or over but less than 21 as if references in it to prison were references to detention under **[**F431section 108 of the Powers of Criminal Courts (Sentencing) Act 2000**]** (detention of persons **[**F430aged 18**]** to 20 for default).**]**

Textual Amendments

F428 S. 136(2)(a) substituted for s. 136(2)(a)-(c) (8.1.2001) by 1999 c. 22, **s. 95(2)**, (with s. 107, Sch. 14 para. 7(2)); S.I. 2000/3280, **art. 2(b)**

F429 S. 136(4) added by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 77, **Sch. 14 para. 58**

F430 Words in s. 136(4) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 68, 101(1), Sch. 8 para. 6(3), **Sch. 12 para. 22(1)**; S.I. 1992/333, art. 2(2), **Sch. 2**

F431 Words in s. 136(4) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 78**

Modifications etc. (not altering text)

C184 S. 136 excluded (26.11.1999) by S.I. 1999/3133, **art. 8(8)**

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C185 S. 136 restricted (prosp.) by Education and Skills Act 2008 (c. 25), ss. 56, 57, **58**, 173

Fees, fines, forfeitures, etc.

137 Fees.

(1) Subject to the provisions of this section, the court fees set out in Part I of Schedule 6 to this Act, and no others, shall be chargeable by **[**F432justices' chief executives**]**; and any enactment providing for the payment of any fees for the payment of which provision is made in the said Part I shall have effect accordingly.

(2) No fee shall be chargeable by a **[**F433justices' chief executive**]** in respect of any matter specified in Part II of the said Schedule.

(3) Nothing in this section shall affect the fees chargeable in respect of the matters specified in Part III of the said Schedule.

(4) The **[**F434Lord Chancellor**]** may from time to time by order make such variations in Part I of the said Schedule as may seem to him proper.

(5) The power to make an order under subsection (4) above shall be exercisable by statutory instrument; and a draft of any such statutory instrument shall be laid before Parliament.

(6) F435 . . . . . .

Textual Amendments

F432 Words in s. 137(1) substituted (1.4.2001) by 1999 c. 22, s. 90, Sch. 13 paras. 95, **114(2)** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)

F433 Words in s. 137(2) substituted (1.4.2001) by 1999 c. 22 s. 90, Sch. 13 paras. 95, 114(3) (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)

F434 Words in s. 137(4) substituted (1.4.1992) by S.I. 1992/709, art. 2(3), **Sch. 1**

F435 S. 137(6) repealed (31.8.2000) by 1999 c. 22, ss. 106, 108(1), Sch. 15 Pt. V(3) (with s. 107, Sch. 14 paras. 7(2), 36(9)); S.I. 2000/1920, **art. 3(c)**

Modifications etc. (not altering text)

C186 S. 137(1) excluded by Sporting Events (Control of Alcohol etc.) Act 1985 (c. 57, SIF 39:2), **s. 4(6)**

C187 S. 137(4): functions of the Secretary of State transferred (1.4.1992) to the Lord Chancellor by S.I. 1992/709, art. 2(1), **Sch. 1**

138 Remission of fees

A magistrates' court may on the ground of poverty or for other reasonable cause remit in whole or in part any fee payable in proceedings before the court.

139 Disposal of sums adjudged to be paid by conviction.

[F436The designated officer for a magistrates' court**]** shall apply moneys received by him on account of a sum adjudged to be paid by a summary conviction as follows—

(a) in the first place in payment of any compensation adjudged by the conviction to be paid to any person;

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(b) in the second place in payment of any costs so adjudged to be paid to the prosecutor; and

(c) the balance to the fund to which, or the person to whom, he is required to pay the sum by **[**F437section 38 of the Courts Act 2003**]** or any other enactment relating to the sum.

Textual Amendments

F436 Words in s. 139 substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 243(a)**; S.I. 2005/910, **art. 3(y)**

F437 Words in s. 139 substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 243(b)**; S.I. 2005/910, **art. 3(y)**

140 Disposal of non-pecuniary forfeitures.

Subject to any enactment relating to customs or excise, anything other than money forfeited on a conviction by a magistrates' court or the forfeiture of which may be enforced by a magistrates' court shall be sold or otherwise disposed of in such manner as the court may direct; and the proceeds shall be applied as if they were a fine imposed under the enactment on which the proceedings for the forfeiture are founded.

Modifications etc. (not altering text)

C188 S. 140 excluded by Telecommunications Act 1984 (c. 12, SIF 96), **s. 80(12)**

C189 S. 140 excluded by Wireless Telegraphy Act 1949 (c. 54, SIF 96), **s. 14(3C)** (as substituted by Telecommunications Act 1984 (c. 12, SIF 96), **s. 82**)

C190 S. 140 excluded (E.W.) by Prevention of Terrorism (Temporary Provisions) Act 1989 (c. 4, SIF 39:2), s. 13(8), **Sch. 4 para. 1(7)**

C191 S. 140 excluded (19.2.2001) by 2000 c. 11, s. 23(9), **Sch. 4 para. 2(4)**; S.I. 2001/421, **art. 2**

C192 S. 140 excluded (25.7.2003) by The Advanced Television Services Regulations 2003 (S.I. 2003/1901), reg. 8, **Sch. para. 8(10)**

S. 140 excluded (8.2.2007) by Wireless Telegraphy Act 2006 (c. 36), ss. 103, 126, **Sch. 5 para. 6**

Clerks to justices

141 Clerks to justices.

F438 . . . . . .

Textual Amendments

F438 S. 141 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 244, **Sch. 10**; S.I. 2005/910, **art. 3(y)(aa)**

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Power to rectify mistakes etc.

142 Power of magistrates' court to re-open cases to rectify mistakes etc.

(1) **[**F439A magistrates' court may vary or rescind a sentence or other order imposed or made by it when dealing with an offender if it appears to the court to be in the interests of justice to do so;**]** and it is hereby declared that this power extends to replacing a sentence or order which for any reason appears to be invalid by another which the court has power to impose or make.

[F440(1A) The power conferred on a magistrates' court by subsection (1) above shall not be exercisable in relation to any sentence or order imposed or made by it when dealing with an offender if—

(a) the Crown Court has determined an appeal against—

(i) that sentence or order;

(ii) the conviction in respect of which that sentence or order was imposed or made; or

(iii) any other sentence or order imposed or made by the magistrates' court when dealing with the offender in respect of that conviction (including a sentence or order replaced by that sentence or order); or

(b) the High Court has determined a case stated for the opinion of that court on any question arising in any proceeding leading to or resulting from the imposition or making of the sentence or order.**]**

(2) Where a person is **[**F441convicted by a magistrates' court**]**and it subsequently appears to the court that it would be in the interests of justice that the case should be heard again by different justices, the court may, F442. . .so direct.

[F443(2A) The power conferred on a magistrates' court by subsection (2) above shall not be exercisable in relation to a conviction if—

(a) the Crown Court has determined an appeal against—

(i) the conviction; or

(ii) any sentence or order imposed or made by the magistrates' court when dealing with the offender in respect of the conviction; or

(b) the High Court has determined a case stated for the opinion of that court on any question arising in any proceeding leading to or resulting from the conviction.**]**

(3) Where a court gives a direction under subsection (2) above—

(a) the **[**F444conviction**]** and any sentence or other order imposed or made in consequence thereof shall be of no effect; and

(b) section 10(4) above shall apply as if the trial of the person in question had been adjourned.

F445(4) . . . . . .

(5) Where a sentence or order is varied under subsection (1) above, the sentence or other order, as so varied, shall take effect from the beginning of the day on which it was originally imposed or made, unless the court otherwise directs.

Textual Amendments

F439 Words in s. 142(1) substituted (1.1.1996) by 1995 c. 35, **s. 26(2)**; S.I. 1995/3061, **art. 3(c)**

F440 S. 142(1A) inserted (1.1.1996) by 1995 c. 35, **s. 26(3)**; S.I. 1995/3061, **art. 3(c)**

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F441 Words in s. 142(2) substituted (1.1.1996) by 1995 c. 35, **s. 26(4)(a)**; S.I. 1995/3061, **art. 3(c)**
F442 Words in s. 142(2) repealed (1.1.1996) by 1995 c. 35, ss. 26(4)(b), 29(2), **Sch.3**; S.I. 1995/3061, **art. 3(c)(d)(i)(iv)**
F443 S. 142(2A) inserted (1.1.1996) by 1995 c. 35, **s. 26(5)**; S.I. 1995/3061, **art. 3(c)**
F444 Word in s. 142(3) substituted (1.1.1996) by 1995 c. 35, **s. 26(6)**; S.I. 1995/3061, **art. 3(c)**
F445 S. 142(4) repealed (1.1.1996) by 1995 c. 35, s. 26(7), 29(2), **Sch. 3**; S.I. 1995/3061, **art. 3(c)(d)(i)(iv)**

Power to alter sums specified in certain provisions

[F446 143] Power to alter sums specified in certain provisions.

[F447 (1) If it appears to the Secretary of State that there has been a change in the value of money since the relevant date, he may by order substitute for the sum or sums for the time being specified in any provision mentioned in subsection (2) below such other sum or sums as appear to him justified by the change.]

(2) The said provisions are—

(a) section 22 (1) above;

[F448 (aa) section 24(3) and (4) above;]

(b) the definition of "the prescribed sum" in section 32(9) above;

(c) paragraph (a) of section 33(1) above

[F449 (ca) section 34(3)(*b*) above;]

[F450 (cb) section 131(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (limit on compensation order of magistrates' court);

F450 (d) section 135 of that Act; (limit on fine imposed on young offender by magistrates' court);]

[F451 (da) section 1AB(3) of the Crime and Disorder Act 1998 (failure to comply with individual support order);]

[F452 (dd) section 59B(3) above;]

(e) the Table in paragraph 1 of Schedule 4 to this Act.

[F453 (f) any provision mentioned in Schedule 6A to this Act;

(g) paragraph 11(2) of Schedule 5A to the Army Act M77 1955 and to the Air Force Act M78 1955 (compensation orders);

(h) paragraph 14(1) of that Schedule and paragraph 14(1) of Schedule 4A to the Naval Discipline Act M79 1957 (recognizance from parents and guardians);

[F446 (i) section 2(13) of the Children and Young Persons Act M80 1969 (recognizance from parents and guardians);]

(j) the Table in [F454 section 139(4) of the Powers of Criminal Courts (Sentencing) Act 2000];

(k) section 8(1)(*b*) of the Armed Forces Act M81 1976 (maximum fine awarded by Standing Civilian Courts);

(l) F455

(o) section 37(2) of the Criminal Justice Act 1982.]

[F456 (p) [F457 section 150(2) and (3) of the Powers of Criminal Courts (Sentencing) Act 2000] (recognisance from parents or guardians);]

[F458 (q) column 5 or 6 of Schedule 4 to the Misuse of Drugs Act 1971 so far as the column in question relates to the offences under provisions of that Act specified in column 1 of that Schedule in respect of which the maximum fines

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were increased by Part II of Schedule 8 to the Criminal Justice and Public Order Act 1994.**]**

[F459(3) In subsection (1) above the "relevant date" means—

(a) the date of the coming into force of section 17 of the Criminal Justice Act 1991 (increase of certain maxima); or

(b) where the sums specified in a provision mentioned in subsection (2) above have been substituted by an order under subsection (1) above, the date of that order.**]**

(4) F460

(6) An order under subsection (1) F461 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) shall not affect the punishment for an offence committed before that order comes into force.

Textual Amendments

F446 S. 143(2)(i) repealed (E.W.) (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(7), **Sch. 15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)** and expressed to be repealed (E.W.) (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 100, 101(2), Sch. 11 para. 27(1), **Sch. 13**; S.I. 1992/333, art. 2(2), **Sch. 2**

F447 S. 143(1) substituted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 48(1)**(*a*)

F448 S. 143(2)(*aa*) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 48(1)**(*b*)(i)

F449 S. 143(2)(*ca*)(*cb*) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1) s. 48(1)(*b*)(ii)

F450 S. 143(2)(cb)(d) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 79(a)**

F451 S. 143(2)(da) inserted (E.W.) (1.5.2004) by Criminal Justice Act 2003 (c. 44), **ss. 323(06)**, 336; S.I. 2004/829, **art. 3(2)(b)**

F452 S. 143(2)(dd) inserted (E.W.) (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s. 11(1), **Sch. 2 para. 9**; S.I. 1992/455, **art. 2**.

F453 S. 143(2)(*f*)–(*o*) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 48(1)**(*b*)(iii)

F454 Words in s. 143(2)(j) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 79(b)**

F455 S. 143(2)(*l*)–(*n*) repealed by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 123, 170(2), Sch. 8 para. 16, **Sch. 16**

F456 S. 143(2)(p) inserted (E.W.) (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, **Sch. 11**, para. 27(1); S.I. 1992/333, art. 2(2), **Sch. 2**

F457 Words in s. 143(2)(p) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 79(c)**

F458 S. 143(2)(q) inserted (E.W.) (3.2.1995) by 1994 c. 33, **s. 157(6)**; S.I. 1995/127, art. 2(1), **Sch. 1**

F459 S. 143(3) expressed to be inserted (E.W.) (1.10.1992) for subsection (3) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, **Sch. 11**, para. 27(2); S.I. 1992/333, art. 2(2), **Sch. 2**

F460 S. 143(4)(5) repealed by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 123, 170(2), Sch. 8 para. 16, **Sch. 16**

F461 Words in s. 143(6) repealed by Criminal Justice Act 1988 (c. 33, SIF 39:1) ss. 123, 170(2), Sch. 8 para. 16, Sch. 16

Modifications etc. (not altering text)

C193 S. 143 extended (N.I.) by Finance Act 1983 (c. 28, SIF 40:2), s. 47, **Sch. 9 para. 1(1)**

C194 S. 143(2) extended by Drug Trafficking Offences Act 1986 (c. 32, SIF 39:1), **s. 6(5)(6)**

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Marginal Citations

M77 1955 c. 18 (**7:1**).
M78 1955 c. 19 (**7:1**).
M79 1957 c. 53 (**7:1**).
M80 1969 c.54 (20)
M81 1976 c. 52 (**7:1**).

Rules

144 Rule committee and rules of procedure.

(1) The Lord Chancellor may appoint a rule committee for magistrates' courts, and may on the advice of or after consultation with the rule committee make rules for regulating and prescribing **[**F462 except in relation to—

(a) any criminal cause or matter, or

(b) family proceedings,**]**

the procedure and practice to be followed in magistrates' courts and by justices' clerks **[**F463and designated officers for magistrates' courts**]** .

(2) The rule committee shall consist of the Lord Chief Justice, the President of the Family Division of the High Court F464. . . and such number of other persons appointed by the Lord Chancellor as he may determine.

(3) Among the members of the committee appointed by the Lord Chancellor there shall be at least

F466(za) **[**F465**[** one District Judge (Magistrates' Courts);**]**

(a) one justices' clerk;

(b) one person who has a Supreme Court qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990); and

(c) one person who has been granted by an authorised body, under Part II of that Act, the right to conduct litigation in relation to all proceedings in the Supreme Court.**]**

(4) The power to make rules conferred by this section shall be exercisable by statutory instrument which shall be subject to annulment by resolution of either House of Parliament.

(5) F467. . . . . .

