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## SCHEDULE 4

### TRANSFER FOR TRIAL

#### PART II

##### CONSEQUENTIAL AMENDMENTS

###### *Magistrates' Courts Act 1980 (c. 43.)*

- 31 (1) Section 2 of the 1980 Act (jurisdiction of magistrates' courts) shall be amended as follows.
- (2) In subsection (3), for the words from “as examining” to “any offence” there shall be substituted the words “to proceed with a view to transfer for trial where the offence charged was”.
- (3) In subsection (4), for the words “as examining justices” there shall be substituted the words “to proceed with a view to transfer for trial”.
- (4) In subsection (5), for the words “as examining justices” there shall be substituted the words “to proceed with a view to transfer for trial”.
- 32 In section 19 of the 1980 Act (court to consider mode of trial of either way offence), in subsection (4), for the words from “to inquire” to the end of the subsection there shall be substituted the words “with a view to transfer for trial.”.
- 33 In section 20 of the 1980 Act (procedure where summary trial appears more suitable), in subsection (3)(b), for the words from “to inquire” to the end there shall be substituted the words “with a view to transfer for trial.”.
- 34 In section 21 of the 1980 Act (procedure where trial on indictment appears more suitable), for the words from “to inquire” to the end there shall be substituted the words “with a view to transfer for trial.”.
- 35 (1) Section 23 of the 1980 Act (procedure where court proceeds to determine mode of trial in absence of accused) shall be amended as follows.
- (2) In subsection (4)(b)—
- (a) for the words from “to inquire” to “justices” there shall be substituted the words “with a view to transfer for trial”; and
- (b) for the word “hearing” there shall be substituted the word “proceedings”.
- (3) In subsection (5)—
- (a) for the words from “to inquire” to “justices” there shall be substituted the words “with a view to transfer for trial”; and
- (b) for the word “hearing” there shall be substituted the word “proceedings”.
- 36 (1) Section 24 of the 1980 Act (trial of child or young person for indictable offence) shall be amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (b), for the word “commit” there shall be substituted the words “proceed with a view to transferring the proceedings in relation to”; and

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- (b) for the words from “commit the accused” to the end there shall be substituted the words “proceed with a view to transferring the proceedings against the accused for trial.”.
- (3) In subsection (2), for the words from “commits” to “him for trial” there shall be substituted the words “proceeds with a view to transferring for trial the proceedings in relation to a person under the age of 18 years for an offence with which he is charged jointly with a person who has attained that age, the court may also proceed with a view to transferring for trial proceedings against him”.
- 37 (1) Section 25 of the 1980 Act (court’s power to change from summary trial to committal proceedings and vice versa) shall be amended as follows.
- (2) In subsection (2)—
- (a) for the words from “to inquire” to “justices” there shall be substituted the words “with a view to transfer for trial”; and
- (b) for the word “hearing” there shall be substituted the word “proceedings”.
- (3) For subsection (3) there shall be substituted the following subsection—
- “(3) Where on an application for dismissal of a charge under section 6 above the court has begun to consider the evidence and any representations permitted under that section, then, if at any time during its consideration it appears to the court, having regard to any of the evidence or representations, and to the nature of the case, that the offence is after all more suitable for summary trial, the court may—
- (a) if the accused is present, after doing as provided in subsection (4) below, ask the accused whether he consents to be tried summarily and, if he so consents, may (subject to subsection (3A) below) proceed to try the information summarily; or
- (b) in the absence of the accused—
- (i) if the accused’s consent to be tried summarily is signified by the person representing him, proceed to try the information summarily; or
- (ii) if that consent is not so signified, adjourn the proceedings without remanding the accused, and if it does so, the court shall fix the time and place at which the proceedings are to be resumed and at which the accused is required to appear or be brought before the court in order for the court to proceed as provided in paragraph (a) above.”.
- (4) In subsection (5), in paragraph (b), for the words from “inquire” to “fall” there shall be substituted the words “consider the evidence and any representations permitted under section 6 above on an application for dismissal of a charge in a case in which, under paragraph (a) or (b) of section 24(1) above, the court is required to proceed with a view to transferring the proceedings to the Crown Court for trial.”.
- (5) In subsection (6)—
- (a) for the words from “to inquire” to “justices” there shall be substituted the words “with a view to transfer for trial”; and
- (b) for the word “hearing” there shall be substituted the word “proceedings”.

