



# Crime and Disorder Act 1998

## 1998 CHAPTER 37

### PART III

#### CRIMINAL JUSTICE SYSTEM

##### *Youth justice*

#### **37 Aim of the youth justice system.**

- (1) It shall be the principal aim of the youth justice system to prevent offending by children and young persons.
- (2) In addition to any other duty to which they are subject, it shall be the duty of all persons and bodies carrying out functions in relation to the youth justice system to have regard to that aim.

#### **Commencement Information**

- II** S. 37 wholly in force; S. 37 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

#### **38 Local provision of youth justice services.**

- (1) It shall be the duty of each local authority, acting in co-operation with the persons and bodies mentioned in subsection (2) below, to secure that, to such extent as is appropriate for their area, all youth justice services are available there.
- (2) It shall be the duty of—
  - (a) every chief officer of police or police authority any part of whose police area lies within the local authority's area;
  - [<sup>F1</sup>(aa) the Secretary of State in relation to his functions under sections 2 and 3 of the Offender Management Act 2007;

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- (ab) every provider of probation services that is required by arrangements under section 3(2) of the Offender Management Act 2007 to carry out the duty under this subsection in relation to the local authority; and]
  - (b) every [<sup>F2</sup>local probation board][<sup>F3</sup>, [<sup>F4</sup>Strategic Health Authority, ][<sup>F5</sup>Local Health Board] or Primary Care Trust] any part of whose area lies within that area,  
to co-operate in the discharge by the local authority of their duty under subsection (1) above.
- (3) The local authority and every person or body mentioned in subsection (2) above shall have power to make payments towards expenditure incurred in the provision of youth justice services—
- (a) by making the payments directly; or
  - (b) by contributing to a fund, established and maintained by the local authority, out of which the payments may be made.
- (4) In this section and sections 39 to 41 below “youth justice services” means any of the following, namely—
- (a) the provision of persons to act as appropriate adults to safeguard the interests of children and young persons detained or questioned by police officers;
  - (b) the assessment of children and young persons, and the provision for them of rehabilitation programmes, for the purposes of section 66(2) below;
  - (c) the provision of support for children and young persons remanded or committed on bail while awaiting trial or sentence;
  - (d) the placement in local authority accommodation of children and young persons remanded or committed to such accommodation under section 23 of the <sup>M1</sup>Children and Young Persons Act 1969 (“the 1969 Act”);
  - (e) the provision of reports or other information required by courts in criminal proceedings against children and young persons;
  - [<sup>F6</sup>(ee) the performance by youth offending teams and members of youth offending teams of functions under sections 25 to 27 of the Anti-social Behaviour Act 2003;]
  - (f) the provision of persons to act as responsible officers in relation to [<sup>F7</sup>individual support orders,] parenting orders, child safety orders, reparation orders and action plan orders;
  - (g) the supervision of young persons sentenced to a [<sup>F8</sup>community order under section 177 of the Criminal Justice Act 2003];
  - (h) the supervision of children and young persons sentenced to a detention and training order [<sup>F9</sup>(including an order under section 211 of the Armed Forces Act 2006)] or a supervision order;
  - (i) the post-release supervision of children and young persons under <sup>F10</sup> . . . section 31 of the <sup>M2</sup>Crime (Sentences) Act 1997 (“the 1997 Act”) [<sup>F11</sup>or by virtue of conditions imposed under section 250 of the Criminal Justice Act 2003];
  - (j) the performance of functions under subsection (1) of [<sup>F12</sup>section 102 of the Powers of Criminal Courts (Sentencing) Act 2000 (period of detention and training under detention and training orders)] by such persons as may be authorised by the Secretary of State under that subsection.
  - [<sup>F13</sup>(k) the implementation of referral orders within the meaning of [<sup>F14</sup>the Powers of Criminal Courts (sentencing) Act 2000].]

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- (5) The Secretary of State may by order amend subsection (4) above so as to extend, restrict or otherwise alter the definition of “youth justice services” for the time being specified in that subsection.

#### Textual Amendments

- F1** S. 38(2)(aa)(ab) inserted (1.4.2008) by [Offender Management Act 2007 \(c. 21\)](#), ss. 39, 41(1), **Sch. 3 para. 3(2)**; [S.I. 2008/504](#), **art. 3(1)**
- F2** Words in s. 38(2)(b) substituted (1.4.2001) by [2000 c. 43](#), s. 74, **Sch. 7 para. 151**; [S.I. 2001/919](#), **art. 2(f)(ii)**
- F3** Words in s. 38(2)(b) substituted (8.2.2000) by [The Health Act 1999 \(Supplementary, Consequential etc. Provisions\) Order 2000 \(S.I. 2000/90\)](#), arts. 1, 3(1), **Sch. 1 para. 35(3)**
- F4** Words in s. 38(2)(b) inserted (1.10.2002) by [The National Health Service Reform and Health Care Professions Act 2002 \(Supplementary, Consequential etc. Provisions\) Regulations 2002 \(S.I. 2002/2469\)](#), reg. 4, **Sch. 1 Pt. 1 para. 25(2)**
- F5** Words in s. 38(2)(b) substituted (1.4.2007) by [The References to Health Authorities Order 2007 \(S.I. 2007/961\)](#), art. 3, **Sch. para. 29(2)(b)**
- F6** S. 38(4)(ee) inserted (27.2.2004) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), ss. 29(2), 93(1); [S.I. 2003/3300](#), **art. 3(a)(iii)**
- F7** Words in s. 38(4)(f) inserted (1.5.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 323(5), 336(3); [S.I. 2004/829](#) {art. 3(2)(b)}
- F8** Words in s. 38(4)(g) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 304, 336(3), **Sch. 32 para. 89(2)**; [S.I. 2005/950](#), **art. 2**, Sch. 1 para. 42(33) (with Sch. 2)
- F9** Words in s. 38(4)(h) inserted (28.3.2009 for specified purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383(2), **Sch. 16 para. 153**; [S.I. 2009/812](#), **art. 3(a)(b)**; [S.I. 2009/1167](#), **art. 4**
- F10** Words in s. 38(4)(i) repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 332, 336(3), **Sch. 37 Pt. 7**; [S.I. 2005/950](#), **art. 2**, Sch. 1 para. 44(4)(p) (with Sch. 2)
- F11** Words in s. 38(4)(i) inserted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 304, 336(3), **Sch. 32 para. 89(3)**; [S.I. 2005/950](#), **art. 2**, Sch. 1 para. 42(33) (with Sch. 2)
- F12** Words in s. 38(4)(j) substituted (25.8.2000) by [2000 c. 6](#), ss. 165, 168(1), **Sch. 9 para. 197(a)**
- F13** S. 38(4)(k) inserted (26.6.2000) by [1999 c. 23](#), s. 67(1), Sch. 4 paras. 25, 28 (with Sch. 7 paras. 3(3), 5(2)); [S.I. 2000/1587](#), **art. 2**
- F14** Words in s. 38(4)(k) substituted (25.8.2000) by [2000 c. 6](#), ss. 165, 168(1), **Sch. 9 para. 197(b)**

#### Commencement Information

- I2** S. 38 wholly in force; S. 38 not in force at Royal Assent see s. 121. S. 38(4) in force at 30.9.1998 by [S.I. 1998/2327](#), **art. 2(1)** (subject to savings in arts. 5-8); S. 38(1)-(3)(5) in force at 30.8.1998 in the areas specified in Sch. 1 of the said S.I. by [S.I. 1998/2327](#), **art. 3(1)**, **Sch. 1** (subject to savings in art. 9); s. 38 in force at 1.4.2000 by [S.I. 2000/924](#), **art. 2**

#### Marginal Citations

- M1** 1969 c.54.  
**M2** 1997 c.43.

## 39 Youth offending teams.

- (1) Subject to subsection (2) below, it shall be the duty of each local authority, acting in co-operation with the persons and bodies mentioned in subsection (3) below, to establish for their area one or more youth offending teams.

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- (2) Two (or more) local authorities acting together may establish one or more youth offending teams for both (or all) their areas; and where they do so—
- (a) any reference in the following provisions of this section (except subsection (4)(b)) to, or to the area of, the local authority or a particular local authority shall be construed accordingly, and
  - (b) the reference in subsection (4)(b) to the local authority shall be construed as a reference to one of the authorities.
- (3) It shall be the duty of—
- (a) every chief officer of police any part of whose police area lies within the local authority's area;
  - <sup>[F15]</sup>(aa) the Secretary of State in relation to his functions under sections 2 and 3 of the Offender Management Act 2007;
  - (ab) every provider of probation services that is required by arrangements under section 3(2) of the Offender Management Act 2007 to carry out the duty under this subsection in relation to the local authority;] and
  - (b) every <sup>[F16]</sup>local probation board<sup>[F17]</sup>, <sup>[F18]</sup>Strategic Health Authority, <sup>[F19]</sup>Local Health Board] or Primary Care Trust] any part of whose area lies within that area,
- to co-operate in the discharge by the local authority of their duty under subsection (1) above.
- (4) The local authority and every person or body mentioned in subsection (3) above shall have power to make payments towards expenditure incurred by, or for purposes connected with, youth offending teams—
- (a) by making the payments directly; or
  - (b) by contributing to a fund, established and maintained by the local authority, out of which the payments may be made.
- (5) A youth offending team shall include at least one of each of the following, namely—
- (a) <sup>[F20]</sup>an officer of a local probation board<sup>[F21]</sup> or an officer of a provider of probation services];
  - <sup>[F22]</sup>(aa) where the local authority is in England, a person with experience of social work in relation to children nominated by the director of children's services appointed by the local authority under section 18 of the Children Act 2004;]
  - (b) <sup>[F23]</sup>where the local authority is in Wales, a social worker of the<sup>[F24]</sup> local authority . . . ;
  - (c) a police officer;
  - (d) a person nominated by <sup>[F25]</sup>a Primary Care Trust or] a <sup>[F19]</sup>Local Health Board] any part of whose area lies within the local authority's area;
  - <sup>[F26]</sup>(da) where the local authority is in England, a person with experience in education nominated by the director of children's services appointed by the local authority under section 18 of the Children Act 2004;]
  - (e) <sup>[F27]</sup>where the local authority is in Wales,] a person nominated by the chief education officer appointed by the local authority under section 532 of the <sup>M3</sup>Education Act 1996.
- (6) A youth offending team may also include such other persons as the local authority thinks appropriate after consulting the persons and bodies mentioned in subsection (3) above.