Textual Amendments

F462 S. 144(1)(a)(b) and words inserted (1.9.2004 for specified purposes, 1.4.2005 for specified purposes, 7.10.2005 for specified purposes, 6.4.2011 in so far as not already in force) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 245(2)**; S.I. 2004/2066, art. 2(c)(xi) (with art. 3); S.I. 2005/910, art. 3(y); S.I. 2005/2744, art. 2(3) (with art. 3); S.I. 2010/2921, art. 3(b)

F463 Words in s. 144(1) substituted (1.9.2004 for certain purposes, otherwise 1.4.2005) by Courts Act 2003, (c. 39), ss. 109(1), 110, {Sch. 8 para. 245(2)}; S.I. 2005/910, **art. 3(3)(y)**

F464 Words in s. 144(2) repealed (1.4.2005) by Courts Act 2003, (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 245(3), {Sch. 10}; S.I. 2005/910, **art. 3(y)(aa)**

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F465 S. 144(3)(a)(b)(c) substituted for words from "one justice's clerk" to the end by Courts and Legal Services Act 1990 (c. 41, SIF 37, 82), s. 125(3), **Sch. 18 para. 25(7)(a)**

F466 S. 144(3)(za) inserted (1.4.2005) by Courts Act 2003, (c. 39), ss. 109(1), 110, {Sch. 8 para. 245(4)}; S.I. 2005/910, **art. 3(y)**

F467 S. 144(5) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 245(5), **Sch. 10**; S.I. 2005/910, **art. 3(y)(aa)**

Modifications etc. (not altering text)

C195 S. 144 extended by Criminal Law Act 1977 (c. 45, SIF 39:1), **s. 48** (as amended by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154(1), **Sch. 7 para. 151**)

C196 S. 144 extended by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 28, 123(6), Sch. 2 para. 4(c), **Sch. 8 para. 16**

C197 S. 144 extended (1.7.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 82), **ss. 10(2)**; S.I. 1991/1364, art. 2, **Sch.**

C198 S. 144 extended by Extradition Act 1989 (c. 33, SIF 48), ss. 1(3), 7(3), 14(2), **Sch. 1 para. 9(2)**

C199 S. 144 extended (14.10.1991) by Children Act 1989 (c. 41, SIF 20), **ss. 97(1)**, 108(6) (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

C200 S. 144 amended (17.6.1992) by Child Support Act 1991 (c. 48, SIF 20), **s. 10(5)**, (with s. 9(2)); S.I. 1992/1431, **art. 2 Sch. 2**

C201 S. 144 extended (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 20(5)(b), 101(1), **Sch. 12 para. 6** (with s. 28); S.I. 1992/333, art. 2(2), **Sch. 2**

C202 S. 144 extended (5.11.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1972 (c. 18), **s. 18(1A)** (as inserted (5.11.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1992 (c. 56), s. 1, **Sch. 1 Pt. II para. 11**); S.I. 1993/618, **art. 2**
S. 144 modified (2.4.2001) by 1999 c. 22, s. 14, **Sch. 3 para. 2(7)** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 3(a)(i)** (with Sch. 2 para. 2)

C203 S. 144 extended (5.11.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1972 (c. 18), **s. 38A** (as inserted (5.11.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1992 (c. 56), s. 1, **Sch. 1 Pt. II Para. 18**); S.I. 1993/618, **art. 2**
S. 144 extended (4.7.1996, with effect as mentioned in **s. 1** of the amending Act and S.I. 1997/682, art. 2(1)(a)) by 1996 c. 25, **s. 19(1)(a)(2)** (with s. 78(1)); S.I. 1997/682, **art. 2(1)(a)**
S. 144 extended (4.7.1996, with effect as mentioned in **s. 1** of the amending Act and S.I. 1997/682, art. 2(1)(a)) by 1996 c. 25, **s. 19(3)** (with s. 78(1)); S.I. 1997/682, **art. 2(1)(a)**
S. 144(1) extended (4.7.1996, with effect as mentioned in **s. 1** of the amending Act and S.I. 1997/682, art. 2(1)(a)) by 1996 c. 25, **s. 20(3)** (with s. 78(1)); S.I. 1997/682, **art. 2(1)(a)**
S. 144(1) extended (19.6.1997) by 1997 c. 25, **ss. 44(3)**, 74(1) (with Sch. 4 para. 27)
S. 144 extended (19.6.1997) by 1997 c. 25, **ss. 45(1)(2)**, 74(1) (with Sch. 4 para. 27)
S. 144 extended (1.8.1998 with effect for specified purposes as mentioned in S.I. 1998/1883 and 30.9.1998 to the extent that it is not already in force as mentioned in S.I. 1998/2337) by 1998 c. 37, **s. 49(2)**; S.I. 1998/1883, **art. 2(b)** and S.I. 1998/2327, art. 3(2), **Sch. 2**
S. 144 extended (30.9.1998 for purposes specified in S.I. 1998/2327, **art. 2(1)(m)** and 4.1.1999 for purposes specified in S.I. 1998/2327, art. 4(2)(b), **Sch. 2**) by 1998 c. 37, s. 52(6), **Sch. 3 para. 4(5)(12)**; S.I. 1998/2327, arts. 2(1)(m), 4(2)(b), **Sch. 2**
S. 144 extended (25.8.2000) by 2000 c. 6, **ss. 132(2)**, 168(1)
S. 144 power to make rules extended (7.11.2002) by 2002 c. 38, **s. 141(2)** (with Sch. 4 paras. 6-8)

C204 S. 144(1) power to make rules extended (with modifications) (with effect as indicated in reg. 1(1) of S.I. 2002/419) by 1989 c. 33, s. 34A, **Sch. 1A** (as inserted by S.I. 2002/419, reg. 2, Sch. 9 paras. 3, **5** (with reg. 2(2))

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VALID FROM 03/04/2006

[F468 144A Rules to be made if required by Lord Chancellor

(1) This section applies if the Lord Chancellor gives the Lord Chief Justice written notice that he thinks it is expedient for rules made under section 144 to include provision that would achieve a purpose specified in the notice.

(2) The Lord Chief Justice must make such rules as he considers necessary to achieve the specified purpose.

(3) Those rules must be—

(a) made within a reasonable period after the Lord Chancellor gives notice to the Lord Chief Justice;

(b) made in accordance with section 144.

(4) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.**]**

Textual Amendments

F468 S. 144A inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, Sch. 4 para. 103 ; S.I. 2006/1014, **art. 2(a)**

145 Rules: supplementary provisions.

(1) The power to make rules conferred by section 144 above shall, without prejudice to the generality of subsection (1) of that section, include power to make provision—

(a) as to the practice and procedure of justices in exercising functions preliminary or incidental to proceedings before a magistrates' court;

(b) as to the service and execution of process issued by or for the purposes of a magistrates' court, including the service and execution in England and Wales of process issued in other parts of the United Kingdom;

(c) as to the keeping of records of proceedings before magistrates' courts and the manner in which things done in the course of, or as preliminary or incidental to, any such proceedings, or any proceedings on appeal from a magistrates' court to the Crown Court, may be proved in any legal proceedings;

F469(d) . . . . . .

F470(e) . . . . . .

(f) F471 . . . . . .

(g) as to what magistrates' court shall have jurisdiction to hear any complaint;

(h) as to the matters additional to those specified in section 53 above on complaint for which a magistrates' court shall have power to make an order with the consent of the defendant without hearing evidence;

(i) F471 . . . . . .

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(2) Where any Act expressly confers jurisdiction on any magistrates' court to hear a complaint, rules made under subsection (1)(g) above shall not take away that jurisdiction, but may extend it to any other magistrates' court.

(3) Any Act passed before 16th December 1949, in so far as that Act relates to matters about which rules may be made under section 144 above, shall have effect subject to any rules so made and may be amended or repealed by the rules accordingly; but nothing in the said section shall authorise the rules to reduce the number of justices required for any purpose by any Act.

(4) [F472] . . . . . .

(5) Any rules, directions, forms or other instrument having effect immediately before this subsection comes into force as if contained in rules made under section 15 of the Justices of the [M82]Peace Act 1949 by virtue of section 15(8) of that Act (rules etc. which previously had effect under the enactments repealed by Part II of Schedule 7 to that Act) shall have effect as if contained in rules made under section 144 above.

Textual Amendments

F469 S. 145(1)(d) repealed (1.4.1995) by 1995 c. 29, ss. 91(1), 93, Sch. 8 Pt. II para. 31, **Sch. 9 Pt. II**; S.I. 1995/685, **arts. 4(n)**, 8(p)

F470 S. 145(1)(e) repealed (4.7.1996 with effect in relation to any alleged offence in relation to which Part I of the repealing Act applies) by 1996 c. 25, ss. 65(3)(4), 80, **Sch. 5** Table6 (with s. 78(1)); S.I. 1997/683, **art. 1(2)**

F471 S. 145(1)(f)(i) repealed (1.9.2004) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 246(2), **Sch. 10**; S.I. 2004/2066, **art. 2(c)(xi)(d)(iv)** (subject to art. 3) (and the said s. 145(1)(f) is expressed to be repealed (prosp.) by Criminal Justice Act 2003 (c. 44), ss. 41, 332, 336, Sch. 3 para. 51(10), **Sch. 37 Pt. 4**)

F472 S. 145(4) repealed (1.9.2004) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 246(3), **Sch. 10**; S.I. 2004/2066, **art. 2(c)(xi)(d)(iv)** (subject to art. 3)

Marginal Citations

M82 1949 c. 101.

[F473 145A Rules: costs order against legal representative.

(1) In any civil proceedings, a magistrates' court may disallow or (as the case may be) order the legal or other representative concerned to meet the whole of any wasted costs or such part of them as may be determined in accordance with rules.

(2) In subsection (1), "wasted costs" means any costs incurred by a party—

(a) as a result of any improper, unreasonable or negligent act or omission on the part of any legal or other representative or any employee of such a representative; or

(b) which, in the light of any such act or omission occurring after they were incurred, the court considers it is unreasonable to expect that party to pay.

(3) In this section "legal or other representative", in relation to any proceedings, means any person who is exercising a right of audience, or a right to conduct litigation, on behalf of any party to the proceedings.

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(4) Rules made by virtue of this section may, in particular, make provision as to the destination of any payment required to be made under the rules (including provision for the reimbursement of sums paid by the **[**F474Legal Services Commission**]**).

(5) Rules made by virtue of this section—

(a) shall require a magistrates' court which proposes to act under the rules against a legal or other representative to allow him a reasonable opportunity to appear before it and show cause why it should not do so;

(b) shall provide that action may be taken under the rules either on the application of any party to the proceedings or on the motion of the court;

(c) shall provide that no such action shall be taken after the end of the period of six months beginning with the date on which the proceedings are disposed of by the court; and

(d) shall provide that a legal or other representative against whom action is taken under the rules may appeal to the Crown Court.**]**

Textual Amendments

F473 S. 145A inserted (1.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 82), **s. 112**; S.I. 1991/1883, **art. 2**.

F474 Words in s. 145A(4) substituted (2.4.2001) by 1999 c. 22, s. 24, Sch. 4 paras. 15, **19** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 3(a)(ii)** (with Sch. 2 para. 2)

*Rules about **[**F475youth courts**]***

Textual Amendments

F475 Words in s. 146 substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, **Sch. 11 para. 40(2)(n)**; S.I. 1992/333, art. 2(2), **Sch.2**

146 Rules relating to [F476 youth court panels] and composition of [F477youth courts].

F478 . . . . . .

Textual Amendments

F476 Words in s. 146 substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, **Sch. 11 para. 41(2)(e)**; S.I. 1992/333, art. 2(2), **Sch. 2**

F477 Words in s. 146 substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, **Sch. 11 para. 40(2)(n)**; S.I. 1992/333, art. 2(2), **Sch. 2**

F478 S. 146 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 50(3), 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)**

Occasional court-houses

147 Occasional court-house.

F479 . . . . . .

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Textual Amendments

F479 S. 147 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 247, **Sch. 10**; S.I. 2005/910, **art. 3(y)(aa)**

Interpretation

148 "Magistrates' court".

(1) In this Act the expression "magistrates' court" means any justice or justices of the peace acting under any enactment or by virtue of his or their commission or under the common law.

(2) Except where the contrary is expressed, anything authorised or required by this Act to be done by, to or before the magistrates' court by, to or before which any other thing was done, or is to be done, may be done by, to or before any magistrates' court acting **[**[F480]in the same local justice**]** area as that court.

Textual Amendments

F480 Words in s. 148(2) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 248**; S.I. 2005/910, **art. 3(y)**

Modifications etc. (not altering text)

C205 S. 148(2) extended (4.7.1996) by 1996 c. 25, **s. 76** (with s. 78(1))

149 Isles of Scilly.

F481 . . . . . .

Textual Amendments

F481 S. 149 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 249, **Sch. 10**; S.I. 2005/910, **art. 3(y)(aa)**

150 Interpretation of other terms.

(1) In this Act, unless the context otherwise requires, the following expressions have the meaning hereby assigned to them, that is to say—

"Act" includes local Act;

. . . . . F482

"bail in criminal proceedings" has the same meaning as in the [M83]Bail Act 1976;

F483 . . .

"commit to custody" means commit to prison or, where any enactment authorises or requires committal to some other place of detention instead of committal to prison, to that other place;

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"committal proceedings" means proceedings before a magistrates' court acting as examining justices;

" **[**F484family proceedings**]**"has the meaning assigned to it by section 65 above;

"enactment" includes an enactment contained in a local Act or in any order, regulation or other instrument having effect by virtue of an Act;

"fine", except for the purposes of any enactment imposing a limit on the amount of any fine, includes any pecuniary penalty or pecuniary forfeiture or pecuniary compensation payable under a conviction;

"impose imprisonment" means pass a sentence of imprisonment or fix a term of imprisonment for failure to pay any sum of money, or for want of sufficient distress to satisfy any sum of money, or for failure to do or abstain from doing anything required to be done or left undone;

[F485"legal representative"means an authorised advocate or authorised litigator, as defined by section 119(1) of the Courts and Legal Services Act 1990;**]**

F486 . . .

[F487"magistrates' court maintenance order"means a maintenance order enforceable by a magistrates' court;

"maintenance order"means any order specified in Schedule 8 to the Administration of Justice Act M841970 and includes such an order which has been discharged, if any arrears are recoverable thereunder;**]**

F488 . . . . . .

F489 . . .

"prescribed" means prescribed by **[**F490rules of court**]**;

[F491"preserved county" has the meaning given by section 64 of the Local Government (Wales) Act 1994;**]**

F492 . . . . . .

F493 . . . . . .

"sentence" does not include a committal in default of payment of any sum of money, or for want of sufficient distress to satisfy any sum of money, or for failure to do or abstain from doing anything required to be done or left undone;

"sum enforceable as a civil debt" means—

(a) any sum recoverable summarily as a civil debt which is adjudged to be paid by the order of a magistrates' court;

(b) any other sum expressed by this or any other Act to be so enforceable;

"transfer of fine order" has the meaning assigned to it by section 89 above.

(2) Except where the contrary is expressed or implied, anything required or authorised by this Act to be done by justices may, where two or more justices are present, be done by one of them on behalf of the others.

(3) Any reference in this Act to a sum adjudged to be paid by a conviction or order of a magistrates' court shall be construed as including a reference to any costs, damages or compensation adjudged to be paid by the conviction or order of which the amount is ascertained by the conviction or order; but this subsection does not prejudice the definition of "sum adjudged to be paid by a conviction" contained in subsection (8) of section 81 above for the purposes of that section.

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(4) Where the age of any person at any time is material for the purposes of any provision of this Act regulating the powers of a magistrates' court, his age at the material time shall be deemed to be or to have been that which appears to the court after considering any available evidence to be or to have been his age at that time.

(5) Except where the context otherwise requires, any reference in this Act to an offence shall be construed as including a reference to an alleged offence; and any reference in this Act to an offence committed, completed or begun anywhere shall be construed as including a reference to an offence alleged to have been committed, completed or begun there.

(6) References in this Act to an offence punishable with imprisonment or punishable on summary conviction with imprisonment shall be construed without regard to any prohibition or restriction imposed by or under this or any other Act on imprisonment of young offenders.

(7) The provisions of this Act authorising a magistrates' court on conviction of an offender to pass a sentence or make an order instead of dealing with him in any other way shall not be construed as taking away any power to order him to pay costs, damages or compensation.

Textual Amendments

F482 Definition of "affiliation order" repealed by Family Law Reform Act 1987 (c. 42, SIF 49:7), ss. 33(1)(2)(4), **Sch. 2 para. 88**(*a*), Sch. 3 paras. 1, 6, Sch. 4

F483 S. 150(1): definition of "commission area" repealed (27.9.1999) by 1999 c. 22, ss. 106, 108(3), **Sch. 15 Pt. V(1)** (with s. 107, Sch. 14 paras. 7(2), 36(9))

F484 Words in s. 150(1) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 92, 108(6), **Sch. 11 Pt. II para. 8(c)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

F485 Definition of "legal representative" inserted by Courts and Legal Services Act 1990 (c. 41, SIF 37, 82), s. 125(3), **Sch. 18 para. 25(2)**

F486 S. 150(1): definition of "London commission area" repealed (27.9.1999) by 1999 c. 22, ss. 106, 108(3), **Sch. 15 Pt. V(1)** (with s. 107, Sch. 14 paras. 7(2), 36(9))

F487 Definitions of "magistrates' court maintenance order" and "maintenance order" inserted by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 33(1)(2), **Sch. 2 para. 88**(*b*), Sch. 3 paras 1, 6

F488 S. 150(1): definition of "petty-sessional court-house" repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 250(2), **Sch. 10**; S.I. 2005/910, **art. 3(y)(aa)**

F489 S. 150(1): definition of "petty sessions area" repealed (27.9.1999) by 1999 c. 22, ss. 106, 108(3), **Sch. 15 Pt. V(1)** (with s. 107, Sch. 14 paras. 7(2), 36(9))

F490 S. 150(1): words in the definition of "prescribed" substituted (1.9.2004) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 250(3)**; S.I. 2004/2066, **art. 2(c)(xi)** (subject to art. 3)

F491 Definition in s. 150(1) inserted (1.4.1996) by 1994 c. 19, s. 1(3), **Sch. 2 para. 11(4)**(with ss. 54(5)(7), 55(5)); S.I. 1995/3198, art. 3, **Sch. 1**; (in which definition words are repealed (1.4.1996) by virtue of S.I. 1996/675, art. 2, **Sch. Pt. I para. 2(7)**)

F492 S. 150(1): definition of "the register" repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 250(2), **Sch. 10**; S.I. 2005/910, **art. 3(y)(aa)**

F493 S. 150(1): definition of "the rules" repealed (1.9.2004) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 250(2), **Sch. 10**; S.I. 2004/2066, **art. 2(c)(xi)(d)(iv)** (subject to art 3)

Modifications etc. (not altering text)

C206 S. 150 applied (with modifications) (temp. from 23.2.2004 and 29.3.2004 for certain purposes, otherwise 5.4.2004 until 31.3.2006) by The Fines Collection Regulations 2004 (S.I. 2004/176), **regs. 1(3)**, {(6(d)} (with reg. 3) (as amended (1.4.2005) by S.I. 2005/484, **regs. 2**, 4)

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C207 S. 150(1) extended (3.4.2000) by 1999 c. 33, **s. 113(6)**; S.I. 2000/464, art. 2, **Sch.**

C208 Definition of 'magistrates' court maintenance order' in s. 150(1) applied (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 15(1), 108(6), **Sch. 1 para. 12(3)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

Definition of 'magistrates' court maintenance order' in s. 150(1) applied (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 29, 108(6), **Sch. 2 para. 24(1)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

Definition of 'magistrates' court maintenance order' in s. 150(1) extended (1.7.1992) by Social Security Administration Act 1992 (c. 5), **ss. 106(5)**, 192(4)

Marginal Citations

M83 1976 c. 63

M84 1970 c. 31

Miscellaneous

151 Application of Act to distress for rates.

(1) Justices may state a case under this Act when called upon to issue a warrant of distress for any rate other than a rate within the meaning of the [M85]General Rate Act 1967.