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- (6) In subsection (7), for the words “the inquiry” there shall be substituted the words “its consideration of the evidence and any representations permitted under section 6 above.”.
- 38 For section 26 of the 1980 Act (power to issue summons in certain circumstances) there shall be substituted the following section—
- “26 Power to issue summons in certain circumstances**
- Where, in the circumstances mentioned in section 23(1)(a) above, the court is not satisfied that there is good cause for proceeding in the absence of 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; and if the accused is not present at the time and place appointed for the proceedings under section 19(1) or 22(1) above, as the case may be, the court may issue a warrant for his arrest.”.
- 39 In section 28 of the 1980 Act (use in summary trial of evidence given in committal proceedings)—
- (a) for the words from “inquire” to “justices” there shall be substituted the words “consider the evidence under section 6 above”; and
- (b) for the words from “then” to “any” there shall be substituted the words “any oral”.
- 40 In section 29 of the 1980 Act (remission of person under 18 to youth court for trial), in subsection (2)(b)(i), for the words from “to inquire” to “discharges him” there shall be substituted the words “with a view to transfer for trial”.
- 41 In section 42 of the 1980 Act (restriction on justices sitting after dealing with bail), in subsection (2), for the words “committal proceedings” there shall be substituted the words “proceedings before the court on an application for dismissal of a charge under section 6 above.”.
- 42 (1) Section 97 of the 1980 Act (summons to witness) shall be amended as follows.
- (2) In subsection (1)—
- (a) the words from “at an inquiry” to “(be) or” shall be omitted; and
- (b) for the words “such a court” there shall be substituted the words “a magistrates' court for that county, that London commission area or the City (as the case may be)”.
- (3) After subsection (1) there shall be inserted the following subsection—
- “(1A) Where a magistrates' court is proceeding with a view to transferring proceedings against an accused for an offence to the Crown Court for trial, subsection (1) above shall apply in relation to evidence or a document or thing material to the offence subject to the following modifications—
- (a) no summons shall be issued by a justice of the peace after the expiry of the period within which a notice of the prosecution case under section 5 above must be served or the service of the notice of the prosecution case, if sooner; and
- (b) the summons shall require the person to whom it is directed to attend before the justice issuing it or another justice for that county, that London commission area or the City of London (as the case may

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be) to have his evidence taken as a deposition or to produce any document or thing.”.

- (4) In subsection (2)—
- (a) after the words “subsection (1)” there shall be inserted the words “or (1A)”; and
  - (b) after the word “court” there shall be inserted the words “or justice, as the case may be,”.
- (5) In subsection (2A), after the words “subsection (1)” there shall be inserted the words “or (1A)”.
- (6) In subsections (3) and (4), after the words “a magistrates' court” or “the court” wherever they occur there shall be inserted the words “or justice, as the case may be,”.
- 43 (1) Section 128 of the 1980 Act (remand in custody or on bail) shall be amended as follows.
- (2) In subsection (1)(b), for the words “inquiring into or” there shall be substituted the words “proceeding with a view to transferring the proceedings against that person for trial or is”.
- (3) In subsections (1A), (3A), (3C) and (3E), for the words “section 5” there shall be substituted the words “section 4(4)”.
- (4) In subsection (4)—
- (a) for the words from “during an inquiry” to the words “committed by him” there shall be substituted the words “when it is proceeding with a view to transfer for trial”; and
  - (b) in paragraph (c)—
    - (i) for the word “hearing” there shall be substituted the word “proceedings”; and
    - (ii) for the words from “person” to “committed” there shall be substituted the words “proceedings against the person so bailed being transferred”.
- 44 In section 129 of the 1980 Act (further remand), in subsection (4)—
- (a) for the words from “commits” to “bail” there shall be substituted the words “transfers for trial proceedings against a person who has been remanded on bail”; and
  - (b) for the words “so committed” there shall be substituted the words “in respect of whom proceedings have been transferred”.
- 45 In section 130 of the 1980 Act (transfer of remand hearings), in subsection (1), for the words “section 5” there shall be substituted the words “section 4(4)”.
- 46 In section 145(1)(f) of the 1980 Act (rules: supplementary provisions), for the word “committed” there shall be substituted the words “in respect of whom proceedings have been transferred”.
- 47 (1) Schedule 3 to the 1980 Act (corporations) shall be amended as follows.
- (2) In paragraph 1(1), for the words “commit a corporation” there shall be substituted the words “, in the case of a corporation, transfer the proceedings”.
- (3) In paragraph 2(a), for the words from “a statement” to “to” there shall be substituted the words “an application to dismiss”.

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(4) In paragraph 6, for the words “inquiry into,” there shall be substituted the words “transfer for trial”.

48 In paragraph 5 of Schedule 5 to the 1980 Act (transfer of remand hearings), for the words “sections 5” there shall be substituted the words “sections 4(4)”.