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- (7) It shall be the duty of the youth offending team or teams established by a particular local authority—
- (a) to co-ordinate the provision of youth justice services for all those in the authority's area who need them; and
  - (b) to carry out such functions as are assigned to the team or teams in the youth justice plan formulated by the authority under section 40(1) below.

### Textual Amendments

- F15** S. 39(3)(aa)(ab) inserted (1.4.2008) by Offender Management Act 2007 (c. 21), ss. 39, 41(1), **Sch. 3 para. 3(3)(a)**; S.I. 2008/504, **art. 3(1)**
- F16** Words in s. 39(3)(b) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 151**; S.I. 2001/919, **art. 2(f)(ii)**
- F17** Words in s. 39(3)(b) substituted (8.2.2000) by The Health Act 1999 (Supplementary, Consequential etc. Provisions) Order 2000 (S.I. 2000/90), arts. 1, 3(1), **Sch. 1 para. 35(4)**
- F18** Words in s. 39(3)(b) inserted (1.10.2002) by The National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc. Provisions) Regulations 2002 (S.I. 2002/2469), reg. 4, **Sch. 1 Pt. 1 para. 25(3)(a)**
- F19** Words in s. 39(3)(b)(5)(d) substituted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), art. 3, **Sch. para. 29(2)(c)**
- F20** Words in s. 39(5)(a) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 4(1)(a)**, (2); S.I. 2001/919, **art. 2(f)(i)**
- F21** Words in s. 39(5)(a) inserted (1.4.2008) by Offender Management Act 2007 (c. 21), ss. 39, 41(1), **Sch. 3 para. 3(3)(b)**; S.I. 2008/504, **art. 3(1)**
- F22** S. 39(5)(aa) inserted (with effect for specified purposes as mentioned in s. 18(9)(a) of the amending Act, otherwise 1.1.2008) by Children Act 2004 (c. 31), ss. 18(9)(10), 67(2), **Sch. 2 para. 5(3)(a)**; S.I. 2007/1792, **art. 2**
- F23** Words in s. 39(5)(b) substituted (with effect for specified purposes as mentioned in s. 18(9)(a) of the amending Act, otherwise 1.1.2008) by Children Act 2004 (c. 31), ss. 18(9)(10), 67(2), **Sch. 2 para. 5(3)(b)**; S.I. 2007/1792, **art. 2**
- F24** Words in s. 39(5)(b) repealed (1.4.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), ss. 64, 67(8), **Sch. 5 Pt. 4**; S.I. 2005/394, **art. 2(2)(g)**; S.I. 2006/885, **art. 2(2)(h)**
- F25** Words in s. 39(5)(d) inserted (1.10.2002) by The National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc. Provisions) Regulations 2002 (S.I. 2002/2469), reg. 4, **Sch. 1 Pt 1 para. 25(3)(b)**
- F26** S. 39(5)(da) inserted (with effect for specified purposes as mentioned in s. 18(9)(a) of the amending Act, otherwise 1.1.2008) by Children Act 2004 (c. 31), ss. 18(9)(10), 67(2), **Sch. 2 para. 5(3)(c)**; S.I. 2007/1792, **art. 2**
- F27** Words in s. 39(5)(e) inserted (with effect for specified purposes as mentioned in s. 18(9)(a) of the amending Act, otherwise 1.1.2008) by Children Act 2004 (c. 31), ss. 18(9)(10), 67(2), **Sch. 2 para. 5(3)(d)**; S.I. 2007/1792, **art. 2**

### Modifications etc. (not altering text)

- C1** Ss. 39-42 applied (with modifications) (1.2.2005) by The Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005 (S.I. 2005/157), **art. 5(2)**, Sch. 1 (with art. 5(3))

### Commencement Information

- I3** S. 39 wholly in force at 1.4.2000; S. 39 not in force at Royal Assent see s. 121; S. 39 in force at 30.9.1998 in the areas specified in Sch. 1 of the said S.I. by S.I. 1998/2327, **art. 3(1)**, **Sch. 1** (subject to savings in **art. 9**); s. 39 in force at 1.4.2000 insofar as not already in force by S.I. 2000/924, **art. 2**

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### Marginal Citations

M3 1996 c.56.

VALID FROM 01/09/2010

### [<sup>F28</sup>39A Detention of child or young person: local authorities to be notified

- (1) Subsection (2) applies where a youth offending team becomes aware that—
  - (a) a child or young person has become subject to a detention order and is detained in relevant youth accommodation, or
  - (b) a child or young person who is subject to a detention order has been transferred from one place of accommodation to another which is relevant youth accommodation.
- (2) The youth offending team must as soon as practicable notify—
  - (a) the home local authority, and
  - (b) the host local authority,
 of the place where the child or young person is detained.
- (3) Subsection (4) applies where a youth offending team becomes aware that a person has been released having immediately before release been—
  - (a) subject to a detention order, and
  - (b) detained in relevant youth accommodation.
- (4) The youth offending team must as soon as practicable notify the following authorities of the release—
  - (a) the home local authority;
  - (b) the host local authority;
  - (c) any other local authority in whose area the youth offending team expects the person to live on release.
- (5) Nothing in this section requires a youth offending team to notify a local authority of any matter of which the authority is already aware.
- (6) In this section—
 

“home local authority”, in relation to a child or young person, means the local authority which is the home authority in relation to that person within the meaning of Chapter 5A of Part 10 of the Education Act 1996 (persons detained in youth accommodation);

“host local authority”, in relation to a child or young person who is detained in relevant youth accommodation, means the local authority for the area in which that person is detained;

“local authority” has the meaning given by section 579(1) of the Education Act 1996;

“young person” includes a person who is aged 18;

and references in this section to a person subject to a detention order and to relevant youth accommodation have the same meanings as they have in the Education Act 1996 (see section 562(1A) of that Act).]

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### Textual Amendments

- F28** S. 39A inserted (1.9.2010 for E. and 1.4.2011 for W.) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), **ss. 51** (as amended by [S.I. 2010/1158, Sch. 2 para. 16\(2\)\(3\)\(5\)](#)), [269\(3\)\(f\)](#) (4); [S.I. 2010/303, art. 6\(1\)](#), [Sch. 5](#); [S.I. 2011/829, art. 2\(c\)](#)

## 40 Youth justice plans.

- (1) It shall be the duty of each local authority, after consultation with the relevant persons and bodies, to formulate and implement for each year a plan (a “youth justice plan”) setting out—
  - (a) how youth justice services in their area are to be provided and funded; and
  - (b) how the youth offending team or teams established by them (whether alone or jointly with one or more other local authorities) are to be composed and funded, how they are to operate, and what functions they are to carry out.
- (2) In subsection (1) above “the relevant persons and bodies” means the persons and bodies mentioned in section 38(2) above and, where the local authority is a county council, any district councils whose districts form part of its area.
- (3) The functions assigned to a youth offending team under subsection (1)(b) above may include, in particular, functions under paragraph 7(b) of Schedule 2 to the 1989 Act (local authority’s duty to take reasonable steps designed to encourage children and young persons not to commit offences).
- (4) A local authority shall submit their youth justice plan to the Board established under section 41 below, and shall publish it in such manner and by such date as the Secretary of State may direct.

### Modifications etc. (not altering text)

- C2** S. 40: functions of the local authority not to be the sole responsibility of the executive of the authority (E.) (16.11.2000) by virtue of [S.I. 2000/2853, reg. 4\(1\)](#), **Sch. 3**
- C3** [Ss. 39-42](#) applied (with modifications) (1.2.2005) by [The Local Authorities' Plans and Strategies \(Disapplication\) \(England\) Order 2005 \(S.I. 2005/157\)](#), **art. 5(2)**, [Sch. 1](#) (with [art. 5\(3\)](#))
- C4** S. 40(1) disappplied (1.2.2005) by [The Local Authorities' Plans and Strategies \(Disapplication\) \(England\) Order 2005 \(S.I. 2005/157\)](#), **art. 5(1)**

### Commencement Information

- I4** S. 40 wholly in force at 1.1.2000; S. 40 not in force at Royal Assent see [s. 121](#); S. 40 in force at 30.9.1998 in the areas specified in [Sch. 1](#) of the said S.I. by [S.I. 1998/2327, art. 3\(1\)](#), **Sch. 1** (subject to savings in [art. 9](#)); [s. 40](#) in force at 1.1.2000 insofar as not already in force by [S.I. 1999/3426, art. 2](#)

## 41 The Youth Justice Board.

- (1) There shall be a body corporate to be known as the Youth Justice Board for England and Wales (“the Board”).
- (2) The Board shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and the Board’s property shall not be regarded as property of, or held on behalf of, the Crown.

