



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.

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; and
 - (b) every probation committee or health authority 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 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;
 - (f) the provision of persons to act as responsible officers in relation to parenting orders, child safety orders, reparation orders and action plan orders;
 - (g) the supervision of young persons sentenced to a probation order, a community service order or a combination order;
 - (h) the supervision of children and young persons sentenced to a detention and training order or a supervision order;
 - (i) the post-release supervision of children and young persons under section 37(4A) or 65 of the 1991 Act or section 31 of the Crime (Sentences) Act 1997 (“the 1997 Act”);
 - (j) the performance of functions under subsection (1) of section 75 below by such persons as may be authorised by the Secretary of State under that subsection.
- (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.

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.
- (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; and
 - (b) every probation committee or health authority 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) a probation officer;
 - (b) a social worker of a local authority social services department;
 - (c) a police officer;
 - (d) a person nominated by a health authority any part of whose area lies within the local authority's area;
 - (e) a person nominated by the chief education officer appointed by the local authority under section 532 of the 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.
- (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.

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.

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.
- (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; and
 - (h) themselves to commission research in connection with such practice.
- (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.
- (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 probation committee and a health authority.
- (11) Schedule 2 to this Act (which makes further provision with respect to the Board) shall have effect.

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 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 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 probation committee or a health authority shall act in accordance with any guidance given by the Secretary of State.

Time limits etc.

43 Time limits

- (1) In subsection (2) of section 22 (time limits in relation to criminal proceedings) of the 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;

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

- (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;
 - (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.”

44 Additional time limits for persons under 18

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

“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 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 Police and Criminal Evidence Act 1984 fails to surrender himself at the appointed time,

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.”

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.
- (4) Fresh proceedings may be instituted in accordance with subsections (2) and (3) (b) above notwithstanding anything in section 127(1) of the 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 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.”

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.”

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; or
 - (b) after conviction and before sentence,remit the person for trial or, as the case may be, for sentence to a magistrates' court (other than a youth court) acting for the same petty sessions area as the youth court.

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 Children and Young Persons Act 1933 (“the 1933 Act”), the words from the beginning to “court; and” shall cease to have effect.

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.

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;
 - (i) to extend, with the consent of the accused, a custody time limit or an overall time limit;
 - (j) where a case is to be tried on indictment, to grant representation under Part V of the Legal Aid Act 1988 for purposes of the proceedings in the Crown Court;
 - (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.
- (2) Without prejudice to the generality of subsection (1) of section 144 of the 1980 Act (rules of procedure)—
- (a) rules under that section 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; and
 - (b) rules under that section which make such provision as is mentioned in paragraph (a) above may make different provision for different areas.
- (3) Rules under that section 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 rules under that section which make such provision as is mentioned in subsection (2) above in relation to any area, the Lord Chancellor 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.

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.
- (2) At a hearing conducted by a single justice under this section—
- (a) the accused shall be asked whether he wishes to receive legal aid; and
 - (b) if he indicates that he does, his eligibility for it shall be determined; and
 - (c) if it is determined that he is eligible for it, the necessary arrangements or grant shall be made for him to obtain it.
- (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.
- (5) In this section “legal aid” means representation under Part V of the Legal Aid Act 1988.

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 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 Supreme Court 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.

52 Provisions supplementing section 51

- (1) Subject to section 4 of the 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 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 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
 - (b) in accordance with subsection (3) of section 8 of the 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 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 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 above) shall have effect.

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 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
 - (c) in respect of which a notice of transfer has been given under section 4 of the Criminal Justice Act 1987 or section 53 of the 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.”

54 Bail: increased powers to require security or impose conditions

- (1) In subsection (5) of section 3 of the 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 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)”.

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.”

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”.

57 Use of live television links at preliminary hearings

- (1) In any proceedings for an offence, a court may, after hearing representations from the parties, direct that the accused shall be treated as being present in the court for any particular hearing before the start of the trial if, during that hearing—
 - (a) he is held in custody in a prison or other institution; and
 - (b) whether by means of a live television link or otherwise, he is able to see and hear the court and to be seen and heard by it.
- (2) A court shall not give a direction under subsection (1) above unless—
 - (a) it has been notified by the Secretary of State that facilities are available for enabling persons held in custody in the institution in which the accused is or is to be so held to see and hear the court and to be seen and heard by it; and
 - (b) the notice has not been withdrawn.
- (3) If in a case where it has power to do so a magistrates' court decides not to give a direction under subsection (1) above, it shall give its reasons for not doing so.
- (4) In this section “the start of the trial” has the meaning given by subsection (11A) or (11B) of section 22 of the 1985 Act.