(2) Sections 79(2) and 100 above shall apply to proceedings for the non-payment of any rate to which subsection (1) above applies as they apply to proceedings for the non-payment of a sum adjudged to be paid by a magistrates' court.

(3) Except as provided in the preceding provisions of this section, the power of justices to issue a warrant of distress for a rate, the form and execution of such a warrant and the committal of persons for want of sufficient distress to satisfy a rate shall not be subject to the provisions of this Act.

Marginal Citations

M85 1967 c. 9.

152 Saving for juvenile courts.

The provisions of this Act relating to the constitution, place of sitting and procedure of magistrates' courts shall, in their application to juvenile courts, have effect subject to any provision contained in **[**[F494]rules of court**]** or any enactment regulating the constitution, place of sitting or procedure of juvenile courts.

Textual Amendments

F494 Words in s. 152 substituted (1.9.2004) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 251**; S.I. 2004/2066, **art. 2(c)(xi)** (subject to art. 3)

153 Magistrates' court may sit on Sundays and public holidays.

F495

. . . . . .

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Textual Amendments

F495 S. 153 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 252, **Sch. 10**; S.I. 2005/910, **art. 3(y)(aa)**

Repeals, short title, etc.

154 Consequential amendments, transitional provisions, repeals, etc.

(1) Subject to subsection (2) below, the enactments mentioned in Schedule 7 to this Act shall have effect subject to the amendments specified in that Schedule, being amendments consequential on the provisions of this Act.

(2) The transitional provisions and savings in Schedule 8 to this Act shall have effect.

(3) Subject to subsection (2) above, the enactments specified in Schedule 9 to this Act (which include enactments which were spent before the passing of this Act) are hereby repealed to the extent specified in the third column of that Schedule.

(4) Nothing in this Act shall be taken as prejudicing the operation of sections 16 and 17 of the [M86]Interpretation Act 1978 (which relate to the effect of repeals).

Marginal Citations

M86 1978 c. 30.

155 Short title, extent and commencement.

(1) This Act may be cited as the Magistrates' Courts Act 1980.

(2) The following provisions of this Act extend to Scotland—

(a) sections 8 (except subsection (9)), **[**[F496]12(13)**]**, 83(3), 90 and 91 and this section; and

(b) section 154 and Schedules 7, 8 and 9 so far as they relate to any enactment extending to Scotland.

(3) The following provisions of this Act extend to Northern Ireland—

(a) sections 83(3), 90 and 91 and this section; and

(b) section 154 and Schedules 7, 8 and 9 so far as they relate to an enactment extending to Northern Ireland.

(4) The provisions of section 126 above have the same extent as the **[**[F497]section**]** of the [M87]Indictable Offences Act 1848 to which they refer.

[F498](5) . . . . . .

(6) Except as stated in subsections (2) to (5) above, and except so far as relates to the interpretation or commencement of the provisions mentioned in those subsections, this Act extends to England and Wales only.

(7) This Act shall come into force on such date as the Secretary of State may appoint by order made by statutory instrument.

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Subordinate Legislation Made

P1 Power of appointment conferred by s. 155(7) fully exercised: 6.7.1981 appointed by S.I. 1981/457

Textual Amendments

F496 Words in s. 155(2) substituted (E.W.) (4.9.1995) by 1994 c. 33, s. 45, **Sch. 5 para. 3(4)**; S.I. 1995/1957, **art4**

F497 Word in s. 155(4) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 253**; S.I. 2005/910, **art. 3(y)**

F498 S. 155(5) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIV** Group 1

Marginal Citations

M87 1848 c. 42.

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SCHEDULES

SCHEDULE 1

Section 17.

OFFENCES TRIABLE EITHER WAY BY VIRTUE OF SECTION 17

1 Offences at common law of public nuisance.

[F499 1A An offence at common law of outraging public decency.]

Textual Amendments

F499 Sch. 1 para. 1A inserted (20.1.2004) by Criminal Justice Act 2003 (c. 44), **ss. 320**, 336; S.I. 2004/81, **art. 2(2)(d)**

2 Offences under section 8 of the M88 Disorderly Houses Act 1751 (appearing to be keeper of bawdy house etc.).

Marginal Citations

M88 1751 c. 36.

3 Offences consisting in contravention of section 13 of the M89 Statutory Declarations Act 1835 (administration by a person of an oath etc. touching matters in which he has no jurisdiction).

Marginal Citations

M89 1835 c. 62.

4 Offences under section 36 of the M90 Malicious Damage Act 1861 (obstructing engines or carriages on railways).

Marginal Citations

M90 1861 c. 97.

5 Offences under the following provisions of the Offences against the M91 Person Act 1861—

(a) section 16 (threats to kill);
(b) section 20 (inflicting bodily injury, with or without a weapon);
(c) section 26 (not providing apprentices or servants with food etc.);
(d) section 27 (abandoning or exposing child);

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(e) section 34 (doing or omitting to do anything so as to endanger railway passengers);
(f) section 36 (assaulting a clergyman at a place of worship etc.);
(g) section 38 (assault with intent to resist apprehension);
(h) section 47 (assault occasioning bodily harm. . . [F500]);
(i) section 57 (bigamy);
(j) section 60 (concealing the birth of a child).

Textual Amendments
F500 Words repealed by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 123(6), 170(2), Sch. 8 para. 16, **Sch. 16**

Marginal Citations
M91 1861 c. 100.

6 Offences under section 20 of the [M92]Telegraph Act 1868 (disclosing or intercepting messages).

Marginal Citations
M92 1868 c. 110.

7 Offences under section 13 of the [M93]Debtors Act 1869 (transactions intended to defraud creditors).

Marginal Citations
M93 1869 c. 62.

8 Offences under section 5 of the [M94]Public Stores Act 1875 (obliteration of marks with intent to conceal).

Marginal Citations
M94 1875 c. 25.

9 Offences under section 12 of the [M95]Corn Returns Act 1882 (false returns).

Marginal Citations
M95 1882 c. 37.

10 . . . . . [F501]

Textual Amendments
F501 Sch. 1 para. 10 repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(4), Sch. 17 para. 35(1), **Sch. 18**

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11 Offences under section 3 of the [M96]Submarine Telegraph Act 1885 (damaging submarine cables).

Marginal Citations
M96 1885 c. 49.

12 Offences under section 13 of the [M97]Stamp Duties Management Act 1891 (offences in relation to dies and stamps).

Marginal Citations
M97 1891 c. 38.

13 Offences under section 8(2) of the [M98]Cremation Act 1902 (making false representations etc. with a view to procuring the burning of any human remains).

Marginal Citations
M98 1902 c. 8.

14 All offences under the [M99]Perjury Act 1911 except offences under—
(a) section 1 (perjury in judicial proceedings);
(b) section 3 (false statements etc. with reference to marriage);
(c) section 4 (false statements etc. as to births or deaths).

Marginal Citations
M99 1911 c. 6.

15 . . . . . [F502]

Textual Amendments
F502 Sch. 1 para. 15 repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), **Sch. 1 Pt. I**

16 Offences under section 17 of the [M100]Deeds of Arrangement Act 1914 (trustee making preferential payments).

Marginal Citations
M100 1914 c. 47.

17 . . . . . [F503]

Textual Amendments
F503 Sch. 1 para. 17 repealed by Wages Act 1986 (c. 48, SIF 43:2), s. 32(2), **Sch. 5 Pt. III**

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18 Offences under section 8(2) of the [M101]Census Act 1920 (disclosing census information).

Marginal Citations
M101 1920 c. 41.

19 Offences under section 36 of the [M102]Criminal Justice Act 1925 (forgery of passports etc.).

Marginal Citations
M102 1925 c. 86.

20 Offences under section 11 of the [M103]Agricultural Credits Act 1928 (frauds by farmers).

Marginal Citations
M103 1928 c. 43.

21 . . . . . [F504]

Textual Amendments
F504 Sch. 1 para. 21, 24 repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), **Sch. 1 Pt. I**

[F505]22 . . . . . .

Textual Amendments
F505 Sch. 1 para. 22 repealed (26.3.2001) by S.I. 2001/1149, art. 3(2), **Sch. 2** (with art. 4(11))

23 [F506] . . . . . .

Textual Amendments
F506 Sch. 1 para. 23 repealed (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 140, 141, **Sch. 7**; S.I. 2004/874, **art. 2**

24 . . . . . [F507]

Textual Amendments
F507 Sch. 1 para. 21, 24 repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), **Sch. 1 Pt. I**

25 . . . . . [F508]

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Textual Amendments

F508 Sch. 1 para. 25 repealed by Housing (Consequential Provisions) Act 1985 (c. 71, SIF 61), ss. 3, 5(2), Sch. 1 Pt. I, **Sch. 4**

26 The following offences under the [M104]Criminal Law Act 1967—

(a) offences under section 4(1) (assisting offenders); and

(b) offences under section 5(1) (concealing arrestable offences and giving false information),

where the offence to which they relate is triable either way.

Marginal Citations

M104 1967 c. 58.

27 [F509] . . . . . .

Textual Amendments

F509 Sch. 1 para. 27 repealed (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 140, 141, **Sch. 7**; S.I. 2004/874, **art. 2**

28 All indictable offences under the [M105]Theft Act 1968 except:—

(a) robbery, aggravated burglary, blackmail and assault with intent to rob;

(b) burglary comprising the commission of, or an intention to commit, an offence which is triable only on indictment;

(c) burglary in a dwelling if any person in the dwelling was subjected to violence or the threat of violence.

Marginal Citations

M105 1968 c. 60.

29 Offences under the following provisions of the [M106]Criminal Damage Act 1971—

section 1(1) (destroying or damaging property);

section 1(1) and (3) (arson);

section 2 (threats to destroy or damage property);

section 3 (possessing anything with intent to destroy or damage property).

Marginal Citations

M106 1971 c. 48.

30 Offences in relation to stamps issued for the purpose of national insurance under the provisions of any enactments as applied to those stamps.

31 Uttering any forged document the forgery of which is an offence listed in this Schedule.

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32 F510 . . . . . .

Textual Amendments

F510 Sch. 1 para. 32 repealed (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 140, 141, **Sch. 7**; S.I. 2004/874, **art. 2**

33 Aiding, abetting, counselling or procuring the commission of any offence listed in the preceding paragraphs of this Schedule except paragraph 26.

34 . . . . . F511

Textual Amendments

F511 Sch. 1 para. 34 repealed by Criminal Attempts Act 1981 (c. 47, SIF 39:1), s. 10, **Sch. Pt. I**

35 Any offence consisting in the incitment to commit an offence triable either way except an offence mentioned in paragraph 33. . . F512above.

Textual Amendments

F512 Words repealed by Criminal Attempts Act 1981 (c. 47, SIF 39:1), s. 10, **Sch. Pt. I**

SCHEDULE 2

Section 22.

OFFENCES FOR WHICH THE VALUE INVOLVED IS RELEVANT TO THE MODE OF TRIAL

Offence	Value involved	How measured
1. Offences under section 1 of the Criminal Damage Act 1971 (destroying or damaging property), excluding any offence committed by destroying or damaging property by fire.	As regards property alleged to have been destroyed, its value.	What the property would probably have cost to buy in the open market at the material time.
	As regards property alleged to have been damaged, the value of the alleged damage.	(a) If immediately after the material time the damage was capable of repair— (i) what would probably then have been the market price for the repair of the damage, or (ii) what the property alleged to have been damaged would probably have cost to buy

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		in the open market at the material time, whichever is the less; or (b) if immediately after the material time the damage was beyond repair, what the said property would probably have cost to buy in the open market at the material time.
2. The following offences, namely— (a) aiding, abetting, counselling or procuring the commission of any offence mentioned in paragraph 1 above; (b) attempting to commit any offence so mentioned; and (c) inciting another to commit any offence so mentioned.	The value indicated in paragraph 1 above for the offence alleged to have been aided, abetted, counselled or procured, or attempted or incited.	As for the corresponding entry in paragraph 1 above.

Modifications etc. (not altering text)
C209 Sch. 2 para. 2 modified (1.10.2008) by Serious Crime Act 2007 (c. 27), ss. 63(1)(2), 94, **Sch. 6 para. 5** (with Sch. 13 para. 5); S.I. 2008/2504, **art. 2(a)(g)**

[[F513]3. Offences under section 12A of the Theft Act 1968 (aggravated vehicle-taking) where no allegation is made under subsection (1)(b) other than of damage, whether to the vehicle or other property or both.	The total value of the damage alleged to have been caused.	(1) In the case of damage to any property other than the vehicle involved in the offence, as for the corresponding entry in paragraph 1 above, substituting a reference to the time of the accident concerned for any reference to the material time. (2) In the case of damage to the vehicle involved in the offence — (a) if immediately after the vehicle was recovered the damage was capable of repair—

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(i) what would probably then have been the market price for the repair of the damage, or

(ii) what the vehicle would probably have cost to buy in the open market immediately before it was unlawfully taken,

whichever is the less; or

(b) if immediately after the vehicle was recovered the damage was beyond repair, what the vehicle would probably have cost to buy in the open market immediately before it was unlawfully taken.**]**

Textual Amendments

F513 Sch. 2 para. 3 inserted (1.4.1992) by Aggravated Vehicle-Taking Act 1992 (c. 11), **s. 2(1)**; S.I. 1992/764, **art.2**

SCHEDULE 3

Section 46.

CORPORATIONS

Modifications etc. (not altering text)

C210 Sch. 3 extended by Insurance Companies Act 1982 (c. 50, SIF 67), **s. 92(3)**(*a*)

C211 Sch. 3 extended by Companies Act 1985 (c. 6, SIF 27), **s. 734(3)**

C212 Sch. 3 extended by Financial Services Act 1986 (c. 60, SIF 69), **s. 203(3)**

C213 Sch. 3 extended (prosp.) by Building Societies Act 1986 (c. 53, SIF 16), ss. 54(3)(a)(5), 124, 126(3), **Sch. 21 para. 11(4)** (but the said Sch. 21 was repealed (22.7.2004) before it came into force by Statute Law (Repeals) Act 2004 c. 14, s. 1(1), **Sch. 1 Pt. 17** Gp. 2)

C214 Sch. 3 extended by Banking Act 1987 (c. 22, SIF 10), **s. 98(3)**

C215 Sch. 3 applied by Copyright, Designs and Patents Act 1988 (c. 48, SIF 67A) ss. 285(2)(b), the application being in force 13.8.1990 as mentioned in S.I. 1990/1400, **art. 2(b)**

C216 Sch. 3 applied (1.3.1990 for certain purposes as mentioned in S.I. 1990/142, **art. 3** but otherwise 1.10.1991) by Companies Act 1989 (c.40, SIF 27), **ss. 44(3)**, 91(3); S.I. 1991/1996, **art. 2**
Sch. 3 extended (6.1.1997) by S.I. 1996/2827, **reg. 70(3)**
Sch. 3 applied (with modifications) (16.2.2001) by 2000 c. 41, **s. 153(3)** (with s. 156(6)); S.I. 2001/222, art. 2, **Sch. 1**, Pt. I (subject to Transitional Provisions in Pt. II)
Sch. 3 applied (18.6.2001) by 2000 c. 8, **s. 403(4)(a)**; S.I. 2001/1820, art. 2, **Sch.**
Sch. 3 applied (31.5.2002) by 2001 c. 24, **s. 69(4)(a)**; S.I. 2002/1279, **art. 2**
Sch. 3 extended (7.11.2002) by 2002 c. 38, **ss. 143(5)(a)**, 148(1) (with Sch. 4 paras. 6-8)

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C217 Sch. 3 applied (2.8.2004) by The Justification of Practices Involving Ionising Radiation Regulations 2004 (S.I. 2004/1769), arts. 1, 25(1), **Sch. 2 para. 11**
Sch. 3 applied (7.2.2005) by Licensing Act 2003 (c. 17), **ss. 188(4)**, 201 (with ss. 2(3), 15(2) and 195); S.I. 2004/2360, **art. 2(1)**, Sch.
Sch. 3 applied by 1989 c. 41, Sch. 9A para. 5A(4) (as inserted (1.3.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), ss. 48, 67, **Sch. 4 para. 9**; S.I. 2005/394, **art. 2(1)(k)**; S.I. 2006/885, **art. 2(2)(c)**)
Sch. 3 applied (1.4.2005) by Gangmasters (Licensing) Act 2004 (c. 11), **ss. 21(4)(b)**, 29; S.I. 2005/447, **art. 2(j)**
Sch. 3 applied (1.4.2005) by Gangmasters (Licensing) Act 2004 (c. 11), **ss. 22(6)(b)**, 29; S.I. 2005/447, **art. 2(k)**
Sch. 3 applied (1.3.2007) by National Health Service Act 2006 (c. 41), **ss. 207(4)**, 277
Sch. 3 applied (1.3.2007) by National Health Service (Wales) Act 2006 (c. 42), **ss. 155(4)**, 208 (with s. 19(3))
Sch. 3 applied (6.4.2007) by Childcare Act 2006 (c. 21), **ss. 88(3)**, 109; S.I. 2007/1019, **art. 4**
Sch. 3 applied (15.12.2007) by The Money Laundering Regulations 2007 (S.I. 2007/2157), **reg. 47(8)(a)**
Sch. 3 applied (15.12.2007) by The Transfer of Funds (Information on the Payer) Regulations 2007 (S.I. 2007/3298), **reg. 16(8)(a)**