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- (3) The Board shall consist of 10, 11 or 12 members appointed by the Secretary of State.
- (4) The members of the Board shall include persons who appear to the Secretary of State to have extensive recent experience of the youth justice system.
- (5) The Board shall have the following functions, namely—
  - (a) to monitor the operation of the youth justice system and the provision of youth justice services;
  - (b) to advise the Secretary of State on the following matters, namely—
    - (i) the operation of that system and the provision of such services;
    - (ii) how the principal aim of that system might most effectively be pursued;
    - (iii) the content of any national standards he may see fit to set with respect to the provision of such services, or the accommodation in which children and young persons are kept in custody; and
    - (iv) the steps that might be taken to prevent offending by children and young persons;
  - (c) to monitor the extent to which that aim is being achieved and any such standards met;
  - (d) for the purposes of paragraphs (a), (b) and (c) above, to obtain information from relevant authorities;
  - (e) to publish information so obtained;
  - (f) to identify, to make known and to promote good practice in the following matters, namely—
    - (i) the operation of the youth justice system and the provision of youth justice services;
    - (ii) the prevention of offending by children and young persons; and
    - (iii) working with children and young persons who are or are at risk of becoming offenders;
  - (g) to make grants, with the approval of the Secretary of State, to local authorities or other bodies for them to develop such practice, or to commission research in connection with such practice;<sup>F29</sup> . . .
  - (h) themselves to commission research in connection with such practice.
  - <sup>F30</sup>(i) to enter into agreements for the provision of—
    - <sup>F31</sup>(i) [<sup>F32</sup>youth detention accommodation], within the meaning given by section 107 of the Powers of Criminal Courts (Sentencing) Act 2000, for the purpose of detaining persons subject to orders under section 100, 104(3)(a) or 105(2) of that Act or section 211 or 214 of the Armed Forces Act 2006;
    - (ii) accommodation which is or may be used for the purpose of detaining persons sentenced under section 90 or 91 of the Powers of Criminal Courts (Sentencing) Act 2000 or section 209 or 218 of the Armed Forces Act 2006;]
    - (iii) accommodation which is or may be used for the purpose of detaining persons dealt with under subsection (4)(c) of section 23 of the 1969 Act, as that section has effect in relation to persons described in section 98(1) below;



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- (iv) accommodation which is or may be used for the purpose of detaining persons who are under the age of 18 when remanded in custody under section 128 of the 1980 Act;
  - (v) accommodation which is or may be used for the purpose of detaining persons sentenced when under the age of 18 and before 1st April 2000 to detention in a young offender institution under section 1A of the 1982 Act; and
  - (vi) accommodation which is or may be used for the purpose of detaining persons subject to secure training orders made before 1st April 2000 under section 1 of the 1994 Act;
- but no agreement shall be made under this paragraph in relation to accommodation for persons who have attained the age of 18 unless it appears to the Board that it is expedient to enter into such an agreement for the operation of the youth justice system;
- (j) to facilitate arrangements between the Secretary of State and any person providing—
    - [<sup>F33</sup>(i) [<sup>F34</sup>youth detention accommodation], within the meaning given by section 107 of the Powers of Criminal Courts (Sentencing) Act 2000, to be used for detaining a person in accordance with a determination under section 102(1), 104(3)(a) or 105(2) of that Act or section 214(3) of the Armed Forces Act 2006; or
    - (ii) accommodation to be used for detaining a person in accordance with a direction by the Secretary of State under section 92 of the Powers of Criminal Courts (Sentencing) Act 2000 or a determination by the Secretary of State under section 210 or 218(3) of the Armed Forces Act 2006;]
  - [<sup>F35</sup>(ja) at the request of the Secretary of State, to assist him in carrying out his functions in relation to the release of offenders detained in accommodation which is youth detention accommodation, within the meaning given by section 107(1) of the Powers of Criminal Courts (Sentencing) Act 2000;]
  - (k) to offer assistance to local authorities in discharging their duty under section 61 of the 1991 Act, whether by acting as the agent of a local authority or facilitating arrangements under section 61(2), or otherwise; and
  - (l) annually—
    - (i) to assess future demand for secure accommodation for remanded [<sup>F36</sup>children and young persons and secure and other accommodation for sentenced children and young persons],
    - (ii) to prepare a plan setting out how they intend to exercise, in the following three years, the functions described in paragraphs (i) and (k) above, and any function for the time being exercisable by the Board concurrently with the Secretary of State by virtue of subsection (6)(b) below which relates to securing the provision of such accommodation, and
    - (iii) to submit the plan to the Secretary of State for approval.]
- (6) The Secretary of State may by order—
- (a) amend subsection (5) above so as to add to, subtract from or alter any of the functions of the Board for the time being specified in that subsection; or
  - (b) provide that any function of his which is exercisable in relation to the youth justice system shall be exercisable concurrently with the Board.

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- <sup>F37</sup>(6A) The power of the Secretary of State under subsection (6)(b) includes power—
- (a) to provide that, in relation to any function of his that is exercisable in respect of particular cases, the function is to be exercisable by the Board only—
    - (i) where it proposes to exercise the function in a particular manner, or
    - (ii) in respect of a class of case specified in the order, and
  - (b) to make any supplementary, incidental or consequential provision (including provision for any enactment to apply subject to modifications).]
- (7) In carrying out their functions, the Board shall comply with any directions given by the Secretary of State and act in accordance with any guidance given by him.
- (8) A relevant authority—
- (a) shall furnish to the Board any information required for the purposes of subsection (5)(a), (b) or (c) above; and
  - (b) whenever so required by the Board, shall submit to the Board a report on such matters connected with the discharge of their duties under the foregoing provisions of this Part as may be specified in the requirement.
- A requirement under paragraph (b) above may specify the form in which a report is to be given.
- (9) The Board may arrange, or require the relevant authority to arrange, for a report under subsection (8)(b) above to be published in such manner as appears to the Board to be appropriate.
- (10) In this section “relevant authority” means a local authority, a chief officer of police, a police authority, a <sup>F38</sup>local probation board] <sup>F39</sup>a provider of probation services] <sup>F40</sup>, <sup>F41</sup>a Strategic Health Authority,] a <sup>F42</sup>Local Health Board] and a Primary Care Trust].
- (11) Schedule 2 to this Act (which makes further provision with respect to the Board) shall have effect.

#### Textual Amendments

- F29** Word in s. 41(5)(g) omitted (20.4.2000) by virtue of S.I. 2000/1160, **art. 3(a)**
- F30** S. 41(5)(i)-(k) inserted (20.4.2000) by S.I. 2000/1160, **art. 3(b)**
- F31** S. 41(5)(i)(i)(ii) substituted (28.3.2009 for specified purposes, otherwise 31.10.2009) by **Armed Forces Act 2006** (c. 52), ss. 378(1), 383(2), **Sch. 16 para. 154(a)**; S.I. 2009/812, **art. 3(a)(b)**; S.I. 2009/1167, **art. 4**
- F32** Words in s. 41(5)(i)(i) substituted (1.11.2007) by **Offender Management Act 2007** (c. 21), ss. 39, 41(1), **Sch. 3 para. 16(3)**; S.I. 2007/3001, **art. 2(1)(r)**
- F33** S. 41(5)(j)(i)(ii) substituted (28.3.2009 for specified purposes, otherwise 31.10.2009) by **Armed Forces Act 2006** (c. 52), ss. 378(1), 383(2), **Sch. 16 para. 154(b)**; S.I. 2009/812, **art. 3(a)(b)**; S.I. 2009/1167, **art. 4**
- F34** Words in s. 41(5)(j)(i) substituted (1.11.2007) by **Offender Management Act 2007** (c. 21), ss. 39, 41(1), **Sch. 3 para. 16(5)**; S.I. 2007/3001, **art. 2(1)(r)**
- F35** S. 41(5)(ja) inserted (1.11.2007) by **Offender Management Act 2007** (c. 21), ss. 32(2), 41(1); S.I. 2007/3001, **art. 2(1)(i)**
- F36** Words in s. 41(5)(l)(i) substituted (1.11.2007) by **Offender Management Act 2007** (c. 21), ss. 39, 41(1), **Sch. 3 para. 16(6)**; S.I. 2007/3001, **art. 2(1)(r)**
- F37** S. 41(6A) inserted (1.11.2007) by **Offender Management Act 2007** (c. 21), ss. 32(3), 41(1); S.I. 2007/3001, **art. 2(1)(i)**

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- F38** Words in s. 41(10) substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. II para. 151; S.I. 2001/919, art. 2(f)(ii)
- F39** Words in s. 41(10) inserted (1.4.2008) by Offender Management Act 2007 (c. 21), ss. 39, 41(1), Sch. 3 para. 3(4); S.I. 2008/504, art. 3(1)
- F40** Words in s. 41(10) substituted (8.2.2000) by The Health Act 1999 (Supplementary, Consequential etc. Provisions) Order 2000 (S.I. 2000/90), arts. 1, 3(1), Sch. 1 para. 35(5)
- F41** Words in s. 41(10) inserted (1.10.2002) by The National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc. Provisions) Regulations 2002 (S.I. 2002/2469), reg. 4, Sch. 1 Pt. 1 para. 25(4)
- F42** Words in s. 41(10) substituted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), art. 3, Sch. para. 29(2)(d)

#### Modifications etc. (not altering text)

- C5** Ss. 39-42 applied (with modifications) (1.2.2005) by The Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005 (S.I. 2005/157), art. 5(2), Sch. 1 (with art. 5(3))
- C6** Ss. 39-42 applied (1.2.2005) by The Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005 (S.I. 2005/157), art. 5(3)(b)

#### Commencement Information

- I5** S. 41 wholly in force; s. 41 not in force at Royal Assent, see s. 121. in force at 1.8.1998 for the purposes of making appointments under this section and under paragraph 1 of Sch. 2 by S.I. 1998/1883, art. 2(a). s. 41 in force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

## 42 Supplementary provisions.

- (1) In the foregoing provisions of this Part and this section—  
“chief officer of police” has the meaning given by section 101(1) of the <sup>M4</sup>Police Act 1996;  
“local authority” means—  
(a) in relation to England, a county council, a district council whose district does not form part of an area that has a county council, a London borough council or the Common Council of the City of London;  
(b) in relation to Wales, a county council or a county borough council;  
“police authority” has the meaning given by section 101(1) of the <sup>M5</sup>Police Act 1996;  
“youth justice system” means the system of criminal justice in so far as it relates to children and young persons.
- (2) For the purposes of those provisions, the Isles of Scilly form part of the county of Cornwall and the Inner Temple and the Middle Temple form part of the City of London.
- (3) In carrying out any of their duties under those provisions, a local authority, a police authority, a [<sup>F43</sup>local probation board][<sup>F44</sup>a provider of probation services][<sup>F45</sup>, [<sup>F46</sup>a Strategic Health Authority,] a [<sup>F47</sup>Local Health Board] or a Primary Care Trust] shall act in accordance with any guidance given by the Secretary of State.

