



Magistrates' Courts Act 1980

1980 CHAPTER 43

PART III

SATISFACTION AND ENFORCEMENT

Sums adjudged to be paid by a conviction

81 Enforcement of fines imposed on young offenders

- (1) Where a magistrates' court would, but for the statutory restrictions upon the imprisonment of young offenders, have power to commit to prison a person under the age of 17 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 section 19(1) of the Criminal Justice Act 1948 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 the age of 17 years consisting in failure to pay, or want of sufficient distress to satisfy,

Status: This is the original version (as it was originally enacted).

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.
- (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)(6) 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 the age of 17, means a person appointed, according to law, to be his guardian by deed or will, or by order of a court of competent jurisdiction;

" the statutory restrictions upon the imprisonment of young offenders " has the meaning given by section 39(1) of the Criminal Justice Act 1961 ;

" sum adjudged to be paid by a conviction " means any fine, costs, compensation or other sum adjudged to be paid by an order made on a finding of guilt, including an order made under section 35 of the Powers of Criminal Courts Act 1973 (compensation orders) as applied by section 3(6) of the Children and Young Persons Act 1969.

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 or detention in a detention centre for that or another offence or he is already serving a term of imprisonment 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.

Status: This is the original version (as it was originally enacted).

- (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 a term of imprisonment 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.
- (5) After the occasion of an offender's conviction by a magistrates' court, the court shall not, unless—
- (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 a term of imprisonment 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.
- (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.

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.

Status: This is the original version (as it was originally enacted).

- (4) Notwithstanding anything in section 125 below, a warrant under this section shall cease to have effect when the sum in respect of which the warrant is issued is paid to the police officer holding the warrant.

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 for the same petty sessions 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 £50.
- (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 imprisonment for a term not exceeding 4 months or a fine not exceeding £100 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.

85 Power to remit fine

- (1) Where a fine has been imposed on conviction of an offender by a magistrates' court, the court may, on inquiring into his means or at a hearing under section 82(5) above, remit the whole or any part of the fine if the court thinks it just to do so having regard to any change in his circumstances since the conviction, and 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 fine or, as the case may be, shall remit the whole term.

In calculating the reduction in a term of imprisonment required by this subsection any fraction of a day shall be left out of account.

- (2) 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.

86 Power of magistrates' court to fix day for appearance of offender at means inquiry etc.

- (1) Where under section 75(1) above a magistrates' court allows time for payment of a sum adjudged to be paid by a conviction of the court (" the adjudged sum "), the court may on that or any subsequent occasion fix a day on which, if any part of that sum remains unpaid on that day, 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.

- (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—
 - (a) any part of the adjudged sum remains unpaid ; 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 subsections (3) and (4) 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.

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 clerk of the magistrates' court in pursuance of a judgment or order of the High Court or county court, as the case may be.
- (2) Subsection (1) above shall not be construed as authorising the enforcement by a county court of payment of a fine exceeding the limit for the time being in force under section 40 of the County Courts Act 1959 on the amount of any penalty recoverable by statute in a county court.
- (3) The clerk of 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 authorised to do so by the court after an inquiry under section 82 above into that person's means.
- (4) Any expenses incurred by the clerk of a magistrates' court in recovering any such sum shall be treated for the purposes of Part VI of the Justices of the Peace Act 1979 as expenses of the magistrates' courts committee.

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.

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

- (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 prison forthwith in default of payment, the 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 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 prison 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.

89 Transfer of fine order

- (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 the person is residing in any petty sessions area other than that for which the court acted, the court may make a transfer of fine order, that is to say, an order making payment enforceable in the petty sessions area in which it appears to the court that he is residing; 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 been made, would have been exercisable by the court which made the order, or the clerk of that court, shall be exercisable by a court acting for the petty sessions area specified in the order, or the clerk of that court, as the case may be, and not otherwise.
- (3) Where it appears to a court by which functions in relation to any sum are for the time being exercisable by virtue of a transfer of fine order that the person liable to pay the sum is residing in a petty sessions area other than that for which the court is acting, the court 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.

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.
- (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 clerk of that court shall cease to be so exercisable.

91 Transfer of fines from Scotland or Northern Ireland

- (1) Where a transfer of fine order under section 403 of the Criminal Procedure (Scotland) Act 1975 or section 104A of the Magistrates' Courts Act (Northern Ireland) 1964 provides that payment of a sum shall be enforceable in a specified petty sessions area in England and Wales, a magistrates' court acting for that area, and the clerk of 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, 1964 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 determining 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 Criminal Procedure (Scotland) Act 1975.
- (3) Where a transfer of fine order under section 403 of the Criminal Procedure (Scotland) Act 1975 or section 104A of the Magistrates' Courts Act (Northern Ireland) 1964 provides for the enforcement in a petty sessions area in England and Wales of a fine originally imposed by the Crown Court, a magistrates' court acting for that area 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 section 32(1) of the Powers of Criminal Courts Act 1973, and as if any order made under the said Act of 1975 or, as the case may be, 1964 in respect of the fine before the making of the transfer of fine order had been made by that court.