C218 Sch. 3 applied (20.1.2007 for specified purposes and 6.4.2007 for further specified purposes and 1.10.2007 for further specified purposes and 6.4.2008 further specified purposes and 1.10.2008 for further specified purposes and otherwise 1.10.2009) by Companies Act 2006 (c. 46), **ss. 1130(2)(b)(i)** (with s. 1133), 1300; S.I. 2006/3428, **art. 3(2)(b)** (with arts. 6, 12(2)); S.I. 2007/1093, **art. 2(2)(c)** (with art. 11); S.I. 2007/2194, **art. 2(1)(l)** (with art. 12); S.I. 2007/3495, arts. {3(3)(g)}, {5(3)(a)} (with arts. 7, 12); S.I. 2008/2860, **art. 3(s)** (with arts. 5, 7, 8, Sch. 2)

C219 Sch. 3 applied (1.2.2007 (W.) for certain purposes and 2.4.2007 (W.) for further certain purposes and 1.7.2007 (E.) for certain purposes, and 22.4.2008 (E.) for further certain purposes and 13.12.2008 (W.) for further certain purposes and otherwise prosp.) by Health Act 2006 (c. 28), **ss. 77(4)(a)**, 83; S.I. 2007/204, arts. {2}, {3}; S.I. 2007/1375, **art. 2**; S.I. 2008/1147, **art. 3(b)(c)**; S.I. 2008/3171, **art. 2(b)**

C220 Sch. 3 applied (6.4.2008) by Companies Act 2006 (c. 46), **ss. 1257(3)**, 1300; S.I. 2007/3495, **art. 3(1)(u)**

C221 Sch. 3 extended (1.1.2010) by Legal Services Act 2007 (c. 29), **ss. 197(5)**, 211 (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(g)**

C222 Sch. 3 applied by 1985 c. 61, s. 10(7) (as substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 83(4)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)**)

C223 Sch. 3 applied (6.4.2008) by Serious Crime Act 2007 (c. 27), **ss. 31(6)(b)(i)**, **32(5)(b)(i)**, 94; S.I. 2008/755, **art. 15(1)(f)** (subject to art 15(2)(3))

C224 Sch. 3 applied (12.1.2009) by Health and Social Care Act 2008 (c. 14), **ss. 92(3)**, 170; S.I. 2008/3168, **art. 2(1)(q)** (subject to art. 2(2) and with transitional provisions in arts. 3-8)

C225 Sch. 3 applied (12.10.2009) by Education and Skills Act 2008 (c. 25), **ss. 136(3)**, 173; S.I. 2009/1606, **art. 4**

C226 Sch. 3 applied (prosp.) by Pensions Act 2008 (c. 30), **ss. 47(2)(b)(i)**, 149

C227 Sch. 3 applied (5.2.2008) by Transport Act 1968 (c. 73), s. 102B(4)(a) (as inserted by The Passenger and Goods Vehicles (Recording Equipment) (Downloading and Retention of Data) Regulations 2008 (S.I. 2008/198), regs. 1(1), **3**)

C228 Sch. 3 applied (9.3.2009) by The Ozone-Depleting Substances (Qualifications) Regulations 2009 (S.I. 2009/216), **reg. 10(6)(b)(i)**

C229 Sch. 3 applied (9.3.2009) by The Fluorinated Greenhouse Gases Regulations 2009 (S.I. 2009/261), **reg. 52(6)(b)(i)**

C230 Sch. 3 applied (27.4.2009) by The Organic Products Regulations 2009 (S.I. 2009/842), **reg. 28(4)(a)**

C231 Sch. 3 applied (1.5.2009) by The Payment Services Regulations 2009 (S.I. 2009/209), regs. 1(2)(b)(xiii), **118(4)(a)**

C232 Sch. 3 applied (E.) (30.6.2009) by The Swine Vesicular Disease Regulations 2009 (S.I. 2009/1299), **reg. 44(2)(b)**

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C233 Sch. 3 applied (W.) (30.6.2009) by The Swine Vesicular Disease (Wales) Regulations 2009 (S.I. 2009/1372), **reg. 44(2)(b)**
C234 Sch. 3 applied (E.) (1.7.2009) by The Marketing of Fresh Horticultural Produce Regulations 2009 (S.I. 2009/1361), **reg. 19(7)(b)**
C235 Sch. 3 applied (W.) (16.7.2009) by The Marketing of Fresh Horticultural Produce (Wales) Regulations 2009 (S.I. 2009/1551), **reg. 19(7)(b)**
C236 Sch. 3 applied (1.8.2009) by The Horse Passports Regulations 2009 (S.I. 2009/1611), **reg. 24(2)(b)**
C237 Sch. 3 applied (W.) (1.10.2009) by The Equine Identification (Wales) Regulations 2009 (S.I. 2009/2470), **reg. 24(2)(b)**
C238 Sch. 3 applied (30.10.2009) by The Groundwater (England and Wales) Regulations 2009 (S.I. 2009/2902), **reg. 24(2)(b)**
C239 Sch. 3 applied (E.) (31.12.2009) by The Sheep and Goats (Records, Identification and Movement) (England) Order 2009 (S.I. 2009/3219), {art. 40(2)(b)}
C240 Sch. 3 applied (W.) (31.12.2009) by The Sheep and Goats (Records, Identification and Movement) (Wales) Order 2009 (S.I. 2009/3364), {art. 43(2)(b)}
C241 Sch. 3 applied (1.1.2010) by The Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2009 (S.I. 2009/3263), **reg. 12(2)(b)(i)**

1 (1) A magistrates' court may commit a corporation for trial by an order in writing empowering the prosecutor to prefer a bill of indictment in respect of the offence named in the order.

(2) An order under this paragraph shall not prohibit the inclusion in the bill of indictment of counts that under section 2 of the Administration of Justice (Miscellaneous Provisions) Act 1933 may be included in the bill in substitution for, or in addition to, counts charging the offence named in the order.

2 A representative may on behalf of a corporation—

[[F514](a) make before examining justices such representations as could be made by an accused who is not a corporation;**]**

(b) consent to the corporation being tried summarily;

(c) enter a plea of guilty or not guilty on the trial by a magistrates' court of an information.

Textual Amendments

F514 Sch. 3 para. 2(a) substituted (4.7.1996 with effect as mentioned in **Sch. 1 para. 39** of the amending Act and S.I. 1997/683) by 1996 c. 25, s. 47, **Sch. 1 Pt. I para.13 Pt. III para. 39** (with s. 78(1)); S.I. 1997/683, **art. 1(2)**

3 (1) Where a representative appears, any requirement of this Act that anything shall be done in the presence of the accused, or shall be read or said to the accused, shall be construed as a requirement that that thing shall be done in the presence of the representative or read or said to the representative.

(2) Where a representative does not appear, any such requirement, and any requirement that the consent of the accused shall be obtained for summary trial, shall not apply.

4 (1) Notification or intimation for the purposes of subsections (2) and (3) of section 12 above may be given on behalf of a corporation by a director or the secretary of the corporation; and those subsections shall apply in relation to a notification or intimation purporting to be so given as they apply to a notification or intimation purporting to be given by an individual accused.

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(2) In this paragraph "director", in relation to a corporation which is established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking and whose affairs are managed by the members thereof, means a member of that corporation.

F515 5 . . . . . .

Textual Amendments

F515 Sch. 3 para. 5 repealed (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 25(2), 101(2), **Sch.13** (with s. 28); S.I. 1992/333, art. 2(2), **Sch.2**

6 Subject to the preceding provisions of this Schedule, the provisions of this Act relating to the inquiry into, and trial of, indictable offences shall apply to a corporation as they apply to an adult.

7 Where a corporation and an individual who has attained the age of 17 are jointly charged before a magistrates' court with an offence triable either way, the court shall not try either of the accused summarily unless each of them consents to be so tried.

8 Subsection (6) of section 33 of the M107Criminal Justice Act 1925 shall apply to a representative for the purposes of this Schedule as it applies to a representative for the purposes of that section.

Marginal Citations

M107 1925 c. 86.

SCHEDULE 4

Section 76.

MAXIMUM PERIODS OF IMPRISONMENT IN DEFAULT OF PAYMENT

Modifications etc. (not altering text)

C242 Sch. 4 applied (5.4.1993) by Child Support Act 1991 (c. 48, SIF 20), **s. 40(7)**, (with s. 9(2)); S.I. 1992/2644, **art.2**

C243 Sch. 4 excluded (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), **s. 22(1)** (with s. 28); S.I. 1992/333, **art. 2 Sch.2**

1 Subject to the following provisions of this Schedule, the periods set out in the second column of the following Table shall be the maximum periods applicable respectively to the amounts set out opposite thereto, being amounts due at the time the imprisonment **[**F516or detention**]** is imposed.

TABLE

[F517An amount not exceeding £200**]**	**[**F517 7 days**]**

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[F517An amount exceeding £200 but not exceeding £500**]**	**[**F517**]**14 days**]**
[F517An amount exceeding £500 but not exceeding £1,000**]**	**[**F517**]**28 days**]**
[F517An amount exceeding £1,000 but not exceeding £2,500**]**	**[**F517**]**45 days**]**
[F517An amount exceeding £2,500 but not exceeding £5,000**]**	**[**F517**]**3 months**]**
[F518An amount exceeding £5,000 but not exceeding £10,000**]**	**[**6 months**]**
An amount exceeding **[**F519**]**£10,000**]**	12 months

Textual Amendments

F516 Words inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 77, **Sch. 14 para. 59**

F517 Entries in Sch. 4 para. 1 substituted (1.10.1992) by virtue of Criminal Justice Act 1991 (c. 53, SIF 39:1), **s. 23(1)**, (with s. 28); S.I. 1992/333, art. 2(2), **Sch.2**

F518 Words substituted by Criminal Justice Act 1988 (c.33, SIF 39:1), ss. 60(1), 123(6), **Sch.8 para. 16**

F519 Sum substituted by S.I. 1984/447, art. 2(2), **Sch. 3**

2 (1) Where the amount due at the time imprisonment **[**F520**]**or detention**]** is imposed is so much of a sum adjudged to be paid by a summary conviction as remains due after part payment, then, subject to sub-paragraph (2) below, the maximum period applicable to the amount shall be the period applicable to the whole sum reduced by such number of days as bears to the total number of days therein the same proportion as the part paid bears to the whole sum.

(2) In calculating the reduction required under sub-paragraph (1) above any fraction of a day shall be left out of account and the maximum period shall not be reduced to less than **[**F521**]**seven days**]**.

Textual Amendments

F520 Words inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 77, **Sch. 14 para. 59**

F521 Words in Sch. 4 para. 2(2) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, **Sch. 11 para.28**; S.I. 1992/333, art. 2(2), **Sch.2**

3 The maximum period applicable to a sum of any amount enforceable as a civil debt shall be 6 weeks.

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VALID FROM 18/07/2005

[F522SCHEDULE 4A

Section 125BA

POWERS OF AUTHORISED OFFICERS EXECUTING WARRANTS

Textual Amendments

F522 Sch. 4A inserted (18.7.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 27, 60, **Sch. 4**; S.I. 2005/1821, **art. 2**

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SCHEDULE 5

Section 130.

TRANSFER OF REMAND HEARINGS

1 A court which, on adjourning a case, makes an order under section 130(1) of this Act is not required at that time to fix the time and place at which the case is to be resumed but shall do so as soon as practicable after the order ceases to be in force.

2 Where an order under subsection (1) of section 130 of this Act is made in the course of proceedings which, for the purposes of section 8 of this Act, are committal proceedings, proceedings relating to the accused before the alternate court are also committal proceedings for those purposes.

3 A court making an order under subsection (1) of section 130 of this Act or remanding the accused under subsection (4) shall at once notify **[**F523the terms of the order or remand to the court before which the accused is to be brought for the hearing on any application for a subsequent remand or, as the case may be, before which any such application is to be made without his being brought before it**]**

Textual Amendments

F523 Words substituted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 59(1), **Sch. 9 para. 7**

4 A person to whom an order under section 130(1) of this Act applies shall, if released on bail, be bailed to appear before the court which made the order.

5 Section 130 of this Act and this Schedule have effect notwithstanding anything in sections 5, 10 or 18(4) of this Act.

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SCHEDULE 6

Section 137.

FEES

[F524PART I

FEES TO BE TAKEN BY [F525JUSTICES' CHIEF EXECUTIVES]

Textual Amendments

F524 Sch. 6 Pt. I: varied so as to have effect (1.8.1993) as set out in the Sch. to S.I. 1993/1889 by S.I. 1993/1889, art. 2, **Sch.**

F525 Words in Sch. 6 Pt. I Heading substituted (1.4.2001) by 1999 c. 22, s. 90, Sch. 13 paras. 95, **117** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)

Modifications etc. (not altering text)

C244 Sch. 6 Pt. I continues to have effect (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 4 para. 7(1)(b) (with Sch. 4 paras. 6-8); S.I. 2005/2897, **art. 2**

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ATTENDANCE On a justice, to view deserted premises in order to affix notice or to give possession thereof, or to view a highway, bridge or nuisance	44.00
CASE FOR THE OPINION OF HIGH COURT (s. 111 of this Act) Drawing case, copies, taking recognizance as required by s. 114 of this Act and enlargements and renewals thereof (composite fee), where the application to state a case is made on or after 1st April 1992	382.00
Certificate of refusal of case, where the application is so made	8.00
CERTIFICATE Every certificate not otherwise charged	8.00
CHILD SUPPORT ACT 1991 M108Application for a liability order (each child)	0.70
NOTE: This fee is payable on the making of the application. Paternity application (each child) (sections 20 and 27 of the Act F531)	30.00
Appeal against a deduction from earnings order	10.00
Complaint or application and summons	10.00

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Warrant of arrest	10.00
Commitment order	40.00

NOTE: The fee for a commitment order is payable on the making of the order.

COMMUNITY CHARGE/COUNCIL TAX/RATES *Orders* Application for a liability order (each defendant)	0.70
NOTE: This fee is payable on the making of the application. Commitment Complaint (or application) and summons	10.00
Warrant of arrest	10.00
Commitment order	40.00

NOTE: The fee for a commitment order is payable on the making of the order.

COPY First photocopy or 90 word folio of any document	1.10
Each folio of succeeding 90 words	0.55
Each additional photocopy	0.10

NOTE: No fee shall be charged in pursuance hereof for a copy of a summons, of an order or of a warrant in a case in which, as hereafter provided, a fee is authorised for the summons, the order or, as the case may be, the warrant and a copy thereof. For the purposes hereof, a reference to a photocopy includes a reference to any other facsimile copy, however made.

DUPLICATE For the duplicate of any document	5.00
FAMILY PROCEEDINGS Applications under Parts I or II of the Children Act 1989 [M109], **[**[F532]section 30 of the Human Fertilisation and Embryology Act 1990**]**, Part I of the Domestic Proceedings and Magistrates' Courts Act 1978 [M110], except under section 16 of that Act for the protection of a spouse or child from violence, the Adoption Act 1976 [M111], except under section 21 of that Act, and all applications for financial orders (excluding applications to vary or discharge such orders or in respect of claims for maintenance or maintenance orders made to the benefit of, or against, a person residing outside the United Kingdom)	30.00
Applications under section 31 (care or supervision order), 36 (education supervision	50.00

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order) or 43 (child assessment order) of the Children Act 1989	
Applications (a)to vary, extend or discharge an order; (b)for contact or refusal of contact with a child in care, to change a child's surname or remove the child from the jurisdiction; and (c)under section 21 of the Adoption Act 1976	20.00
Applications under **[**F533 Part XA**]** (affecting the registration of a child minder or day carer including appeals against cancellation or varying the conditions of the registration) of, and paragraph 8(1) of Schedule 8 (appeals concerning foster parenting) to, the Children Act 1989	50.00

NOTE: When an application requires the leave of the court, the relevant fee applies where leave is sought but no further fee may be charged if leave is granted and the application is made.