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### Textual Amendments

- F43** Words in s. 42(3) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 151**; S.I. 2001/919, **art. 2(f)(ii)**
- F44** Words in s. 42(3) inserted (1.4.2008) by Offender Management Act 2007 (c. 21), ss. 39, 41(1), **Sch. 3 para. 3(4)**; S.I. 2008/504, **art. 3(I)**
- F45** Words in s. 42(3) substituted (8.2.2000) by The Health Act 1999 (Supplementary, Consequential etc. Provisions) Order 2000 (S.I. 2000/90), arts. 1, 3(1), **Sch. 1 para. 35(6)**
- F46** Words in s. 42(3) inserted (1.10.2002) by The National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc. Provisions) Regulations 2002 (S.I. 2002/2469), reg. 4, **Sch. 1 Pt. 1 para. 25(5)**
- F47** Words in s. 42(3) substituted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), art. 3, **Sch. para. 29(2)(e)**

### Modifications etc. (not altering text)

- C7** Ss. 39-42 applied (with modifications) (1.2.2005) by The Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005 (S.I. 2005/157), **art. 5(2)**, Sch. 1 (with art. 5(3))
- C8** Ss. 39-42 applied (1.2.2005) by The Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005 (S.I. 2005/157), **art. 5(3)(b)**

### Commencement Information

- I6** S. 42 wholly in force; S. 42 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

### Marginal Citations

- M4** 1996 c.16.  
**M5** 1996 c.16.

### *Time limits etc.*

## 43 Time limits.

(1) In subsection (2) of section 22 (time limits in relation to criminal proceedings) of the <sup>M6</sup>Prosecution of Offences Act 1985 (“the 1985 Act”), for paragraphs (a) and (b) there shall be substituted the following paragraphs—

- “(a) be made so as to apply only in relation to proceedings instituted in specified areas, or proceedings of, or against persons of, specified classes or descriptions;
- (b) make different provision with respect to proceedings instituted in different areas, or different provision with respect to proceedings of, or against persons of, different classes or descriptions;”.

(2) For subsection (3) of that section there shall be substituted the following subsection—

“(3) The appropriate court may, at any time before the expiry of a time limit imposed by the regulations, extend, or further extend, that limit; but the court shall not do so unless it is satisfied—

- (a) that the need for the extension is due to—
- (i) the illness or absence of the accused, a necessary witness, a judge or a magistrate;

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- (ii) a postponement which is occasioned by the ordering by the court of separate trials in the case of two or more accused or two or more offences; or
    - (iii) some other good and sufficient cause; and
  - (b) that the prosecution has acted with all due diligence and expedition.”
- (3) In subsection (4) of that section, for the words from “the accused” to the end there shall be substituted the words “ the appropriate court shall stay the proceedings ”.
- (4) In subsection (6) of that section—
  - (a) for the word “Where” there shall be substituted the words “ Subsection (6A) below applies where ”; and
  - (b) for the words from “the overall time limit” to the end there shall be substituted the words “ and is accordingly unlawfully at large for any period. ”
- (5) After that subsection there shall be inserted the following subsection—

“(6A) The following, namely—

  - (a) the period for which the person is unlawfully at large; and
  - (b) such additional period (if any) as the appropriate court may direct, having regard to the disruption of the prosecution occasioned by—
    - (i) the person’s escape or failure to surrender; and
    - (ii) the length of the period mentioned in paragraph (a) above,shall be disregarded, so far as the offence in question is concerned, for the purposes of the overall time limit which applies in his case in relation to the stage which the proceedings have reached at the time of the escape or, as the case may be, at the appointed time.”
- (6) In subsection (7) of that section, after the words “time limit,” there shall be inserted the words “ or to give a direction under subsection (6A) above, ”.
- (7) In subsection (8) of that section, after the words “time limit” there shall be inserted the words “ , or to give a direction under subsection (6A) above, ”.
- (8) After subsection (11) of that section there shall be inserted the following subsection—

“(11ZA) For the purposes of this section, proceedings for an offence shall be taken to begin when the accused is charged with the offence or, as the case may be, an information is laid charging him with the offence.”

#### Commencement Information

**I7** S. 43 wholly in force at 1.6.1999; S. 43 not in force at Royal Assent see s. 121; S. 43(1) in force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8); s. 43 in force at 1.6.1999 insofar as not already in force by S.I. 1999/1279, art. 2(a)

#### Marginal Citations

**M6** 1985 c.23.

## 44 Additional time limits for persons under 18.

After section 22 of the 1985 Act there shall be inserted the following section—

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## **“22A Additional time limits for persons under 18.**

- (1) The Secretary of State may by regulations make provision—
  - (a) with respect to a person under the age of 18 at the time of his arrest in connection with an offence, as to the maximum period to be allowed for the completion of the stage beginning with his arrest and ending with the date fixed for his first appearance in court in connection with the offence (“the initial stage”);
  - (b) with respect to a person convicted of an offence who was under that age at the time of his arrest for the offence or (where he was not arrested for it) the laying of the information charging him with it, as to the period within which the stage between his conviction and his being sentenced for the offence should be completed.
- (2) Subsection (2) of section 22 above applies for the purposes of regulations under subsection (1) above as if—
  - (a) the reference in paragraph (d) to custody or overall time limits were a reference to time limits imposed by the regulations; and
  - (b) the reference in paragraph (e) to proceedings instituted before the commencement of any provisions of the regulations were a reference to a stage begun before that commencement.
- (3) A magistrates’ court may, at any time before the expiry of the time limit imposed by the regulations under subsection (1)(a) above (“the initial stage time limit”), extend, or further extend, that limit; but the court shall not do so unless it is satisfied—
  - (a) that the need for the extension is due to some good and sufficient cause; and
  - (b) that the investigation has been conducted, and (where applicable) the prosecution has acted, with all due diligence and expedition.
- (4) Where the initial stage time limit (whether as originally imposed or as extended or further extended under subsection (3) above) expires before the person arrested is charged with the offence, he shall not be charged with it unless further evidence relating to it is obtained, and—
  - (a) if he is then under arrest, he shall be released;
  - (b) if he is then on bail under Part IV of the <sup>M7</sup>Police and Criminal Evidence Act 1984, his bail (and any duty or conditions to which it is subject) shall be discharged.
- (5) Where the initial stage time limit (whether as originally imposed or as extended or further extended under subsection (3) above) expires after the person arrested is charged with the offence but before the date fixed for his first appearance in court in connection with it, the court shall stay the proceedings.
- (6) Where—
  - (a) a person escapes from arrest; or
  - (b) a person who has been released on bail under Part IV of the <sup>M8</sup>Police and Criminal Evidence Act 1984 fails to surrender himself at the appointed time,

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and is accordingly unlawfully at large for any period, that period shall be disregarded, so far as the offence in question is concerned, for the purposes of the initial stage time limit.

- (7) Subsections (7) to (9) of section 22 above apply for the purposes of this section, at any time after the person arrested has been charged with the offence in question, as if any reference (however expressed) to a custody or overall time limit were a reference to the initial stage time limit.
- (8) Where a person is convicted of an offence in any proceedings, the exercise of the power conferred by subsection (3) above shall not be called into question in any appeal against that conviction.
- (9) Any reference in this section (however expressed) to a person being charged with an offence includes a reference to the laying of an information charging him with it.”

#### Marginal Citations

M7 1984 c.60.

M8 1984 c.60.

## 45 Re-institution of stayed proceedings.

After section 22A of the 1985 Act there shall be inserted the following section—

### “22B Re-institution of proceedings stayed under section 22(4) or 22A(5).

- (1) This section applies where proceedings for an offence (“the original proceedings”) are stayed by a court under section 22(4) or 22A(5) of this Act.
- (2) If—
  - (a) in the case of proceedings conducted by the Director, the Director or a Chief Crown Prosecutor so directs;
  - (b) in the case of proceedings conducted by the Director of the Serious Fraud Office, the Commissioners of Inland Revenue or the Commissioners of Customs and Excise, that Director or those Commissioners so direct; or
  - (c) in the case of proceedings not conducted as mentioned in paragraph (a) or (b) above, a person designated for the purpose by the Secretary of State so directs,fresh proceedings for the offence may be instituted within a period of three months (or such longer period as the court may allow) after the date on which the original proceedings were stayed by the court.
- (3) Fresh proceedings shall be instituted as follows—
  - (a) where the original proceedings were stayed by the Crown Court, by preferring a bill of indictment;
  - (b) where the original proceedings were stayed by a magistrates’ court, by laying an information.



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- (4) Fresh proceedings may be instituted in accordance with subsections (2) and (3)(b) above notwithstanding anything in section 127(1) of the <sup>M9</sup>Magistrates' Courts Act 1980 (limitation of time).
- (5) Where fresh proceedings are instituted, anything done in relation to the original proceedings shall be treated as done in relation to the fresh proceedings if the court so directs or it was done—
  - (a) by the prosecutor in compliance or purported compliance with section 3, 4, 7 or 9 of the <sup>M10</sup>Criminal Procedure and Investigations Act 1996; or
  - (b) by the accused in compliance or purported compliance with section 5 or 6 of that Act.
- (6) Where a person is convicted of an offence in fresh proceedings under this section, the institution of those proceedings shall not be called into question in any appeal against that conviction."

#### Marginal Citations

**M9** 1980 c.43.

**M10** 1996 c.25.

#### 46 Date of first court appearance in bail cases.

- (1) In subsection (3) of section 47 of the 1984 Act (bail after arrest), for the words "subsection (4)" there shall be substituted the words " subsections (3A) and (4) ".
- (2) After that subsection there shall be inserted the following subsection—
 

"(3A) Where a custody officer grants bail to a person subject to a duty to appear before a magistrates' court, he shall appoint for the appearance—

  - (a) a date which is not later than the first sitting of the court after the person is charged with the offence; or
  - (b) where he is informed by the clerk to the justices for the relevant petty sessions area that the appearance cannot be accommodated until a later date, that later date."

#### Commencement Information

**I8** S. 46 wholly in force at 1.11.1999; S. 46 not in force at Royal Assent see s. 121; S. 46 in force at 30.9.1998 in the areas specified in Sch. 2 of the said S.I. by S.I. 1998/2327, art. 3(2), Sch. 2; S. 46 in force at 1.11.1999 insofar as not already in force by S.I. 1999/2976, art. 2

#### *Functions of courts etc.*

#### 47 Powers of youth courts.

- (1) Where a person who appears or is brought before a youth court charged with an offence subsequently attains the age of 18, the youth court may, at any time—
  - (a) before the start of the trial; <sup>F48</sup> . . .



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<sup>F48</sup>(b) . . . . .  
remit the person for trial <sup>F49</sup> . . . to a magistrates’ court (other than a youth court) <sup>F50</sup> . . . .

In this subsection “the start of the trial” shall be construed in accordance with section 22(11B) of the 1985 Act.

- (2) Where a person is remitted under subsection (1) above—
  - (a) he shall have no right of appeal against the order of remission;
  - (b) the remitting court shall adjourn proceedings in relation to the offence; and
  - (c) subsections (3) and (4) below shall apply.
- (3) The following, namely—
  - (a) section 128 of the 1980 Act; and
  - (b) all other enactments (whenever passed) relating to remand or the granting of bail in criminal proceedings,shall have effect in relation to the remitting court’s power or duty to remand the person on the adjournment as if any reference to the court to or before which the person remanded is to be brought or appear after remand were a reference to the court to which he is being remitted (“the other court”).
- (4) The other court may deal with the case in any way in which it would have power to deal with it if all proceedings relating to the offence which took place before the remitting court had taken place before the other court.
- (5) After subsection (3) of section 10 of the 1980 Act (adjournment of trial) there shall be inserted the following subsection—

“(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.”
- (6) After subsection (1) of section 24 of the 1980 Act (summary trial of information against child or young person for indictable offence) there shall be inserted the following subsection—

“(1A) Where a magistrates’ court—

  - (a) commits a person under the age of 18 for trial for an offence of homicide; 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.”
- (7) In subsection (2) of section 47 (procedure in youth courts) of the <sup>M11</sup>Children and Young Persons Act 1933 (“the 1933 Act”), the words from the beginning to “court; and” shall cease to have effect.

**Textual Amendments**

**F48** Word and para. (b) in s. 47(1) 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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**F49** Words in s. 47(1) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

**F50** Words in s. 47(1) omitted (1.4.2005) by virtue of **The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886)**, art. 2, **Sch. para. 59**

#### Commencement Information

**I9** S. 47 wholly in force; S. 47 not in force at Royal Assent see s. 121. In force at 30.9.1998 by **S.I. 1998/2327**, **art. 2(1)** (subject to savings in **arts. 5-8**)

#### Marginal Citations

**M11** 1933 c.12.

### 48 Youth courts: power of stipendiary magistrates to sit alone.

- (1) In paragraph 15 of Schedule 2 to the 1933 Act (constitution of youth courts)—
- (a) in paragraph (a), after the word “shall”, in the first place where it occurs, there shall be inserted the words “ either consist of a metropolitan stipendiary magistrate sitting alone or ” and the word “shall”, in the other place where it occurs, shall cease to have effect;
  - (b) in paragraph (b), after the words “the chairman” there shall be inserted the words “ (where applicable) ”; and
  - (c) in paragraph (c), after the words “the other members” there shall be inserted the words “ (where applicable) ”.
- (2) In paragraph 17 of that Schedule, the words “or, if a metropolitan stipendiary magistrate, may sit alone” shall cease to have effect.

#### Commencement Information

**I10** S. 48 wholly in force; S. 48 not in force at Royal Assent see s. 121. In force at 30.9.1998 by **S.I. 1998/2327**, **art. 2(1)** (subject to savings in **arts. 5-8**)

### 49 Powers of magistrates’ courts exercisable by single justice etc.

- (1) The following powers of a magistrates’ court for any area may be exercised by a single justice of the peace for that area, namely—
- (a) to extend bail or to impose or vary conditions of bail;
  - (b) to mark an information as withdrawn;
  - (c) to dismiss an information, or to discharge an accused in respect of an information, where no evidence is offered by the prosecution;
  - (d) to make an order for the payment of defence costs out of central funds;
  - (e) to request a pre-sentence report following a plea of guilty and, for that purpose, to give an indication of the seriousness of the offence;
  - (f) to request a medical report and, for that purpose, to remand the accused in custody or on bail;
  - (g) to remit an offender to another court for sentence;
  - (h) where a person has been granted police bail to appear at a magistrates’ court, to appoint an earlier time for his appearance;

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- (i) to extend, with the consent of the accused, a custody time limit or an overall time limit;
  - <sup>F51</sup>(j) .....
  - (k) where an accused has been convicted of an offence, to order him to produce his driving licence;
  - (l) to give a direction prohibiting the publication of matters disclosed or exempted from disclosure in court;
  - (m) to give, vary or revoke directions for the conduct of a trial, including directions as to the following matters, namely—
    - (i) the timetable for the proceedings;
    - (ii) the attendance of the parties;
    - (iii) the service of documents (including summaries of any legal arguments relied on by the parties);
    - (iv) the manner in which evidence is to be given; and
  - (n) to give, vary or revoke orders for separate or joint trials in the case of two or more accused or two or more informations.
- [<sup>F52</sup>(2) Criminal Procedure Rules may, subject to subsection (3) below, provide that any of the things which, by virtue of subsection (1) above, are authorised to be done by a single justice of the peace for any area may, subject to any specified restrictions or conditions, be done by a justices' clerk for that area.]
- (3) [<sup>F53</sup>Criminal Procedure Rules] which make such provision as is mentioned in subsection (2) above shall not authorise a justices' clerk—
- (a) without the consent of the prosecutor and the accused, to extend bail on conditions other than those (if any) previously imposed, or to impose or vary conditions of bail;
  - (b) to give an indication of the seriousness of an offence for the purposes of a pre-sentence report;
  - (c) to remand the accused in custody for the purposes of a medical report or, without the consent of the prosecutor and the accused, to remand the accused on bail for those purposes on conditions other than those (if any) previously imposed;
  - (d) to give a direction prohibiting the publication of matters disclosed or exempted from disclosure in court; or
  - (e) without the consent of the parties, to give, vary or revoke orders for separate or joint trials in the case of two or more accused or two or more informations.
- (4) Before making any [<sup>F54</sup>Criminal Procedure Rules] which make such provision as is mentioned in subsection (2) above in relation to any area, the [<sup>F55</sup>Criminal Procedure Rule Committee] shall consult justices of the peace and justices' clerks for that area.
- (5) In this section and section 50 below “justices' clerk” has the same meaning as in section 144 of the 1980 Act.

#### Textual Amendments

**F51** S. 49(1)(j) repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with Sch. 2 para. 2)

**F52** S. 49(2) substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), **art. 3, Sch. para. 36(2)** (with art. 2(2))

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**F53** Words in s. 49(3) substituted (1.9.2004) by [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S.I. 2004/2035\)](#), art. 3, [Sch. para. 36\(3\)](#) (with art. 2(2))

**F54** Words in s. 49(4) substituted (1.9.2004) by [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S.I. 2004/2035\)](#), art. 3, [Sch. para. 36\(4\)\(a\)](#) (with art. 2(2))

**F55** Words in s. 49(4) substituted (1.9.2004) by [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S.I. 2004/2035\)](#), art. 3, [Sch. para. 36\(4\)\(b\)](#) (with art. 2(2))

#### Commencement Information

**I11** S. 49 wholly in force at 1.11.1999; S. 49 not in force at Royal Assent see s, 121. In force at 31.7.1998 for the purpose of making rules which make such provision as is mentioned in ss.(2) of this section by [S.I. 1998/1883](#), [art. 2\(b\)](#); S. 49 in force at 30.9.1998 in the areas specified in Sch. 2 of the said S.I. by [S.I. 1998/2327](#), [art. 3\(2\)](#), [Sch. 2](#); S. 49 in force at 1.11.1999 insofar as not already in force by [S.I. 1999/2976](#), [art. 2](#)

## 50 Early administrative hearings.

(1) Where a person (“the accused”) has been charged with an offence at a police station, the magistrates’ court before whom he appears or is brought for the first time in relation to the charge may, unless the accused falls to be dealt with under section 51 below, consist of a single justice.