LICENCES For every licence, consent or authority not otherwise provided for, to include registration when necessary	8.00
Application for the revocation of a licence not otherwise provided for	30.00
OATHS Attestation of constable	8.00
Every oath, affirmation or solemn declaration not otherwise charged (no fee is payable for the swearing in of witnesses in civil proceedings or in any case where an Act of Parliament directs that no fee shall be taken)	8.00
OTHER CIVIL PROCEEDINGS Complaint or application	3.50
Summons and copy	3.50
Order and copy	16.50
Warrant and copy	6.50
WARRANT OF ENTRY Application for a warrant of entry	2.25

NOTE:

1. Nothing in this Part shall be construed as authorising—
   (a) the collection of any fee from any person who is **[**F526receiving services funded by the Legal Services Commission as part of the Community Legal Service**]** or is in receipt of income support **[**F527under section 124 of the Social Security Contributions and Benefits Act 1992,**][**F528 of an income-based jobseeker's allowance (payable under the Jobseekers Act 1995)**][**F529,of guarantee state pension credit (under section 1(3)(a) of the State Pension Credit Act 2002**][**F530,

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of any element of child tax credit other than the family element or of working tax credit**]**; or

(b) where, in family proceedings, a fee is payable, as herebefore provided, in respect of an application for any order, the demand of a fee in respect of any action which may subsequently be taken in relation to the enforcement of the order in question.

2. Only one fee is payable where more than one document is issued in relation to a partnership.

3. Nothing in this Part shall be construed as authorising the collection of any fee from any person in respect of any stage in binding over proceedings. For the purpose of this Part, "binding over proceedings" means any proceedings instituted (whether by way of complaint under section 115 of this Act or otherwise) with a view to obtaining from a magistrates' court an order requiring a person to enter into a recognizance to keep the peace or to be of good behaviour.**]**

Textual Amendments

F526 Words in Sch. 6 Pt. I Note para. 1(a) substituted (1.4.2000) by 1999 c. 22, s. 24, Sch. 4 paras. 15, **20** (with s. 107, Sch. 14 para. 7(2)); S.I. 2000/774, **art. 2(a)(ii)**

F527 Words in Sch. 6 Pt. I Note para. 1(a) substituted (6.4.2003) by 2002 c. 21, ss. 47, 61, Sch. 3 para. 2(a); S.I. 2003/962, **art. 2(3)(b)(d)** (subject to arts, 3, 4)

F528 Words in Sch. 6 Pt. I Note para. 1(a) inserted (7.10.1996) by 1995 c. 18, s. 41(4), **Sch. 2 para. 4**; S.I. 1996/2208, **art. 2(b)**

F529 Words in Sch. 6 Pt. 1 Note para. 1(a) inserted (2.7.2002 for certain purposes and otherwise 6.10.2003) by 2002 c. 16, s. 14, Sch. 2 Pt. 3 para. 25; S.I. 2002/1691 art. 2; S.I. 2003/1766, **art. 2**

F530 Words in Sch. 6 Pt. 1 Note para. 1(a) inserted (6.4.2003) by 2002 c. 21, ss. 47, 61, Sch. 3 para. 2(b); S.I. 2003/962, **art. 2(3)(d)** (subject to arts. 3 and 4)

F531 By virtue of the Child Support Appeals (Jurisdiction of Courts) Order (S.I. 1993/961) appeals under section 20 relating to issues of parentage are to be made to the court instead of to the child support appeals tribunal.

F532 Words in Sch. 6 Pt. I inserted (1.2.1995) by S.I. 1994/3250, **art. 2**

F533 Words in Sch. 6 Pt. I substituted (2.7.2001) by 2000 c. 14, s. 116, **Sch. 4 para. 7**; S.I. 2001/2041, **art. 2(1)(d)(i)(2)(3)** (with transitional provisions and savings in Sch.)

Marginal Citations

M108 1991 c.48.

M109 1989 c.41.

M110 1978 c.22.

M111 1976 c.36.

PART II

MATTERS IN RESPECT OF WHICH NO FEES ARE CHARGEABLE

1 Any summons, warrant, notice or order issued, given or made under section 83(1) or (2), 88, 89 or 136 of this Act, or section 104 of the General Rate Act 1967, or under any rule made for the purposes of those provisions.

2 Any criminal matter, but this paragraph shall not prevent the charging of a fee for supplying, for use in connection with a matter which is not a criminal matter, a copy of a document prepared for use in connection with a criminal matter.

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PART III

MATTERS TO WHICH PART I DOES NOT APPLY

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1

Textual Amendments

F534 Sch. 6 Pt. III para. 1 repealed by Billiards (Abolition of Restrictions) Act 1987 (c. 19), s. 1, **Sch.**

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Textual Amendments

F535 Sch. 6 Pt. III para. 2 repealed by Local Government (Miscellaneous Provisions) Act 1982 (c. 30, SIF 81:1), s. 47(3), **Sch. 7 Pt. I**

3 Licences under **[**F536section 1 of the Cinemas Act 1985**]**.

Textual Amendments

F536 Words substituted by Cinemas Act 1985 (c. 13, SIF 45A), s. 24(1), **Sch. 2 para. 12**

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4

Textual Amendments

F537 Sch. 6 Pt. III para. 4 repealed by Pilotage Act 1987 (c. 21, SIF 111), s. 32(5), **Sch. 3**

5 Matters in respect of which fees are authorised to be charged by section 29 of the Licensing Act 1964.

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[F538SCHEDULE 6A

FINES THAT MAY BE ALTERED UNDER SECTION 143

Textual Amendments

F538 Sch. 6A substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 17(3)(d), 101(1), Sch. 4, Pt.IV, **Sch. 12 para. 6** (with s. 28); S.I. 1992/333, art. 2(2), **Sch. 2**.

Enactment	Maximum fine
F539 . . .	F539 . . . F539 . . .
ATTACHMENT OF EARNINGS ACT 1971 (c.32) Section 23(3) (judge's fine)	£250
F539 . . .	F539 . . .
MAGISTRATES' COURTS ACT 1980 (c.43) Section 63(3)(a) (disobedience of orders other than payment of money) Section 97(4) (refusal to give evidence etc.)	£5,000 £2,500
CONTEMPT OF COURT ACT 1981 (c.49) Section 12(2) (contempt in face of magistrates' court) Section 14(2) (contempt in an inferior court)	£2,500 £2,500

Textual Amendments

F539 Entries in Sch. 6A repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 9 para. 80(1), **Sch. 12 Pt. I**

Enactment	Maximum fine
F539 . . .	F539 . . .
COUNTY COURTS ACT 1984 (c.28) Section 55(2) (neglect or refusal to give evidence) Section 118(1) (contempt in face of court)	£1,000 £2,500
CORONERS ACT 1988 (c.13) Sections 10(1) and (2) and 21(5) (refusal to give evidence etc.)	£1,000
F539 . . .	F539 . . .]
[F540POWERS OF CRIMINAL COURTS (SENTENCING) ACT 2000	
Section 123(3) (failure to comply with suspended sentence supervision order)	£1,000

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In Schedule 3, paragraphs 4(1) and 5(1) (failure to comply with certain community orders)	£1,000
In Schedule 5, paragraph 2(1) (failure to comply with attendance centre order or attendance centre rules)	£1,000
In Schedule 7, paragraph 2(2) (failure to comply with supervision order)]	£1,000

Textual Amendments

F540 Entry in Sch. 6A inserted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 80(2)**

[X2]SCHEDULE 7

Section 154

CONSEQUENTIAL AMENDMENTS

Editorial Information

X2 The text of Sch. 7 paras. 1-3, 5-13, 16-18, 20, 21, 23-27, 30, 35-37, 43-48, 50, 51, 53-56, 61-77, 80-82, 85-90, 93-109, 113-115, 118, 119, 121-125, 130-132, 134-137, 139-155, 159-164, 167, 169-171, 175-183, 186, 187, 190-198, 202-204 and 207 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Summary Jurisdiction Act 1857 (20 & 21 Vict. c. 43)

[F541]1 . . . . . .

Textual Amendments

F541 Sch. 7 para. 1 repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. I** Group1

Criminal Law Amendment Act 1867 (30 & 31 Vict. c. 35)

[[F542]2 In section 6 of the Criminal Law Amendment Act 1867 for "section forty-one of the Magistrates' Courts Act 1952" substitute " section 105 of the Magistrates' Courts Act 1980 " and for "section fifteen of the Justices of the Peace Act 1949" substitute " section 144 of that Act ".]

Textual Amendments

F542 Sch. 7 para. 2 repealed (E.W.) (4.7.1996 with effect in relation to any alleged offence in relation to which Pt. I of 1996 c. 25 applies) by 1996 c. 25, ss. 44, 47, 80, Sch. 1 para. 39, **Sch.5 para. 2** (with s. 78(1)); S.I. 1997/683, **art. 1(2)**

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Gun Barrel Proof Act 1868 (c. cxiii)

F543 3 . . . . . .

Textual Amendments

F543 Sch. 7 para. 3 repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIV** Group2

Criminal Justice Act 1925 (15 & 16 Geo. 5 c. 86)

4 . . . . . F544

Textual Amendments

F544 Sch. 7 para. 4 repealed by Police and Criminal Evidence Act 1984 (c. 60, SIF 95), s. 119(2), **Sch. 7 Pt. V**

5 F545 . . . . . .

Textual Amendments

F545 Sch. 7 para. 5 repealed (1.9.2004) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2004/2066, **art. 2(d)(iv)** (subject to art. 3)

Children and Young Persons Act 1933 (23 & 24 Geo. 5 c. 12)

6 In section 46(1A) of the Children and Young Persons Act 1933 for "section I of the Magistrates' Courts Act 1957" substitute " section 12 of the Magistrates' Courts Act 1980 ".

Criminal Justice Act 1948 (11 & 12 Geo. 6 c. 58)

7 In section 27(3) of the Criminal Justice Act 1948 for "section 105(5) of the Magistrates' Courts Act 1952" substitute " section 128(7) of the Magistrates' Courts Act 1980 ".

Maintenance Orders Act 1950 (14 Geo. 6 c. 37)

8 In section 25(1) of the Maintenance Orders Act 1950 for "section fifteen of the Justices of the Peace Act 1949" substitute " section 144 of the Magistrates' Courts Act 1980 ".

Rag Flock and Other Filling Materials Act 1951 (14 & IS Geo. 6 c. 63)

F546 9 . . . . . .

Textual Amendments

F546 Sch. 7 para. 9 repealed (6.1.1997) by S.I. 1996/3097, **art. 3(1)(c)**

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Pharmacy Act 1954 (2 & 3 Eliz. 2 c. 61)

10 In section 21 of the Pharmacy Act 1954 for "the Magistrates' Courts Act 1952" substitute "the Magistrates' Courts Act 1980".

Mines and Quarries Act 1954 (2 & 3 Eliz. 2 c. 70)

11 In section 153(a) of the Mines and Quarries Act 1954 for "section thirty-five of the Magistrates' Courts Act 1952" substitute " section 44 of the Magistrates' Courts Act 1980 ".

Army Act 1955 (3 & 4 Eliz. 2 c. 18)

12 In sections 187(4) and 215(9) of the Army Act 1955 for "the Magistrates' Courts Act 1952" substitute, in each case, " the Magistrates' Courts Act 1980 ".

Air Force Act 1955 (3 & 4 Eliz. 2 c. 19)

13 In sections 187(4) and 215(9) of the Air Force Act 1955 for "the Magistrates' Courts Act 1952" substitute, in each case, " the Magistrates' Courts Act 1980 ".

14, 15. . . . . F547

Textual Amendments

F547 Sch. 7 paras. 14, 15 repealed by Food Act 1984 (c. 30, SIF 53:1), s. 134, **Sch. 11**

Magistrates' Courts (Appeals from Binding Over Orders) Act 1956 (4 & 5 Eliz. 2 c. 44)

16 In section 1(1) of the Magistrates' Courts (Appeals from Binding Over Orders) Act 1956 for "the Magistrates' Courts Act 1952" substitute " the Magistrates' Courts Act 1980 ".

Sexual Offences Act 1956 (4 & 5 Eliz. 2 c. 69)

17 In section 37(7) of the Sexual Offences Act 1956—

(a) in paragraph (a) for "section 6 of the Children and Young Persons Act 1969" substitute " section 24 of the Magistrates' Courts Act 1980 ";

(b) in paragraph (b) for "subsection (5) of section ninety-eight of the Magistrates' Courts Act 1952" substitute " subsection (5) of section 121 of the Magistrates' Courts Act 1980 ".

18 F548 . . . . . .

Textual Amendments

F548 Sch. 7 para. 18 repealed (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 139, 140, 141, Sch. 6 para. 26(3), **Sch. 7**; S.I. 2004/874, **art. 2**

19 . . . . . F549

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Textual Amendments

F549 Sch. 7 para. 19 repealed by Dentists Act 1983 (c. 38, SIF 83:1), s. 33(2), **Sch. 3 Pt. I**

Affiliation Proceedings Act 1957 (5 & 6 Eliz. 2 c. 55)

20 In section 5(5) of the Affiliation Proccediings Act 1957 for "section fifty-two of the Magistrates' Courts Act 1952" substitute " section 59 of the Magistrates' Courts Act 1980 ".

21 In section 6A of the Affiliation Proceedings Act 1957—

(a) in subsection (1) for "section 53 of the Magistrates' Courts Act 1952" substitute " section 60 of the Magistrates' Courts Act 1980 ";

(b) in subsection (2) for the "said section 53" substitute " the said section 60 ";

(c) in subsection (5) for "section 63 of the Magistrates' Courts Act 1952" substitute " section 75 of the Magistrates' Courts Act 1980 "

22 . . . . . F550

Textual Amendments

F550 Sch. 7 para. 22 repealed by Housing (Consequential Provisions) Act 1985 (c. 71, SIF 61), ss. 3, 5(2), Sch. 1 Pt. I, **Sch. 4**

Maintenance Orders Act 1958 (6 & 7 Eliz. 2 c. 39)

23 In section 18 of the Maintenance Orders Act 1958—

(a) in subsection (1) for "subsection (2) of section sixty-five of the Magistrates' Courts Act 1952" substitute " subsection (2) of section 77 of the Magistrates' Courts Act 1980 " ;

(b) in subsection (6) for "section sixty-seven of the, Magistrates' Courts Act 1952" substitute " section 79 of the Magistrates, Courts Act 1980 ".

24 In section 21(1) of the Maintenance Orders Act 1958 for "the Magistrates' Courts Act 1952" substitute " the Magistrates' Courts Act 1980 " and for "subsection (2) of section one hundred and twenty-four thereof" substitute " subsection (2) of section 148 thereof ".

Adoption Act 1958 (7 Eliz. 2 c. 5)

25 In section 9(2) and (4) of the Adoption Act 1958 for "section fifteen of the Justices of the Peace Act 1949" substitute " section 144 of the Magistrates' Courts Act 1980 ".

26 In section 48 of the Adoption Act 1958 for "the Magistrates' Courts Act 1952" substitute " the Magistrates' Courts Act 1980 ".

Manoeuvres Act 1958 (7 & 8 Eliz. 2 c. 7)

F551 27 . . . . . .

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Textual Amendments

F551 Sch. 7 para. 27 repealed (27.9.1999) by 1999 c. 22, ss. 106, 108(3), **Sch. 15 Pt. V(1)** (with s. 107, Sch. 14 paras. 3(3), 5(2))

28 . . . . . F552

Textual Amendments

F552 Sch. 7 para. 28 repealed by County Courts Act 1984 (c. 28, SIF 34), s. 148(3), **Sch. 4**

29 . . . . . F553

Textual Amendments

F553 Sch. 7 para. 29 repealed by Highways Act 1980 (c. 66, SIF 59), s. 343(3), **Sch. 25**

Street Offences Act 1959 (7 & 8 Eliz. 2 c. 57)

30 In section 2(2) of the Street Offences Act 1959 for "section fifteen of the Justices of the Peace Act 1949" substitute " section 144 of the Magistrates' Courts Act 1980 " and for "sections forty-seven to forty-nine of the Magistrates' Courts Act 1952" substitute " sections 55 to 57 of that Act ".

31, 32. . . . . F554

Textual Amendments

F554 Sch. 7 paras. 31, 32 repealed by Mental Health Act 1983 (c. 20, SIF 85), s, 148(3), Sch. 6

33, 34. . . . . F555

Textual Amendments

F555 Sch. 7 paras. 33, 34 repealed by Mental Health (Amendment) Act 1982 (c. 51, SIF 85), s. 65(2), **Sch. 4 Pt. I**

Road Traffic Act 1960 (8 & 9 Eliz. 2 c. 16)

F556 35 . . . . . .

Textual Amendments

F556 Sch. 7 para. 35 repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XV** Group1

Administration of Justice Act 1960 (8 & 9 Eliz. 2 c. 65)

36 In section 13(5) of the Administration of Justice Act 1960, in paragraph (c) for "subsection (3) of section fifty-four of the Magistrates' Courts Act 1952" substitute

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" subsection (3) of section 63 of the Magistrates' Courts Act 1980 ", and in the words following paragraph (c) for "the Magistrates' Courts Act 1952" substitute " the Magistrates' Courts Act 1980 ".

Factories Act 1961 (9 & 10 Eliz. 2 c. 34)

F557 37 . . . . . .

Textual Amendments

F557 Sch. 7 para. 37 repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIV** Group3

Criminal Justice Act 1961 (9 & 10 Eliz. 2 c.39)

38—42. . . . . F558

Textual Amendments

F558 Sch. 7 paras. 38–42, 79 and 84 repealed by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 78, **Sch. 16**

Plant Varieties and Seeds Act 1964 (c. 14)

43 In section 23(2) of the Plant Varieties and Seeds Act 1964 for "section 104 of the Magistrates' Courts Act 1952" substitute " section 127(1) of the Magistrates' Courts Act 1980 ".