[<sup>F56</sup>(2) At a hearing conducted by a single justice under this section the accused shall be asked whether he wishes to be granted a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service.

(2A) Where the accused wishes to be granted such a right, the Legal Services Commission shall decide whether or not to grant him that right.]

(3) At such a hearing the single justice—

- (a) may exercise, subject to subsection (2) above, such of his powers as a single justice as he thinks fit; and
- (b) on adjourning the hearing, may remand the accused in custody or on bail.

(4) This section applies in relation to a justices’ clerk as it applies in relation to a single justice; but nothing in subsection (3)(b) above authorises such a clerk to remand the accused in custody or, without the consent of the prosecutor and the accused, to remand the accused on bail on conditions other than those (if any) previously imposed.

[<sup>F57</sup>(4A) A hearing conducted by a single justice under this section may be—

- (a) adjourned to enable the decision mentioned in subsection (2A) above to be taken, and
- (b) subsequently resumed by a single justice.]

<sup>F58</sup>(5) .....

#### Textual Amendments

**F56** S. 50(2)(2A) substituted for s. 50(2) (2.10.2006) by [The Criminal Defence Service \(Representation Orders and Consequential Amendment\) Regulations 2006 \(S.I. 2006/2493\)](#), {reg. 8(2)}

**F57** S. 50(4A) inserted (2.10.2006) by [The Criminal Defence Service \(Representation Orders and Consequential Amendment\) Regulations 2006 \(S.I. 2006/2493\)](#), {reg. 8(3)}

**F58** S. 50(5) repealed (2.4.2001) by [1999 c. 22](#), s. 106, [Sch. 15 Pt. I](#) (with [Sch. 14 paras. 7\(2\), 36\(9\)](#)); [S.I. 2001/916](#), [art. 3\(b\)](#) (with [Sch. 2 para. 2](#))

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**Modifications etc. (not altering text)**

**C9** S. 50 extended (1.11.1999) by S.I. 1999/2784, **rule 3(2)**

**Commencement Information**

**I12** S. 50 wholly in force; S. 50 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in **arts. 5-8**)

**51 No committal proceedings for indictable-only offences.**

- (1) Where an adult appears or is brought before a magistrates' court ("the court") charged with an offence triable only on indictment ("the indictable-only offence"), the court shall send him forthwith to the Crown Court for trial—
  - (a) for that offence, and
  - (b) for any either-way or summary offence with which he is charged which fulfils the requisite conditions (as set out in subsection (11) below).
- (2) Where an adult who has been sent for trial under subsection (1) above subsequently appears or is brought before a magistrates' court charged with an either-way or summary offence which fulfils the requisite conditions, the court may send him forthwith to the Crown Court for trial for the either-way or summary offence.
- (3) Where—
  - (a) the court sends an adult for trial under subsection (1) above;
  - (b) another adult appears or is brought before the court on the same or a subsequent occasion charged jointly with him with an either-way offence; and
  - (c) that offence appears to the court to be related to the indictable-only offence,the court shall where it is the same occasion, and may where it is a subsequent occasion, send the other adult forthwith to the Crown Court for trial for the either-way offence.
- (4) Where a court sends an adult for trial under subsection (3) above, it shall at the same time send him to the Crown Court for trial for any either-way or summary offence with which he is charged which fulfils the requisite conditions.
- (5) Where—
  - (a) the court sends an adult for trial under subsection (1) or (3) above; and
  - (b) a child or young person appears or is brought before the court on the same or a subsequent occasion charged jointly with the adult with an indictable offence for which the adult is sent for trial,the court shall, if it considers it necessary in the interests of justice to do so, send the child or young person forthwith to the Crown Court for trial for the indictable offence.
- (6) Where a court sends a child or young person for trial under subsection (5) above, it may at the same time send him to the Crown Court for trial for any either-way or summary offence with which he is charged which fulfils the requisite conditions.
- (7) The court shall specify in a notice the offence or offences for which a person is sent for trial under this section and the place at which he is to be tried; and a copy of the notice shall be served on the accused and given to the Crown Court sitting at that place.
- (8) In a case where there is more than one indictable-only offence and the court includes an either-way or a summary offence in the notice under subsection (7) above, the court

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shall specify in that notice the indictable-only offence to which the either-way offence or, as the case may be, the summary offence appears to the court to be related.

- (9) The trial of the information charging any summary offence for which a person is sent for trial under this section shall be treated as if the court had adjourned it under section 10 of the 1980 Act and had not fixed the time and place for its resumption.
- (10) In selecting the place of trial for the purpose of subsection (7) above, the court shall have regard to—
- (a) the convenience of the defence, the prosecution and the witnesses;
  - (b) the desirability of expediting 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 75(1) of the [<sup>F59</sup>Senior Courts Act 1981].
- (11) An offence fulfils the requisite conditions if—
- (a) it appears to the court to be related to the indictable-only offence; and
  - (b) in the case of a summary offence, it is punishable with imprisonment or involves obligatory or discretionary disqualification from driving.
- (12) For the purposes of this section—
- (a) “adult” means a person aged 18 or over, and references to an adult include references to a corporation;
  - (b) “either-way offence” means an offence which, if committed by an adult, is triable either on indictment or summarily;
  - (c) an either-way offence is related to an indictable-only offence if the charge for the either-way offence could be joined in the same indictment as the charge for the indictable-only offence;
  - (d) a summary offence is related to an indictable-only offence if it arises out of circumstances which are the same as or connected with those giving rise to the indictable-only offence.

#### Textual Amendments

**F59** Words in 51(10)(c) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 59\(5\), 148\(1\), Sch. 11 para. 1\(2\); S.I. 2009/1604, art. 2\(d\)](#)

#### Commencement Information

**I13** S. 51 wholly in force; S. 51 not in force at Royal Assent, see s. 121; S. 51 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by [S.I. 1998/2327, art. 4\(2\)](#); s. 51 in force at 15.1.2001 to the extent that it is not already in force by [S.I. 2000/3283, art. 2](#) (with transitional provisions in [art. 3](#))

#### [<sup>F60</sup>51A Sending cases to the Crown Court: children and young persons

- (1) This section is subject to sections 24A and 24B of the Magistrates' Courts Act 1980 (which provide for certain offences involving children or young persons to be tried summarily).
- (2) Where a child or young person appears or is brought before a magistrates' court (“the court”) charged with an offence and any of the conditions mentioned in subsection (3)

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below is satisfied, the court shall send him forthwith to the Crown Court for trial for the offence.

- (3) Those conditions are—
- (a) that the offence falls within subsection (12) below;
  - (b) that the offence is such as is mentioned in subsection (1) of section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 (other than one mentioned in paragraph (d) below in relation to which it appears to the court as mentioned there) and the court considers that if he is found guilty of the offence it ought to be possible to sentence him in pursuance of subsection (3) of that section;
  - (c) that notice is given to the court under section 51B or 51C below in respect of the offence;
  - (d) that the offence is a specified offence (within the meaning of section 224 of the Criminal Justice Act 2003) and it appears to the court that if he is found guilty of the offence the criteria for the imposition of a sentence under section 226(3) or 228(2) of that Act would be met.
- (4) Where the court sends a child or young person for trial under subsection (2) above, it may at the same time send him to the Crown Court for trial for any indictable or summary offence with which he is charged and which—
- (a) (if it is an indictable offence) appears to the court to be related to the offence mentioned in subsection (2) above; or
  - (b) (if it is a summary offence) appears to the court to be related to the offence mentioned in subsection (2) above or to the indictable offence, and which fulfils the requisite condition (as defined in subsection (9) below).
- (5) Where a child or young person who has been sent for trial under subsection (2) above subsequently appears or is brought before a magistrates' court charged with an indictable or summary offence which—
- (a) appears to the court to be related to the offence mentioned in subsection (2) above; and
  - (b) (in the case of a summary offence) fulfils the requisite condition,
- the court may send him forthwith to the Crown Court for trial for the indictable or summary offence.
- (6) Where—
- (a) the court sends a child or young person (“C”) for trial under subsection (2) or (4) above; and
  - (b) an adult appears or is brought before the court on the same or a subsequent occasion charged jointly with C with an either-way offence for which C is sent for trial under subsection (2) or (4) above, or an either-way offence which appears to the court to be related to that offence,
- the court shall where it is the same occasion, and may where it is a subsequent occasion, send the adult forthwith to the Crown Court for trial for the either-way offence.
- (7) Where the court sends an adult for trial under subsection (6) above, it shall at the same time send him to the Crown Court for trial for any either-way or summary offence with which he is charged and which—
- (a) (if it is an either-way offence) appears to the court to be related to the offence for which he was sent for trial; and



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- (b) (if it is a summary offence) appears to the court to be related to the offence for which he was sent for trial or to the either-way offence, and which fulfils the requisite condition.
- (8) The trial of the information charging any summary offence for which a person is sent for trial under this section shall be treated as if the court had adjourned it under section 10 of the 1980 Act and had not fixed the time and place for its resumption.
- (9) A summary offence fulfils the requisite condition if it is punishable with imprisonment or involves obligatory or discretionary disqualification from driving.
- (10) In the case of a child or young person charged with an offence—
  - (a) if the offence satisfies any of the conditions in subsection (3) above, the offence shall be dealt with under subsection (2) above and not under any other provision of this section or section 51 above;
  - (b) subject to paragraph (a) above, if the offence is one in respect of which the requirements of subsection (7) of section 51 above for sending the child or young person to the Crown Court are satisfied, the offence shall be dealt with under that subsection and not under any other provision of this section or section 51 above.
- (11) The functions of a magistrates' court under this section, and its related functions under section 51D below, may be discharged by a single justice.
- (12) An offence falls within this subsection if—
  - (a) it is an offence of homicide;<sup>F61</sup> . . .
  - (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; <sup>F62</sup> or
  - (c) section 29(3) of Violent Crime Reduction Act 2006 (minimum sentences in certain cases of using someone to mind a weapon) would apply if he were convicted of the offence.]