44 In section 28 of the Plant Varieties and Seeds Act 1964—

(a) in subsection (1) for "section 104 of the Magistrates' Courts Act 1952" substitute " section 127(1) of the Magistrates' Courts Act 1980 " ;

(b) in subsection (2) for "the said section 104" substitute " the said section 127(1) ".

Licensing Act 1964 (c. 26)

45 In section 22(4) of the Licensing Act 1964 for "section 85(2) of the Magistrates' Courts Act 1952" substitute " section 109(1) of the Magistrates' Courts Act 1980 ".

46 In section 28(2) of the Licensing Act 1964 for "Section 118(2) of the Magistrates' Courts Act 1952" substitute " Section 141(2) of the Magistrates' Courts Act 1980 ".

47 In section 48(3) of the Licensing Act 1964 for "section 104 of the Magistrates' Courts Act 1952" substitute " section 127(1) of the Magistrates' Courts Act 1980 ".

48 In section 192(2) of the Licensing Act 1964 for "section 3 of the Magistrates' Courts Act 1952" substitute " section 3 of the Magistrates' Courts Act 1980 ".

49 . . . . . F559

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Textual Amendments

F559 Sch. 7 para. 49 repealed by Licensing Act 1988 (c. 17, SIF 68A), s. 19(2), **Sch. 4**

50 In Schedule 6 to the Licensing Act 1964—

(a) in paragraph 16(2), for "subsections (1) and (3) of section 77 and section 98 of the Magistrates' Courts Act 1952" substitute " subsections (1) and (3) of section 97 and section 121 of the Magistrates' Courts Act 1980 " ;

(b) in paragraph 18, for the words from "section 15 of the Justices of the Peace Act 1949" to the end substitute " section 144 of the Magistrates' Courts Act 1980, shall have effect subject to any rules so made and to any rules made under section 15 of the Justices of the Peace Act 1949 (which was re-enacted in the said section 144) after 3rd August 1961 ".

Administration of Justice Act 1964 (c. 42)

51 In section 38(1) of the Administration of Justice Act 1964 for "section 28 or 29 of the Magistrates' Courts Act 1952" substitute " section 37 or 38 of the Magistrates' Courts Act 1980 ".

52 . . . . . F560

Textual Amendments

F560 Sch. 7 para. 52 repealed by S.I. 1981/1675, (N.I. 26), art. 170(3), Sch. 7

Finance Act 1965 (c. 25)

F561 53 . . . . . .

Textual Amendments

F561 Sch. 7 para. 53 repealed (1.5.2002 (E.) 14.8.2002 (W.)) by 2000 c. 38, s. 274, **Sch. 31 Pt. II**; S.I. 2002/1014, art. 2, **Sch**; S.I. 2002/2024, **art. 2**

Gas Act 1965 (c. 36)

54 In section 21(4) of the Gas Act 1965 for "section 35 of the Magistrates' Courts Act 1952" substitute " section 44 of the Magistrates' Courts Act 1980 ".

Backing of Warrants (Republic of Ireland) Act 1965 (c. 45)

F562 55 . . . . . .

Textual Amendments

F562 Sch. 7 para. 55 repealed (19.6.1997) by 1997 c. 25, ss. 73(3), 74(1), **Sch. 6 Pt.I** (with Sch. 4 para. 27)

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Criminal Procedure (Attendance of Witnesses) Act 1965 (c. 69)

56 In section 8 of the Criminal Procedure (Attendance of Witnesses) Act 1965 for "section 77 of the Magistrates' Courts Act 1952" substitute " section 97 of the Magistrates' Courts Act 1980 ".

57—60. . . . . F563

Textual Amendments

F563 Sch. 7 paras. 57–60 repealed for financial years beginning in or after 1990 by Local Government Finance Act 1988 (c. 41, SIF 81:1, 103:2), ss. 142, 149, **Sch. 13 Pt. 1** (subject to any saving in s. 117(8) of that 1988 Act)

Criminal Law Act 1967 (c. 58)

61 In section 2(1) of the Criminal Law Act 1967 for "section 29 of the Criminal Law Act 1977" substitute " section 33 of the Magistrates' Courts Act 1980 ", for "subsection (2) of section 23 of the said Act of 1977" substitute " subsection (2) of section 22 of the sadi Act of 1980 " and for "the said section 23" substitute " the said section 22 ".

Wireless Telegraphy Act 1967 (c. 72)

62 In section 11(4) of the Wireless Telegraphy Act 1967 for "section 115 of the Magistrates'Courts Act 1952" substitute " section 140 of the Magistrates' Courts Act 1980 ".

Criminal Justice Act 1967 (c. 80)

[F564 63 In section 7 of the Criminal Justice Act 1967 for "section 2 of this Act" substitute " section 102 of the Magistrates' Courts Act 1980 ".**]**

Textual Amendments

F564 Sch. 7 para. 63 repealed (E.W.N.I.) (4.7.1996 with effect in relation to any alleged offence in relation to which Pt. I of 1996 c. 25 applies) by 1996 c. 25, ss. 44, 68, 80, Sch. 2 para. 7, **Sch.5 para. 2** (with s. 78(1)); S.I. 1997/683, **art. 1(2)**

[F565 64 In section 11(3) of the Criminal Justice Act 1967 for "section 15 of the Justices of the Peace Act 1949" substitute " section 144 of the Magistrates' Courts Act 1980 ".**]**

Textual Amendments

F565 Sch. 7 para. 64 repealed (E.W.N.I.) (4.7.1996 with application as mentioned in ss. 1(5), 74(5) of the repealing Act; S.I. 1997/682 and S.I. 1997/3108) by 1996 c. 25, ss. 1(5), 44, 74(5), 80, **Sch.5 para. 2** (with s. 78(1)); S.I. 1997/682, **art. 2(1)(a)(2)**; S.I. 1997/3108, **arts. 1(2)**, 2(a)

F566 65 . . . . . .

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Textual Amendments

F566 Sch. 7 para. 65 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

66 In section 36(2) of the Criminal Justice Act 1967 for "the Magistrates' Courts Act 1952" substitute " the Magistrates' Courts Act 1980 ".

F567 67 . . . . . .

Textual Amendments

F567 Sch. 7 para. 67 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

68 In section 62(7) of the Criminal Justice Act 1967 for "section 29 of the Magistrates' Courts Act 1952" substitute " section 38 of the Magistrates' Courts Act 1980 ".

69 In section 90(2) and (4) of the Criminal Justice Act 1967 for "section 104 of the Magistrates' Courts Act 1952" substitute, in each case, "section 127(1) of the Magistrates' Courts Act 1980".

Companies Act 1967 (c. 81)

70 In section 49(3) of the Companies Act 1967 for "section 104 of the Magistrates' Courts Act 1952" substitute " section 127(1) of the Magistrates' Courts Act 1980 ".

Criminal Appeal Act 1968 (c. 19)

71 In section 1 of the Criminal Appeal Act 1968—

(a) in subsection (1) insert at the beginning " Subject to subsection (3) below " ;

(b) insert after subsection (2)—

"(3) Where a person is convicted before the Crown Court of a scheduled 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.

(4) In subsection (3) above "scheduled offence" and "the value involved" have the same meanings as they have in section 22 of the Magistrates' Courts Act 1980 (certain offences against property to be tried summarily if value of property or damage is small).".

Firearms Act 1968 (c. 27)

72 In section 51(4) of the Firearms Act 1968 for "section 104 of the Magistrates'Courts Act 1952" substitute " section 127(1) of the Magistrates' Courts Act 1980 ".

73 In Part II of Schedule 6 to the Firearms Act 1968, in paragraph 3—

(a) in sub-paragraph (1) for "Schedule 3 to the Criminal Law Act 1977" substitute " Schedule 1 to the Magistrates' Courts Act 1980 " ;

(b) in sub-paragraph (2) for "sections 19 to 24 of the said Act of 1977" substitute " sections 18 to 23 of the said Act of 1980 " ;

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(c) in sub-paragraph (3) for "the said sections 19 to 24" substitute " the said sections 18 to 23 " and for "section 25(3) and (4) of the said Act of 1977" substitute " section 25(3) and (4) of the said Act of 1980 ".

Trade Descriptions Act 1968 (c. 29)

74 In section 19(2) and 40(1)(a) of the Trade Descriptions Act 1968 for "section 104 of the Magistrates' Courts Act 1952" substitute " section 127(1) of the Magistrates' Courts Act 1980 ".

Civil Evidence Act 1968 (c. 64)

F568 75 . . . . . .

Textual Amendments

F568 Sch. 7 para. 75 repealed (31.1.1997) by 1995 c. 38, s. 15(2), **Sch.2** (with ss. 1(3), 6(4)(5), 14); S.I. 1996/3217, **art.2**

Medicines Act 1968 (c. 67)

76 In section 125(1) of the Medicines Act 1968 for "section 104 of the Magistrates' Courts Act 1952" substitute " section 127(1) of the Magistrates' Courts Act 1980 ".

Sea Fisheries Act 1968 (c. 77)

77 In section 12(3) of the Sea Fisheries Act 1968 for "Sections 65(1) and 66 of the Magistrates' Courts Act 1952" substitute " Sections 77(1) and 78 of the Magistrates' Courts Act 1980 ".

Children and Young Persons Act 1969 (c. 54)

F569 78 . . . . . .

Textual Amendments

F569 Sch. 7 para. 78 repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(6)(7), **Sch.15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

79 . . . . . F570

Textual Amendments

F570 Sch. 7 paras. 38–42, 79 and 84 repealed by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 78, **Sch. 16**

80 In section 8(3) of the Children and Young Persons Act 1969 for "Subsections (2) and (4) of section 40 of the Magistrates' Courts Act 1952" substitute " Subsections (2) and (4) of section 49 of the Magistrates' Courts Act 1980 ".

F571 81 . . . . . .

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Textual Amendments

F571 Sch. 7 para. 81 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F572 82 . . . . . .

Textual Amendments

F572 Sch. 7 para. 82 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I**(with Sch. 11 paras. 1, 2)

F573 83 . . . . . .

Textual Amendments

F573 Sch. 7 para. 83 repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(6)(7), **Sch.15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

84 . . . . . F574

Textual Amendments

F574 Sch. 7 paras. 38–42, 79 and 84 repealed by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 78, **Sch. 16**

F575 85 . . . . . .

Textual Amendments

F575 Sch. 7 para. 85 repealed (27.9.1999) by 1999 c. 22, ss. 106, 108(3), **Sch. 15 Pt. V(1)** (with s. 107, Sch. 14 paras. 7(2), 36(9))

86 In Schedule 4 to the Children and Young Persons Act 1969, in paragraph 5(1), for "section 28(1) of the Magistrates' Courts Act 1952" substitute " section 37(1) of the Magistrates' Courts Act 1980 ".

87 In Schedule 5 to the Children and Young Persons Act 1969, in paragraph 55, for "sections 2 and 9 of the Criminal Justice Act 1967" substitute " section 9 of the Criminal Justice Act 1967 and section 102 of the Magistrates' Courts Act 1980 ".

Administration of Justice Act 1970 (c. 31)

88 In section 41(8) of the Administration of Justice Act 1970 for "section 64 of the Magistrates' Courts Act 1952" substitute " section 76 of the Magistrates' Courts Act 1980 " and for "paragraph 2 of Schedule 3 to that Act" substitute " paragraph 2 of Schedule 4 to that Act ".

89 In Schedule 1 to the Administration of Justice Act 1970 for "section 54(3) of the Magistrates' Courts Act 1952" substitute " section 63(3) of the Magistrates' Courts Act 1980 ".

Status: *Point in time view as at 01/04/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Magistrates' Courts Act 1980 is up to date with all changes known to be in force on or before 27 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Merchant Shipping Act 1970 (c. 36)

90 In section 56(2) and (7) of the Merchant Shipping Act 1970 for "subsections (1), (3) and (4) of section 77 of the Magistrates' Courts Act 1952" substitute, in each place, " subsections (1), (3) and (4) of section 97 of the Magistrates' Courts Act 1980 ".

Guardianship of Minors Act 1971 (c. 3)

F576 91 . . . . . .

Textual Amendments

F576 Sch. 7 para. 91 repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(6)(7), **Sch.15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

F577 92 . . . . . .

Textual Amendments

F577 Sch. 7 para. 92 repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(6)(7), **Sch.15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

Vehicles (Excise) Act 1971 (c. 10)

F578 93 . . . . . .

Textual Amendments

F578 Sch. 7 para. 93 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt.I** (with s. 57(4))

Courts Act 1971 (c. 23)

94 In section 7(2) of the Courts Act 1971 for "subsection (1) above" substitute " section 7 of the Magistrates' Courts Act 1980 " ;

95 In section 13 of the Courts Act 1971—

(a) in subsection (5)(e) for "sections 94 and 95 of the Magistrates' Courts Act 1952" substitute " sections 118 and 119 of the Magistrates' Courts Act 1980 " ;

(b) in subsection (8) for "the Magistrates' Courts Act 1952" substitute " the Magistrates' Courts Act 1980 ".

96 In section 52(5) of the Courts Act 1971 for "section 55 of the Magistrates' Courts Act 1952" substitute " section 64 of the Magistrates' Courts Act 1980 ".

Attachment of Earnings Act 1971 (c. 32)

97 In section 3 of the Attachment of Earnings Act 1971—

(a) in subsection (1)(c) for "section 52(1) of the Magistrates' Courts Act 1952" substitute " section 59(1) of the Magistrates' Courts Act 1980 " ;

F579 (b) . . . . . .

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Textual Amendments

F579 Sch. 7 para. 97(b) repealed (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s. 11(2), **Sch.3**; S.I. 1992/455, **art.2**.

98 In section 8(3) of the Attachment of Earnings Act 1971 for "section 65(2) of the Magistrates' Courts Act 1952" substitute " section 77(2) of the Magistrates' Courts Act 1980 ".

99 In section 17(3)(e) of the Attachment of Earnings Act 1971 for "Part III of the Magistrates' Courts Act 1952" substitute " Part III of the Magistrates' Courts Act 1980 ".

100 In section 19 of the Attachment of Earnings Act 1971—

(a) in subsection (4) for "section 43 of the Magistrates' Courts Act 1952" substitute " section 51 of the Magistrates' Courts Act 1980 " ;

(b) in subsection (5) for "section 104 of the Magistrates' Courts Act 1952" substitute " section 127(1) of the Magistrates' Courts Act 1980 ".

101 In section 25 of the Attachment of Earnings Act 1971—

(a) F580 . . . . . .

(b) in subsection (6) for "Part III of the Magistrates' Courts Act 1952" substitute " Part III of the Magistrates' Courts Act 1980 ".

Textual Amendments

F580 Sch. 7 para. 101(a) repealed (1.9.2004) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2004/2066, **art. 2(d)(iv)** (subject to art. 3)

Misuse of Drugs Act 1971 (c. 38)

102 In section 25(4) of the Misuse of Drugs Act 1971 for "section 104 of the Magistrates' Courts Act 1952" substitute " section 127(1) of the Magistrates' Courts Act 1980 ".

Fire Precautions Act 1971 (c. 40)

103 In section 26(1) of the Fire Precautions Act 1971 for "the Magistrates' Courts Act 1952" substitute " the Magistrates' Courts Act 1980 ".

Immigration Act 1971 (c. 77)

104 In section 6(2) of the Immigration Act 1971 for "section 14(3) of the Magistrates' Courts Act 1952" substitute " section 10(3) of the Magistrates' Courts Act 1980 ".

Maintenance Orders (Reciprocal Enforcement) Act 1972 (c. 18)

105 In section 14(3) and (6) of the Maintenance Orders (Reciprocal Enforcement) Act 1972 for "section 77(1), (3) and (4) of the Magistrates' Courts Act 1952" substitute, in each case, " section 97(1), (3) and (4) of the Magistrates' Courts Act 1980 ".

106 F581 . . . . . .

Status: *Point in time view as at 01/04/2005. This version of this Act contains provisions that are not valid for this point in time.*
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Textual Amendments

F581 Sch. 7 para. 106 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)**

107 F582 . . . . . .

Textual Amendments

F582 Sch. 7 para. 107 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)**

F583 108 . . . . . .

Textual Amendments

F583 Sch. 7 para. 108 repealed (5.11.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1992 (c. 56), s. 2(2), **Sch.3**; S.I. 1993/618, **art.2**

109 In section 38(4) and (6) of the Maintenance Orders (Reciprocal Enforcement) Act 1972 for "section 77(1), (3) and (4) of the Magistrates' Courts Act 1952" substitute, in each case, " section 97(1), (3) and (4) of the Magistrates' Courts Act 1980 ".