#### Textual Amendments

- F60** Ss. 51-51E substituted for s. 51 (4.4.2005 for specified purposes, 18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), Sch. 3 para. 18; [S.I. 2005/950](#), art. 2(1), Sch. 1 para. 29(a) (with Sch. 2) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(1)); [S.I. 2012/1320](#), art. 4(1)(c)(2)(3) (with art. 5) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4); [S.I. 2012/2574](#), art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by [S.I. 2012/2761](#), art. 2) (with [S.I. 2013/1103](#), art. 4); [S.I. 2013/1103](#), art. 2(1)(c)(2)(3) (with arts. 3, 4)
- F61** Word at the end of s. 51A(12)(a) repealed (6.4.2007) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), ss. 49, 65, 66(2), Sch. 1 para. 5, {Sch. 5}; [S.I. 2007/858](#), [art. 2\(g\)\(m\)\(n\)\(viii\)](#)
- F62** S. 51A(12)(c) and word inserted (6.4.2007) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), ss. 49, 66(2), [Sch. 1 para. 5](#); [S.I. 2007/858](#), [art. 2\(g\)](#)



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VALID FROM 27/03/2014

## 51B Notices in serious or complex fraud cases

- (1) A notice may be given by a designated authority under this section in respect of an indictable offence if the authority is of the opinion that the evidence of the offence charged—
  - (a) is sufficient for the person charged to be put on trial for the offence; and
  - (b) reveals a case of fraud of such seriousness or complexity that it is appropriate that the management of the case should without delay be taken over by the Crown Court.
- (2) That opinion must be certified by the designated authority in the notice.
- (3) The notice must also specify the proposed place of trial, and in selecting that place the designated authority must have regard to the same matters as are specified in paragraphs (a) to (c) of section 51D(4) below.
- (4) A notice under this section must be given to the magistrates' court at which the person charged appears or before which he is brought.
- (5) Such a notice must be given to the magistrates' court before any summary trial begins.
- (6) The effect of such a notice is that the functions of the magistrates' court cease in relation to the case, except—
  - (a) for the purposes of section 51D below;
  - (b) as provided by [<sup>F63</sup>regulations under section 19 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012]; and
  - (c) as provided by section 52 below.
- (7) The functions of a designated authority under this section may be exercised by an officer of the authority acting on behalf of the authority.
- (8) A decision to give a notice under this section shall not be subject to appeal or liable to be questioned in any court (whether a magistrates' court or not).
- (9) In this section “designated authority” means—
  - (a) the Director of Public Prosecutions;
  - (b) the Director of the Serious Fraud Office;
  - <sup>F64</sup>(c) . . . . .
  - (e) the Secretary of State.

### Textual Amendments

**F60** Ss. 51-51E substituted for s. 51 (4.4.2005 for specified purposes, 18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), Sch. 3 para. 18; [S.I. 2005/950](#), art. 2(1), Sch. 1 para. 29(a) (with Sch. 2) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(1)); [S.I. 2012/1320](#), art. 4(1)(c)(2)(3) (with art. 5) (see [S.I. 2012/2574](#), art. 4(2) and

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- S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)
- F63** Words in s. 51B(6)(b) substituted (1.4.2013) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 5 para. 48**; S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)
- F64** S. 51B(9)(c) omitted (27.3.2014) by virtue of **The Public Bodies (Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions) Order 2014 (S.I. 2014/834), art. 1(1), Sch. 2 para. 15**

VALID FROM 17/03/2016

### 51C Notices in certain cases involving children

- (1) A notice may be given by the Director of Public Prosecutions under this section in respect of an offence falling within subsection (3) below if he is of the opinion—
  - (a) that the evidence of the offence would be sufficient for the person charged to be put on trial for the offence;
  - (b) that a child would be called as a witness at the trial; and
  - (c) that, for the purpose of avoiding any prejudice to the welfare of the child, the case should be taken over and proceeded with without delay by the Crown Court.
- (2) That opinion must be certified by the Director of Public Prosecutions in the notice.
- (3) This subsection applies to an offence—
  - (a) which involves an assault on, or injury or a threat of injury to, a person;
  - (b) under section 1 of the Children and Young Persons Act 1933 (cruelty to persons under 16);
  - (c) under the Sexual Offences Act 1956, the Protection of Children Act 1978 or the Sexual Offences Act 2003;
  - (d) of kidnapping or false imprisonment, or an offence under section 1 or 2 of the Child Abduction Act 1984;
  - (e) under section 1 or 2 of the Modern Slavery Act 2015;]
- <sup>F65</sup>(da) (e) 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), (c)[<sup>F66</sup>, (d) or (da)] above.
- (4) Subsections (4), (5) and (6) of section 51B above apply for the purposes of this section as they apply for the purposes of that.
- (5) The functions of the Director of Public Prosecutions under this section may be exercised by an officer acting on behalf of the Director.
- (6) A decision to give a notice under this section shall not be subject to appeal or liable to be questioned in any court (whether a magistrates' court or not).
- (7) In this section “child” means—
  - (a) a person who is under the age of 17; or
  - (b) any person of whom a video recording (as defined in section 63(1) of the Youth Justice and Criminal Evidence Act 1999) was made when he was

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under the age of 17 with a view to its admission as his evidence in chief in the trial referred to in subsection (1) above.

#### Textual Amendments

- F60** Ss. 51-51E substituted for s. 51 (4.4.2005 for specified purposes, 18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), Sch. 3 para. 18; [S.I. 2005/950](#), art. 2(1), Sch. 1 para. 29(a) (with Sch. 2) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(1)); [S.I. 2012/1320](#), art. 4(1)(c)(2)(3) (with art. 5) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4); [S.I. 2012/2574](#), art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by [S.I. 2012/2761](#), art. 2) (with [S.I. 2013/1103](#), art. 4); [S.I. 2013/1103](#), art. 2(1)(c)(2)(3) (with arts. 3, 4)
- F65** S. 51C(3)(da) inserted (17.3.2016) by [The Modern Slavery Act 2015 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/244\)](#), regs. 1(1), **9(a)**
- F66** Words in s. 51C(3)(e) substituted (17.3.2016) by [The Modern Slavery Act 2015 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/244\)](#), regs. 1(1), **9(b)**

#### Modifications etc. (not altering text)

- C10** S. 51C(3)(e) amended (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), **ss. 63(1), 94(1), Sch. 6 para. 36**; [S.I. 2008/2504](#), **art. 2(a)**

### 51D Notice of offence and place of trial

- (1) The court shall specify in a notice—
- the offence or offences for which a person is sent for trial under section 51 or 51A above; and
  - the place at which he is to be tried (which, if a notice has been given under section 51B above, must be the place specified in that notice).
- (2) A copy of the notice shall be served on the accused and given to the Crown Court sitting at that place.
- (3) In a case where a person is sent for trial under section 51 or 51A above for more than one offence, the court shall specify in that notice, for each offence—
- the subsection under which the person is so sent; and
  - if applicable, the offence to which that offence appears to the court to be related.
- (4) Where the court selects the place of trial for the purposes of subsection (1) above, it shall have regard to—
- the convenience of the defence, the prosecution and the witnesses;
  - the desirability of expediting the trial; and
  - any direction given by or on behalf of the Lord Chief Justice with the concurrence of the Lord Chancellor under section 75(1) of the Supreme Court Act 1981.

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### Textual Amendments

**F60** Ss. 51-51E substituted for s. 51 (4.4.2005 for specified purposes, 18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), Sch. 3 para. 18; [S.I. 2005/950](#), art. 2(1), Sch. 1 para. 29(a) (with Sch. 2) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(1); [S.I. 2012/1320](#), art. 4(1)(c)(2)(3) (with art. 5) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4); [S.I. 2012/2574](#), art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by [S.I. 2012/2761](#), art. 2) (with [S.I. 2013/1103](#), art. 4); [S.I. 2013/1103](#), art. 2(1)(c)(2)(3) (with arts. 3, 4)

## 51E Interpretation of sections 50A to 51D

For the purposes of sections 50A to 51D above—

- (a) “adult” means a person aged 18 or over, and references to an adult include a corporation;
- (b) “either-way offence” means an offence triable either way;
- (c) an either-way offence is related to an indictable offence if the charge for the either-way offence could be joined in the same indictment as the charge for the indictable offence;
- (d) a summary offence is related to an indictable offence if it arises out of circumstances which are the same as or connected with those giving rise to the indictable offence.]