[F584 110 In section 41 of the Maintenance Orders (Reciprocal Enforcement) Act 1972—

(a) in subsections (1), (2A) and (2B) for "section 53 of the Magistrates' Courts Act 1952" substitute, in each case, "section 60 of the Magistrates' Courts Act 1980" ;

(b) in subsection (2A) for "section 15 of the Justices of the Peace Act 1949" substitute "section 144 of the Magistrates' Courts Act 1980" ;

(c) in subsection (2B) for "section 47(3) of the Magistrates' Courts Act 1952" substitute "section 55(3) of the Magistrates' Courts Act 1980".**]**

Textual Amendments

F584 Sch. 7 para. 110 repealed (E.W.)(14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(6)(7), **Sch.15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

111, 112. . . . . F585

Textual Amendments

F585 Sch. 7 paras. 111, 112 repealed by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), ss. 3, 5, Sch. 1 Pt. I, Sch. 4 paras. 1, **2**

Civil Evidence Act 1972 (c. 30)

113 F586 . . . . . .

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Textual Amendments

F586 Sch. 7 para. 113 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)**

Criminal Justice Act 1972 (c. 71)

114 In section 46 of the Criminal Justice Act 1972—

(a) in subsection (1) for the words from "Sections 2" to "those sections)" substitute " Section 102 of the Magistrates' Courts Act 1980 and section 9 of the Criminal Justice Act 1967 (which respectively allow written statements to be used as evidence in committal proceedings and in other criminal proceedings) and section 106 of the said Act of 1980 and section 89 of the said Act of 1967 (which punish the making of false statements which are tendered in evidence under the said section 102 or 9, as the case may be) " ;

(b) in subsection (2) for "The said section 2" substitute " The said section 102 ".

115 In section 49(1) of the Criminal Justice Act 1972 for "Part III of the Magistrates' Courts Act 1952" substitute " Part III of the Magistrates' Courts Act 1980 ".

Guardianship Act 1973 (c. 29)

F587 116 . . . . . .

Textual Amendments

F587 Sch. 7 para. 116 repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(6)(7), **Sch.15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

F588 117 . . . . . .

Textual Amendments

F588 Sch. 7 para. 117 repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(6)(7), **Sch.15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

Fair Trading Act 1973 (c. 41)

118 In section 129(2) and (4) of the Fair Trading Act 1973 for "section 104 of the Magistrates' Courts Act 1952" substitute " section 127(1) of the Magistrates' Courts Act 1980 ".

Powers of Criminal Courts Act 1973 (c. 62)

F589 119 . . . . . .

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Textual Amendments

F589 Sch. 7 para. 119 repealed (25.8.2000) by 2000 c.6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F590 120 . . . . . .

Textual Amendments

F590 Sch. 7 para. 120 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F591 121 . . . . . .

Textual Amendments

F591 Sch. 7 para. 121 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F592 122 . . . . . .

Textual Amendments

F592 Sch. 7 para. 122 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F593 123 . . . . . .

Textual Amendments

F593 Sch. 7 para. 123 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Slaughterhouses Act 1974 (c. 3)

124 In section 6(2) of the Slaughterhouses Act 1974 for "the Magistrates' Courts Act 1952" substitute " the Magistrates' Courts Act 1980 "

125 In sections 38(6) and 43(3) of the Slaughterhouses Act 1974 for "section 35 of the Magistrates' Courts Act 1952" substitute, in each case, " section 44 of the Magistrates' Courts Act 1980 "

126—129. . . . . F594

Textual Amendments

F594 Sch. 7 paras. 126–129 repealed by Legal Aid Act 1988 (c. 34, SIF 77:1), s. 45(2), **Sch. 6**

Control of Pollution Act 1974 (c. 40)

130 In section 87(3) of the Control of Pollution Act 1974 for "section 104 of the Magistrates' Courts Act 1952" substitute " section 127(1) of the Magistrates' Courts Act 1980 ".

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Friendly Societies Act 1974 (c. 46)

131 F595 . . . . . .

Textual Amendments

F595 Sch. 7 para. 131 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)**

Solicitors Act 1974 (c. 47)

132 In sections 26, 42(2) and 44(4) of the Solicitors Act 1974 for "the Magistrates' Courts Act 1952" substitute, in each case, " the Magistrates' Courts Act 1980 ".

Insurance Companies Act 1974 (c. 49)

133 . . . . . F596

Textual Amendments

F596 Sch. 7 para. 133 repealed by Insurance Companies Act 1982 (c. 50, SIF 67), s. 99(3), **Sch. 6**

Rehabilitation of Offenders Act 1974 (c. 53)

134 In section 6(6)(a) of the Rehabilitation of Offenders Act 1974 for "section 23 of the Criminal Law Act 1977" substitute " section 22 of the Magistrates' Courts Act 1980 ".

Social Security Act 1975 (c. 14)

F597 135 . . . . . .

Textual Amendments

F597 Sch. 7 para. 135 repealed (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 3, 7(2), **Sch.1** (subject as mentioned in Local Government Finance Act 1992 (c. 14), **s. 118**)

Criminal Procedure (Scotland) Act 1975 (c. 21)

136 In section 397(1) of the Criminal Procedure (Scotland) Act 1975 for "section 72A of the Magistrates' Courts Act 1952" substitute " section 90 of the Magistrates' Courts Act 1980 ".

137 In section 403 of the Criminal Procedure (Scotland) Act 1975—

(a) in subsection (4) for "section 72A of the Magistrates' Courts Act 1952" substitute " section 90 of the Magistrates' Courts Act 1980 ", for "the said Act of 1952" (in the first place where the words occur) substitute " the said Act of 1980 " and for "the Table set out in paragraph 1 of Schedule 3 to the said Act of 1952" substitute " the Table set out in paragraph I of Schedule 4 to the said Act of 1980 " ;

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(b) in subsection (6) for "section 72A of the Magistrates' Courts Act 1952" substitute " section 90 of the Magistrates' Courts Act 1980 ".

Children Act 1975 (c. 72)

[F598 138 In section 46(4) of the Children Act 1975 for "section 55(1) of the Magistrates' Courts Act 1952" substitute " section 64(1) of the Magistrates' Courts Act 1980 ".**]**

Textual Amendments

F598 Sch. 7 para. 138 repealed (E.W.) (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(6)(7), **Sch.15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

Prevention of Terrorism (Temporary Provisions) Act 1976 (c. 8)

139 In section 12(3) of the Prevention of Terrorism (Temporary Provisions) Act 1976 for "Section 38 of the Magistrates' Courts Act 1952" substitute " Section 43 of the Magistrates' Courts Act 1980 ".

Restrictive Trade Practices Act 1976 (c. 34)

140 In sections 39(2) and 41(5) and (7) of the Restrictive Trade Practices Act 1976 for "section 104 of the Magistrates" Courts Act 1952" substitute, in each case, " section 127(1) of the Magistrates' Courts Act 1980 ".

Adoption Act 1976 (c. 36)

141 F599 . . . . . .

Textual Amendments

F599 Sch. 7 para. 141 omitted (1.9.2004) by virtue of The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 10** (with art. 2(2)) and expressed to be repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), ss. 139, 148, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2897, **art. 2**

142 F600 . . . . . .

Textual Amendments

F600 Sch. 7 para. 142 omitted (1.9.2004) by virtue of The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 10** (with art. 2(2)) and expressed to be repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), ss. 139, 148, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2897, **art. 2**

Bail Act 1976 (c. 63)

F601 143 . . . . . .

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Textual Amendments

F601 Sch. 7 para. 143 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F602 144 . . . . . .

Textual Amendments

F602 Sch. 7 para. 144 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

145 In section 4(7) of the Bail Act 1976 for "section 8 of the Magistrates' Courts Act 1952" substitute "section 41 of the Magistrates' Courts Act 1980".

F603 146 . . . . . .

Textual Amendments

F603 Sch. 7 para. 146 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Land Drainage Act 1976 (c.70)

F604 147 . . . . . .

Textual Amendments

F604 Sch. 7 para. 147 repealed (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3**, Pt.I (with Sch. 2 paras. 10, 14(1) and 15)

Sexual Offences (Amendment) Act 1976 (c. 82)

[F605 148 In section 3(3) of the Sexual Offences (Amendment) Act 1976 for "section 6(1) of the Children and Young Persons Act 1969" substitute " section 24(1) of the Magistrates' Courts Act 1980 ".**]**

Textual Amendments

F605 Sch. 7 para. 148 repealed (4.12.2000) by 1999 c. 23, s. 67(3), **Sch. 6** (with Sch. 7 paras. 3(3), 5(2)); S.I. 2000/3075, **art. 2(c)(ii)**

Criminal Law Act 1977 (c. 45)

149 In section 28(8) of the Criminal Law Act 1977 for "Schedule 3 to this Act" substitute " Schedule I to the Magistrates' Courts Act 1980 ".

150 In section 38(1) of the Criminal Law Act 1977 for "subsection (4) of section 102 of the Magistrates' Courts Act 1952" substitute " subsection (3) of section 125 of the Magistrates' Courts Act 1980 ".

151 F606 . . . . . .

Status: *Point in time view as at 01/04/2005. This version of this Act contains provisions that are not valid for this point in time.*
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Textual Amendments

F606 Sch. 7 para. 151 repealed (1.9.2004) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2004/2066, **art. 2(d)(iv)** (subject to art. 3)

152 In section 64(2) of the Criminal Law Act 1977 for "section 23 above" substitute " section 22 of the Magistrates' Courts Act 1980 (cases where value involved is small) ".

153 In section 65(2) of the Criminal Law Act 1977 for "14" substitute " 15 " and for "Magistrates' Courts Act 1952" substitute " Magistrates' Courts Act 1980 ".

154 In paragraph 1 of Schedule 5 to the Criminal Law Act 1977—

(a) in subparagraph (1)(b), for "subparagraph (2)(b) below" substitute " subparagraph (IA) below " ;

(b) after subparagraph (1) insert—

"(1A) The offences mentioned in subparagraph (1)(b) above are offences under the following provisions of the Misuse of Drugs Act 1971, where the controlled drug in relation to which the offence was committed was a Class C drug, namely—

(i) section 4(2) (production, or being concerned in the production, of a controlled drug) ;

(ii) section 4(3) (supplying or offering a controlled drug or being concerned in the doing of either activity by another) ;

(iii) section 5(3) (having possession of a controlled drug with intent to supply it to another)

(iv) section 8 (being the occupier, or concerned in the management, of premises and permitting or suffering certain activities to take place there) ;

(v) section 12(6) (contravention of direction prohibiting practitioner etc. from possessing, supplying etc. controlled drugs) ; or

(vi) section 13(3) (contravention of direction prohibiting practitioner etc. from prescribing, supplying, etc. controlled drugs).".

155 In paragraph 1 of Schedule 14 to the Criminal Law Act 1977 for "14 to 26, 34 and 35" substitute " 15 and 17 ".

Civil Aviation Act 1978 (c. 8)

156 . . . . . **F607**

Textual Amendments

F607 Sch. 7 para. 156 repealed by Aviation Security Act 1982 (c. 36, SIF 9), s. 40(3), **Sch. 3**

Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22)

F608157 . . . . . .

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Textual Amendments

F608 Sch. 7 para. 157 repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(6)(7), **Sch.15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

F609 158 . . . . . .

Textual Amendments

F609 Sch. 7 para. 158 repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(6)(7), **Sch.15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

159 In section 16(8) of the Domestic Proceedings and Magistrates' Courts Act 1978 for "Part II of the Magistrates' Courts Act 1952" substitute "Part 11 of the Magistrates' Courts Act 1980".

Modifications etc. (not altering text)

C245 The text of Sch. 7 paras. 1–3, 5–13, 16–18, 20, 21, 23–27, 30, 35–37, 43–48, 50, 51, 53–56, 61–77, 80–82, 85–90, 93–109, 113–115, 118, 119, 121–125, 130–132, 134–137, 139–155, 159–164, 167, 169–171, 175–183, 186, 187, 190–198, 202–204, 207 and Sch. 9 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

160 In section 22 of the Domestic Proceedings and Magistrates' Courts Act 1978 for "section 63 of the Magistrates' Courts Act 1952" substitute " section 75 of the Magistrates' Courts Act 1980 ".

161 In section 23 of the Domestic Proceedings and Magistrates' Courts Act 1978—

(a) in subsection (1) for "section 55(1) of the Magistrates' Courts Act 1952" substitute " section 64(1) of the Magistrates' Courts Act 1980 " ;

(b) in subsection (2) for "section 53 of the Magistrates' Courts Act 1952" substitute " section 60 of the Magistrates' Courts Act 1980 " and for "section 54(2) of that Act" substitute " section 63(2) of that Act ".

162 In section 24(3) of the Domestic Proceedings and Magistrates' Courts Act 1978 for "section 47(3) of the Magistrates' Courts Act 1952" substitute " section 55(3) of the Magistrates' Courts Act 1980 ".

163 In section 30(1) of the Domestic Proceedings and Magistrates' Courts Act 1978 for "section 11 of the Administration of Justice Act 1964" substitute " section 70 of the Magistrates' Courts Act 1980 ".

164 In section 32(2) of the Domestic Proceedings and Magistrates' Courts Act 1978 for "section 52 of the Magistrates' Courts Act 1952" substitute " section 59 of the Magistrates' Courts Act 1980 " and for "the said section 52" substitute " the said section 59 ".

F610 165 . . . . . .

Status: *Point in time view as at 01/04/2005. This version of this Act contains provisions that are not valid for this point in time.*
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Textual Amendments

F610 Sch. 7 para. 165 repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(6)(7), **Sch.15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

F611 166 . . . . . .

Textual Amendments

F611 Sch. 7 para. 166 repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(6)(7), **Sch.15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

167 In section 88(1) of the Domestic Proceedings and Magistrates' Courts Act 1978 for "section 56 of the Magistrates' Courts Act 1952" substitute " section 65 of the Magistrates' Courts Act 1980 " and for "section 15 of the Justices of the Peace Act 1949" substitute " section 144 of the Magistrates' Courts Act 1980 ".

Nuclear Safeguards and Electricity (Finance) Act 1978 (c. 25)

F612 168 . . . . . .

Textual Amendments

F612 Sch. 7 para. 168 repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIV** Group2

Interpretation Act 1978 (c. 30)

169 In Schedule 1 to the Interpretation Act 1978—

(a) in paragraph (a) of the definition of "committed for trial" for "section 7 of the Magistrates' Courts Act 1952" substitute " section 6 of the Magistrates' Courts Act 1980 " ;

(b) in paragraph (a) of the definition of "magistrates' court" for "section 124 of the Magistrates' Courts Act 1952" substitute " section 148 of the Magistrates' Courts Act 1980 " ;

(c) in the entry about expressions relating to offences for "section 23 of the Criminal Law Act 1977" substitute " section 22 of the Magistrates' Courts Act 1980 "

Theft Act 1978 (c. 31)

170 In section 4(3)(b) of the Theft Act 1978 for "section 28 of the Criminal Law Act 1977" substitute " section 32 of the Magistrates' Courts Act 1980 ".

Protection of Children Act 1978 (c. 37)

171 In section 6(3)(b) of the Protection of Children Act 1978 for "section 28 of the Criminal Law Act 1977" substitute " section 32 of the Magistrates' Courts Act 1980 ".

172 . . . . . F613

Status: *Point in time view as at 01/04/2005. This version of this Act contains provisions that are not valid for this point in time.*
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Textual Amendments

F613 Sch. 7 para. 172 repealed by Consumer Protection Act 1987 (c. 43, SIF 109:1), ss. 41(2), 47(1)(2), 48(3), **Sch. 5**

173 . . . . . F614

Textual Amendments

F614 Sch. 7 para. 173 repealed by S.I. 1984/703, (N.I. 3), art. 19(2), Sch. 7 and (also expressed to be repealed) by Consumer Protection Act 1987 (c.43, SIF 109:1), ss. 41(2), 47(1), 48(3), **Sch. 5**

Employment Protection (Consolidation) Act 1978 (c. 44)

174 . . . . . F615

Textual Amendments

F615 Sch. 7 para. 174 repealed by Employment Act 1989 (c. 38, SIF 43:1), s. 29(4), **Sch. 7 Pt. II**

F616175 . . . . . .

Textual Amendments

F616 Sch. 7 para. 175 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, **Sch. 3 Pt.I** (with ss. 191-195, 202)

Customs and Excise Management Act 1979 (c. 2)

176 In section 147(2) of the Customs and Excise Management Act 1979 for "section 25(3) of the Criminal Law Act 1977" substitute " section 25(3) of the Magistrates' Courts Act 1980 "

177 In section 151 of the Customs and Excise Management Act 1979 for "section 114 of the Magistrates' Courts Act 1952" substitute " section 139 of the Magistrates' Courts Act 1980 ".

178 In section 171(2)(a) of the Customs and Excise Management Act 1979 for "section 28 of the Criminal Law Act 1977 (£1,000 or other sum substituted by order under section 61(1) of that Act)" substitute " section 32 of the Magistrates' Courts Act 1980 (£1,000 or other sum substituted by order under section 143(1) of that Act) ".

Customs and Excise Duties (General Reliefs) Act 1979 (c. 3)

179 In section 15(3)(a) of the Customs and Excise (General Reliefs) Act 1979 for "section 28 of the Criminal Law Act 1977 (£1,000 or other sum substituted by order under section 61(1) of that Act)" substitute " section 32 of the Magistrates' Courts Act 1980 (£1,000 or other sum substituted by order under section 143 (1) of that Act) ".

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Alcoholic Liquor Duties Act 1979 (c. 4)

180 In section 49(1) of the Alcoholic Liquor Duties Act 1979 in the definition of "the prescribed sum", for "section 28 of the Criminal Law Act 1977 (£1,000 or other sum substituted by order under section 61(1) of that Act)" substitute " section 32 of the Magistrates' Courts Act 1980 (£1,000 or other sum substituted by order under section 143(1) of that Act) ".

Hydrocarbon Oils Duties Act 1979 (c. 5)

181 In section 27(1) of the Hydrocarbon Oils Duties Act 1979 in the definition of "prescribed sum", for "section 28 of the Criminal Law Act 1977 (£1,000 or other sum substituted by order under section 61(1) of that Act)" substitute " section 32 of the Magistrates' Courts Act 1980 (£1,000 or other sum substituted under section 143(1) of that Act) ".

Agricultural Statistics Act 1979 (c. 13)

182 In section 6(1) of the Agricultural Statistics Act 1979, in the definition of "the prescribed sum", for "section 28 of the Criminal Law Act 1977 (£1,000 or other sum substituted by order under section 6(1) of that Act)" substitute " section 32 of the Magistrates' Courts Act 1980 (£1,000 or other sum substituted by order under section 143(1) of that Act) ".

Credit Unions Act 1979 (c. 34)

F617 183 . . . . . .

Textual Amendments

F617 Sch. 7 para. 183 repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIV** Group2

184 . . . . . F618

Textual Amendments

F618 Sch. 7 para. 184 repealed by Banking Act 1987 (c. 22, SIF 10), s. 108(2), **Sch. 7 Pt. I**

Estate Agents Act 1979 (c. 38)

F619 185 . . . . . .

Textual Amendments

F619 Sch. 7 para. 185 repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIV** Group2

Merchant Shipping Act 1979 (c. 39)

186 In section 42(4) of the Merchant Shipping Act 1979 for "Section 18 of the Criminal Law Act 1977" substitute " Section 127(2) of the Magistrates' Courts Act 1980 ".

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187 In section 43(5) of the Merchant Shipping Act 1979 for "subsection (1) of section 61 of the Criminal Law Act 1977" substitute " subsection (1) of section 143 of the Magistrates' Courts Act 1980 " and for "section 28 of that Act" substitute " section 32 of that Act ".

188 . . . . . F620

Textual Amendments

F620 Sch. 7 para. 188 repealed by Weights and Measures Act 1985 (c. 72, SIF 131) ss. 96(1), 98(1), Sch. 11 para. 21(2), Sch. 13 Pt. I

189 . . . . . F621

Textual Amendments

F621 Sch. 7 para. 189 repealed by S.I. 1984/703 (N.I. 3), art. 19(2), **Sch. 7** and also expressed to be repealed by Weights and Measures Act 1985 (c.72, SIF 131), ss. 96(1), 98(1), Sch. 11 para. 21(2), **Sch. 13 Pt. 1**

Ancient Monuments and Archeological Areas Act 1979 (c. 46)

F622 190 . . . . . .

Textual Amendments

F622 Sch. 7 para. 190 repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIV** Group2

Justices of the Peace Act 1979 (c. 55)

F623 191 . . . . . .

Textual Amendments

F623 Sch. 7 paras. 191-197 repealed (19.6.1997) by 1997 c. 25, ss. 73(3), 74(1), **Sch. 6 Pt.I** (with Sch. 4 para. 27)

F624 192 . . . . . .

Textual Amendments

F624 Sch. 7 paras. 191-197 repealed (19.6.1997) by 1997 c. 25, ss. 73(3), 74(1), **Sch. 6 Pt.I** (with Sch. 4 para. 27)

F625 193 . . . . . .

Textual Amendments

F625 Sch. 7 paras. 191-197 repealed (19.6.1997) by 1997 c. 25, ss. 73(3), 74(1), **Sch. 6 Pt.I** (with Sch. 4 para. 27)

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F626 194 . . . . . .

Textual Amendments

F626 Sch. 7 paras. 191-197 repealed (19.6.1997) by 1997 c. 25, ss. 73(3), 74(1), **Sch. 6 Pt.I** (with Sch. 4 para. 27)

F627 195 . . . . . .

Textual Amendments

F627 Sch. 7 paras. 191-197 repealed (19.6.1997) by 1997 c. 25, ss. 73(3), 74(1), **Sch. 6 Pt.I** (with Sch. 4 para. 27)

F628 196 . . . . . .

Textual Amendments

F628 Sch. 7 paras. 191-197 repealed (19.6.1997) by 1997 c. 25, ss. 73(3), 74(1), **Sch. 6 Pt.I** (with Sch. 4 para. 27)

F629 197 . . . . . .

Textual Amendments

F629 Sch. 7 paras. 191-197 repealed (19.6.1997) by 1997 c. 25, ss. 73(3), 74(1), **Sch. 6 Pt.I** (with Sch. 4 para. 27)

Isle of Man Act 1979 (c. 58)

198 In section 5 of the Isle of Man Act 1979—

(a) in subsection (2)(a) for "section 77 of the Magistrates' Courts Act 1952" substitute " section 97 of the Magistrates' Courts Act 1980 " ;

(b) in subsection (3)(a) for "sections 2 and 9 of the Criminal Justice Act 1967" substitute " section 9 of the Criminal Justice Act 1967 and section 102 of the Magistrates' Courts Act 1980 " and for "section 2" substitute " section 102 ".

F630 .....

Textual Amendments

F630 Sch. 7 paras. 199, 200 repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(6)(7), **Sch. 15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

F631 199 . . . . . .

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Textual Amendments

F631 Sch. 7 para. 199 repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(6)(7), **Sch.15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

F632200 . . . . . .

Textual Amendments

F632 Sch. 7 para. 200 repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(6)(7), **Sch.15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

Foster Children Act 1980 (c. 6)

F633201 . . . . . .

Textual Amendments

F633 Sch. 7 para. 201 repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(6)(7), **Sch.15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

Residential Homes Act 1980 (c. 7)

202 In section 4(2) of the Residential Homes Act 1980 for "the Magistrates' Courts Act 1952" substitute " the Magistrates' Courts Act 1980 ".

Reserve Forces Act 1980 (c. 9)

F634203 . . . . . .

Textual Amendments

F634 Sch. 7 para. 203 repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIV** Group2

204 In paragraph 2(4) of Schedule 5 to the Reserve Forces Act 1980 for "the Magistrates' Courts Act 1952" substitute " the Magistrates' Courts Act 1980 ".

Protection of Trading Interests Act 1980 (c. 11)

F635205 . . . . . .

Textual Amendments

F635 Sch. 7 para. 205 repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIV** Group2

Competition Act 1980 (c. 21)

F636206 . . . . . .

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Textual Amendments

F636 Sch. 7 para. 206 repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIV** Group2

Companies Act 1980 (c. 22)

207 In section 87(1) of the Companies Act 1980, in the definition of "the statutory maximum", for "section 28 of the Criminal Law Act 1977" substitute " section 32 of the Magistrates' Courts Act 1980 " and for "section 61 of that Act" substitute " section 143 of that Act. ".

SCHEDULE 8

Section 154.

TRANSITIONAL PROVISIONS AND SAVINGS

Interpretation

1 In this Schedule references to the old enactments are to enactments repealed or amended by this Act and references to the appointed day are to the day on which this Act comes into force.

Proceedings commenced before appointed day

2 (1) Where proceedings were commenced before the appointed day, the old enactments relating to the proceedings continue to apply and nothing in this Act affects those enactments.

(2) Without prejudice to the generality of sub-paragraph (1) above, the old enactments relating to proceedings which continue in force by virtue of it include any provision of those enactments which creates an offence, which relates to civil or criminal procedure, which relates to the punishment for an offence, or which relates to enforcing, appealing against, questioning, varying or rescinding anything ordered or done in the proceedings.

Offences committed before appointed day

3 (1) This paragraph applies where proceedings are commenced under this Act in relation to an offence committed before the appointed day.

(2) Nothing in this Act renders a person liable to punishment by way of fine or imprisonment for the offence which differs from the punishment to which he would have been liable if this Act had not been passed and proceedings for the offence had been commenced under the old enactments.

(3) Nothing in this Act renders a person liable to pay compensation under a compensation order in respect of the offence which differs from the compensation he would have been liable to pay if this Act had not been passed and proceedings for the offence had been commenced under the old enactments.

(4) The provisions of this Act corresponding to the old enactments relating to punishment and compensation are to be construed accordingly.

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Other matters: general

4 Paragraphs 5 and 6 below have effect subject to paragraphs 2 and 3 above.

5 Without prejudice to any express amendment made by this Act, a reference in an enactment or other document, whether express or implied, to an enactment repealed by this Act shall, unless the context otherwise requires, be construed as, or as including, a reference to this Act or to the corresponding provision of this Act.

6 Where a period of time specified in an enactment repealed by this Act is current at the commencement of this Act, this Act shall have effect as if the corresponding provision of it had been in force when that period began to run.

Saving for transitionals in orders

7 (1) This paragraph applies where any provision of an old enactment—

(a) was brought into force by order which made transitional provision in connection with the provision brought into force, or

(b) fell to be brought into force by order which could have made transitional provision in connection with the provision brought into force, if this Act had not been passed.

(2) In that case, an order under section 155(7) of this Act may make corresponding transitional provision in connection with any provision of this Act corresponding to that of the old enactment.

Savings of amendments

8 Notwithstanding the repeal by this Act of the [M112]Magistrates' Courts Act 1952, the amendments made in other enactments ("the amended enactments") by that Act shall, to the extent that they had effect immediately before the coming into force of this Act, continue to have effect subject to any amendment of any of the amended enactments by this Act.

Marginal Citations
M112 1952 c. 55.

Savings for Local Government Act 1972

9 The provisions of this Act shall have effect without prejudice to the exercise of any power conferred by section 67 of the [M113]Local Government Act 1972 (consequential and transitional arrangements relating to Part IV), section 252 of that Act (general power to adapt Acts and instruments) or section 254 of that Act (consequential and supplementary provision); and any such power which, if this Act had not been passed, would have been exercisable in relation to an enactment repealed by this Act shall be exercisable in the like manner and to the like extent in relation to the corresponding provision (if any) of this Act.

Marginal Citations
M113 1972 c. 70.

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Scottish saving

10 (1) This paragraph applies to Schedule 7B to the [M114]Criminal Procedure (Scotland) Act 1975, which was inserted by paragraph 12 of Schedule 11 to the [M115]Criminal Law Act 1977 and takes the same form as Schedule 5 to that Act (subject to certain modifications specified in that paragraph).

(2) Schedule 7B is not affected by—

(a) the repeal by Schedule 9 to this Act of paragraph 1(2)(a) and (b) of Schedule 5;

(b) the amendments made to paragraph 1 of Schedule 5 by Schedule 7 to this Act.

Marginal Citations

M114 1975 c. 21.

M115 1977 c. 45.

[X3]SCHEDULE 9

Section 154.

REPEALS

Editorial Information

X3 The text of Sch. 9 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Chapter.	Short title	Extent of repeal
12, 13 & 14 Geo. 6. c. 101.	Justices of the Peace Act 1949.	Section 15(1), (2), (3), (7), (8) and (9).
15 & 16 Geo. 6 & 1 Eliz. 2. c. 55.	Magistrates' Courts Act 1952.	The whole Act.
5 & 6 Eliz. 2. c. 29.	Magistrates' Courts Act 1957.	The whole Act.
6 & 7 Eliz. 2. c. 39.	Maintenance Orders Act 1958.	Section 16. Section 20(6).
7 & 8 Eliz. 2. c. 72.	Mental Health Act 1959.	In Schedule 7, in Part I, the entry relating to the Magistrates' Courts Act 1952.
7 & 8 Eliz. 2. c. 73.	Legitmacy Act 1959.	Section 5(2).
9 & 10 Eliz. 2. c. 39.	Criminal Justice Act 1961.	In subsection 1(5) the words "and subsections (2) and (3) of section twenty-eight of

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		the Magistrates' Courts Act 1952".
		Section 8(3).
		In section 41(4), the words "section twenty-eight of the Magistrates' Courts Act 1952".
		In Schedule 4, the entries relating to sections 28 and 126 of the Magistrates' Courts Act 1952.
		In Schedule 6, the text of the Magistrates' Courts Act 1952, section 28.
1963 c. 37.	Children and Young Persons Act 1963.	Section 27.
1964 c. 42.	Administration of Justice Act 1964.	Section 11.
		In Schedule 3, paragraphs 20(2) and 22(3) and (5).
1965 c. 69.	Criminal Procedure (Attendance of Witnesses) Act 1965.	In Schedule 2, in Part I, the entry relating to the Magistrates' Courts Act 1952.
1967 c. 80.	Criminal Justice Act 1967.	Sections 1 to 6.
		Section 19.
		In section 20, the words "or section 28 or 29 of the Magistrates' Courts Act 1952 (committal for sentence)".
		Section 24.
		Section 26.
		Sections 28 to 30.
		In section 33, the words from the beginning to "that section and".
		In section 36(1), the definitions of "broadcast" and "publish".
		Section 44, 44A and 45.
		In section 50, the words from the beginning to "Part of that Act".

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		Section 56(4).
		In section 89(1), the words "2 or".
		In section 90(1) the words "an order under section 44(8) or".
		Section 94.
		In section 106(2)(b), the figure "3".
		In Schedule 6, paragraphs 9 to 13 and 17 to 20.
1968 c. 69.	Justices of the Peace Act 1968.	In Schedule 3, paragraph 8.
1969 c. 54.	Children and Young Persons Act 1969.	Section 6.
		Section 10(3).
		Section 61.
		In Schedule 4, paragraph 4.
1970 c. 31.	Adminstration of Justice Act 1970.	Section 12.
		In section 28(1), the definition of "the Act of 1952" and "magistrates' court maintenance order".
		Section 30(1) and (2) as respects section 12.
		Section 41(6).
		Section 42.
		Section 50.
		In section 51, subsection (1), and in subsection (3) the defintion of "the Act of 1952".
1971 c. 23.	Courts Act 1971.	Section 7(1).
		In Schedule 8, paragraph 34, in paragraph 48(b) in the words "56(4)(6)" the word "4", and paragraph 52.
		In Schedule 9, in Part I, the entry relating to the Magistrates' Courts Act 1952.

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1972 c. 18.	Maintenance Orders (Reciprocal Enforcement) Act 1972.	Section 22(2)(b).
1972 c. 70.	Local Government Act 1972.	In Schedule 27, paragraph 16.
1972 c. 71.	Criminal Justice Act 1972.	Section 41.
		Sections 44 and 45.
		Section 50.
		In Schedule 5, the entries relating to the Magistrates' Courts Act 1952 and the entry relating to section 691) of the Children and Young Persons Act 1969.
1973 c. 14.	Costs in Criminal Cases Act 1973.	In Schedule 1, paragraph 1.
1973 c. 29.	Guardianship Act 1973.	Section 9(2)(b).
1973 c. 38.	Social Security Act 1973.	In Schedule 27, in paragraph 85, the words "and 12(2)(b)" and "(in each place)".
1973 c. 62.	Powers of Criminal Courts Act 1973.	Section 35(5).
		In Schedule 5, paragraphs 4, 5, 7, 16 and 34.
1974 c. 4.	Legal Aid Act 1974.	In Schedule 4, paragrah 3.
1975 c. 21.	Criminal Procedure (Scotland) Act 1975.	Section 326(2).
		In section 463(1)(b), the words "Section 326(2)".
1976 c. 63.	Bail Act 1976.	In Schedule 2, paragraphs 14 to 29 and 35.
1977 c. 45.	Criminal Law Act 1977.	Section 14.
		In section 15, in subsection (1), paragraph (b) and the word "and" immediately preceeding it, and in subsection (3) paragraph (a).
		Section 16.
		Sections 18 to 27.
		In section 28, subsections (1) to (7) and in subsection (8) the words from "and

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	subsection (2) above" to the end.
	Section 29.
	Section 30(4).
	Section 32(2).
	Sections 34 and 35.
	In section 36, subsections (2) to (8) and in subsection (9) the definitions of "guardian" and "the statutory restrictions upon the imprisonment of young offenders".
	Sections 41 and 42.
	Section 45.
	In section 58, subsections (1), (4) and (6).
	Sections 59 to 61.
	In section 63(2), in the entry relating to section 65(4) and Schedule 12 so far as they relate to the Criminal Justice Act 1967, the words "3 and".
	In section 65(10)(e) the words from "and the provisions" to "all such places (except Scotland)".
	Schedule 2.
	Schedule 3.
	Schedule 4.
	In Schedule 5, paragraph 1(2)(a) and (b).
	In Schedule 7, paragraph 1.
	Schedule 8.
	In Schedule 12, the entries relating to the Magistrates' Courts Act 1952, the entries relating to sections 3, 24, 44(5) and 44A of the Criminal Justice Act 1967, and paragraphs 2 and 3 of the entries relating to the Criminal Justice Act 1972.

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		In Schedule 14, paragraph 2, in paragraph 3(1) the words "or 2", paragraph 4, and in paragraph 5 the words "(other than section 29 or any provision mentioned in paragraph 4 above)".
1978 c. 22.	Domestic Proceedings and Magistrates' Courts Act 1978.	Sections 75 to 85.
		In Schedule 1, in paragraph 5 the words "or in any of sections 79 to 82", paragraph 6 and paragraph 7.
		In Schedule 2, paragraphs 15 and 21.
1978 c. 37.	Protection of Children Act 1978.	Section 2(2).
1979 c. 55.	Justices of the Peace Act 1979.	In Schedule 2, paragraphs 7 to 9 and paragraph 14.
1980 c. 5.	Child Care Act 1980.	In Schedule 5, paragraph 5.
1980 c. 11.	Protection of Trading Interests Act 1980.	In section 8(5), the words from "together with" to the end.

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