### Textual Amendments

**F60** Ss. 51-51E substituted for s. 51 (4.4.2005 for specified purposes, 18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), Sch. 3 para. 18; [S.I. 2005/950](#), art. 2(1), Sch. 1 para. 29(a) (with Sch. 2) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(1); [S.I. 2012/1320](#), art. 4(1)(c)(2)(3) (with art. 5) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4); [S.I. 2012/2574](#), art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by [S.I. 2012/2761](#), art. 2) (with [S.I. 2013/1103](#), art. 4); [S.I. 2013/1103](#), art. 2(1)(c)(2)(3) (with arts. 3, 4)

## 52 Provisions supplementing section 51 <sup>F67</sup> and 51A].

- (1) Subject to section 4 of the <sup>M12</sup>Bail Act 1976, section 41 of the 1980 Act, regulations under section 22 of the 1985 Act and section 25 of the 1994 Act, the court may send a person for trial under section 51 <sup>F68</sup>or 51A] above—
  - (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 <sup>M13</sup>Bail Act 1976, that is to say, by directing him to appear before the Crown Court for trial.
- (2) Where—
  - (a) the person’s release on bail under subsection (1)(b) above is conditional on his providing one or more sureties; and

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- (b) in accordance with subsection (3) of section 8 of the <sup>M14</sup>Bail Act 1976, the court fixes the amount in which a surety is to be bound with a view to his entering into his recognisance subsequently in accordance with subsections (4) and (5) or (6) of that section,
- the court shall in the meantime make an order such as is mentioned in subsection (1) (a) above.
- (3) The court shall treat as an indictable offence for the purposes of section 51 [<sup>F69</sup>or 51A] above an offence which is mentioned in the first column of Schedule 2 to the 1980 Act (offences for which the value involved is relevant to the mode of trial) unless it is clear to the court, having regard to any representations made by the prosecutor or the accused, that the value involved does not exceed the relevant sum.
- (4) In subsection (3) above “the value involved” and “the relevant sum” have the same meanings as in section 22 of the 1980 Act (certain offences triable either way to be tried summarily if value involved is small).
- (5) A magistrates’ court may adjourn any proceedings under section 51 [<sup>F70</sup>or 51A] above, and if it does so shall remand the accused.
- (6) Schedule 3 to this Act (which makes further provision in relation to persons sent to the Crown Court for trial under section 51 [<sup>F71</sup>or 51A] above) shall have effect.

#### Textual Amendments

- F67** Words in s. 52 heading inserted (9.5.2005 for specified purposes, 18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 69\(e\)](#); [S.I. 2005/1267](#), art. 2(1)(2)(b), [Sch. Pt. 2](#); [S.I. 2012/1320](#), art. 4(1)(c)(2)(3) (with art. 5) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4); [S.I. 2012/2574](#), art. 2(2)(3)(c), [Sch.](#) (with arts. 3, 4) (as amended (4.11.2012) by [S.I. 2012/2761](#), art. 2) (with [S.I. 2013/1103](#), art. 4); [S.I. 2013/1103](#), art. 2(1)(c)(2)(3) (with arts. 3, 4)
- F68** Words in s. 52(1) inserted (9.5.2005 for specified purposes, 18.6.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 69\(a\)](#); [S.I. 2005/1267](#), art. 2(1)(2)(b), [Sch. Pt. 2](#); [S.I. 2012/1320](#), art. 4(1)(c)(2)(3) (with art. 5) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4); [S.I. 2013/1103](#), art. 2(1)(c)(2)(3) (with arts. 3, 4)
- F69** Words in s. 52(3) inserted (9.5.2005 for specified purposes, 18.6.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 69\(b\)](#); [S.I. 2005/1267](#), art. 2(1)(2)(b), [Sch. Pt. 2](#); [S.I. 2012/1320](#), art. 4(1)(c)(2)(3) (with art. 5) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4); [S.I. 2013/1103](#), art. 2(1)(c)(2)(3) (with arts. 3, 4)
- F70** Words in s. 52(5) inserted (9.5.2005 for specified purposes, 18.6.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 69\(c\)](#); [S.I. 2005/1267](#), art. 2(1)(2)(b), [Sch. Pt. 2](#); [S.I. 2012/1320](#), art. 4(1)(c)(2)(3) (with art. 5) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4); [S.I. 2013/1103](#), art. 2(1)(c)(2)(3) (with arts. 3, 4)
- F71** Words in s. 52(6) inserted (9.5.2005 for specified purposes, 18.6.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 69\(d\)](#); [S.I. 2005/1267](#), art. 2(1)(2)(b), [Sch. Pt. 2](#); [S.I. 2012/1320](#), art. 4(1)(c)(2)(3) (with art. 5) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4); [S.I. 2013/1103](#), art. 2(1)(c)(2)(3) (with arts. 3, 4)

#### Commencement Information

- I14** S. 52 wholly in force; S. 52 not in force at Royal Assent see s. 121. S. 52(6) in force at 30.9.1998 for certain purposes by [S.I. 1998/2327](#), [art. 2\(1\)](#) (subject to savings in [arts. 5-8](#)); S. 52 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in [Sch. 2](#) of the said

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S.I. by S.I. 1998/2327, **art. 4(2)**; S. 52 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, **art. 2** (with transitional provisions in **art. 3**)

#### Marginal Citations

**M12** 1976 c.63.

**M13** 1976 c.63.

**M14** 1976 c.63.

### Miscellaneous

#### 53 Crown Prosecution Service: powers of non-legal staff.

For section 7A of the 1985 Act there shall be substituted the following section—

##### “7A Powers of non-legal staff.

- (1) The Director may designate, for the purposes of this section, members of the staff of the Crown Prosecution Service who are not Crown Prosecutors.
- (2) Subject to such exceptions (if any) as may be specified in the designation, a person so designated shall have such of the following as may be so specified, namely—
  - (a) the powers and rights of audience of a Crown Prosecutor in relation to—
    - (i) applications for, or relating to, bail in criminal proceedings;
    - (ii) the conduct of criminal proceedings in magistrates’ courts other than trials;
  - (b) the powers of such a Prosecutor in relation to the conduct of criminal proceedings not falling within paragraph (a)(ii) above.
- (3) A person so designated shall exercise any such powers subject to instructions given to him by the Director.
- (4) Any such instructions may be given so as to apply generally.
- (5) For the purposes of this section—
  - (a) “bail in criminal proceedings” has the same meaning as it would have in the <sup>M15</sup>Bail Act 1976 by virtue of the definition in section 1 of that Act if in that section “offence” did not include an offence to which subsection (6) below applies;
  - (b) “criminal proceedings” does not include proceedings for an offence to which subsection (6) below applies; and
  - (c) a trial begins with the opening of the prosecution case after the entry of a plea of not guilty and ends with the conviction or acquittal of the accused.
- (6) This subsection applies to an offence if it is triable only on indictment, or is an offence—
  - (a) for which the accused has elected to be tried by a jury;
  - (b) which a magistrates’ court has decided is more suitable to be so tried; or



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(c) in respect of which a notice of transfer has been given under section 4 of the <sup>M16</sup>Criminal Justice Act 1987 or section 53 of the <sup>M17</sup>Criminal Justice Act 1991.

(7) Details of the following for any year, namely—

- (a) the criteria applied by the Director in determining whether to designate persons under this section;
- (b) the training undergone by persons so designated; and
- (c) any general instructions given by the Director under subsection (4) above,

shall be set out in the Director’s report under section 9 of this Act for that year.”

#### Commencement Information

**I15** S. 53 wholly in force; S. 53 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

#### Marginal Citations

**M15** 1976 c.63.

**M16** 1987 c.38.

**M17** 1991 c.53.

## 54 Bail: increased powers to require security or impose conditions.

(1) In subsection (5) of section 3 of the <sup>M18</sup>Bail Act 1976 (general provisions as to bail), the words “If it appears that he is unlikely to remain in Great Britain until the time appointed for him to surrender to custody” shall cease to have effect.

(2) In subsection (6) of that section, after paragraph (d) there shall be inserted the following paragraph—

“(e) before the time appointed for him to surrender to custody, he attends an interview with an authorised advocate or authorised litigator, as defined by section 119(1) of the <sup>M19</sup>Courts and Legal Services Act 1990;”.

(3) In subsection (2) of section 3A of that Act (conditions of bail in the case of police bail), for the words “paragraph (d)” there shall be substituted the words “ paragraph (d) or (e) ”.

#### Commencement Information

**I16** S. 54 wholly in force; S. 54 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in art. 5-8)

#### Marginal Citations

**M18** 1976 c.63.

**M19** 1990 c.41.

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## 55 Forfeiture of recognizances.

For subsections (1) and (2) of section 120 of the 1980 Act (forfeiture of recognizances) there shall be substituted the following subsections—

“(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;

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.”

### Commencement Information

**I17** S. 55 wholly in force; S. 55 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

## 56 Bail: restrictions in certain cases of homicide or rape.

In subsection (1) of section 25 of the 1994 Act (no bail for defendants charged with or convicted of homicide or rape after previous conviction of such offences), for the words “shall not be granted bail in those proceedings” there shall be substituted the words “ shall be granted bail in those proceedings only if the court or, as the case may be, the constable considering the grant of bail is satisfied that there are exceptional circumstances which justify it ”.

### Commencement Information

**I18** S. 56 wholly in force; S. 56 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)



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## 57 Use of live television links at preliminary hearings.

F72  
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### Textual Amendments

**F72** Pt. 3A (ss. 57A-57E) substituted for s. 57 (15.1.2007 except in relation to s. 57C, and so far as not already in force in relation to specified areas at 1.4.2007, 14.11.2008 and 3.10.2011, otherwise 8.10.2012) by Police and Justice Act 2006 (c. 48), ss. 45, 53(1); S.I. 2006/3364, art 2(g) (with art. 4); S.I. 2007/709, art. 3(n); S.I. 2008/2785, art. 2; S.I. 2011/2144, art. 2; S.I. 2012/2373, art. 2(a)

**Status:**

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**Changes to legislation:**

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