

Magistrates' Courts Act 1980

1980 CHAPTER 43

Thomson Reuters (Legal) Limited.

UK Statutes Crown Copyright. Reproduced by permission of the Controller of Her Majesty's Stationery Office.

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

[1st August 1980]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

CRIMINAL JURISDICTION AND PROCEDURE

Jurisdiction to issue process and deal with charges

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

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

- (a) a summons directed to that person requiring him to appear before a magistrates' court to answer the information, or
- (b) a warrant to arrest that person and bring him before a magistrates' court.

] ¹

(2) [...] ²

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

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

- (a) the offence to which the warrant relates is an indictable offence or is punishable with imprisonment, or
- (b) the person's address is not sufficiently established for a summons to be served on him.

¹ Substituted by Courts Act 2003 c. 39 Pt 3 s.43(1) (April 1, 2005)

² Repealed by Courts Act 2003 c. 39 Sch.10 para.1 (April 1, 2005 as SI 2005/910)

³ Words repealed by Criminal Justice Act 2003 c. 44 Pt 4 s.31(1) (January 29, 2004)

⁴ Words substituted throughout Part I by Criminal Justice Act 1991 c. 53 Sch.8 para.6(1)(a) (October 1, 1992)

(5) [...]²

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

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

(8) [...]²

Amendments Pending

Pt I s. 1(3): words inserted by Criminal Justice Act 2003 c. 44 Sch. 36(2) para. 8(2) (date to be appointed)

Pt I s. 1(4): words inserted by Criminal Justice Act 2003 c. 44 Sch. 36(2) para. 8(3) (date to be appointed)

Pt I s. 1(6): words inserted by Criminal Justice Act 2003 c. 44 Sch. 36(2) para. 8(4) (date to be appointed)

Pt I s. 1(6A): added by Criminal Justice Act 2003 c. 44 Sch. 36(2) para. 8(5) (date to be appointed)

Pt I s. 1(7A): added by Criminal Justice Act 2003 c. 44 Sch. 36(2) para. 8(6) (date to be appointed)

[2 Trial of summary offences

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

(2) A magistrates' court has jurisdiction [under sections 51 and 51A of the Crime and Disorder Act 1998 in respect of]⁵ any offence committed by a person who appears or is brought before the court.

(3) Subject to—

(a) sections 18 to 22, and

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

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

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

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

]⁶

3.— [...]⁷

⁵ Words substituted by Criminal Justice Act 2003 c. 44 Sch.3(2) para.51(2) (May 9, 2005 in relation to cases sent for trial under 1998 c.37 s.51 or s.51A(3)(d))

⁶ Substituted by Courts Act 2003 c. 39 Pt 3 s.44 (April 1, 2005)

⁷ Repealed by Courts Act 2003 c. 39 Sch.10 para.1 (April 1, 2005 as SI 2005/910)

[3A. Offences committed on ships and abroad.

Sections 280, 281 and 282 of the Merchant Shipping Act 1995 (offences on ships and abroad by British citizens and others) apply in relation to other offences under the law of England and Wales as they apply in relation to offences under that Act or instruments under that Act.]⁸

*Committal proceedings***4.— General nature of committal proceedings.**

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

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

[(3) Subject to subsection (4) below, evidence tendered before examining justices shall be tendered in the presence of the accused.]⁹

(4) Examining justices may allow evidence to be [tendered]¹⁰ before them in the absence of the accused if—

(a) they consider that by reason of his disorderly conduct before them it is not practicable for the evidence to be [tendered]¹⁰ in his presence, or

(b) he cannot be present for reasons of health but is represented by [a legal representative]¹¹ and has consented to the evidence being [tendered]¹⁰ in his absence.

Amendments Pending

Pt I s. 4: repealed by Criminal Justice Act 2003 c. 44 Sch. 3(2) para. 51(3) (date to be appointed)

Pt I s. 4: repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

5.— Adjournment of inquiry.

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

(2) The court shall when adjourning fix the time and place at which the hearing is to be resumed; and the time fixed shall be that at which the accused is required to appear or be brought before the

⁸ Added by Merchant Shipping Act 1995 c. 21 Sch.13 para.55 (January 1, 1996)

⁹ Substituted by Criminal Procedure and Investigations Act 1996 c. 25 Sch.1(I) para.2(2) (March 8, 1997 as SI 1997/683; Sch.1 has effect on March 8, 1997 in relation to any alleged offence in relation to which Part I of this Act applies)

¹⁰ Substituted by Criminal Procedure and Investigations Act 1996 c. 25 Sch.1(I) para.2(3) (March 8, 1997 as SI 1997/683, Sch.1 has effect on March 8, 1997 in relation to any alleged offence in relation to which Part I of this Act applies)

¹¹ Words substituted by Courts and Legal Services Act 1990 (c.41), s. 125(3), Sch. 18 para. 25(3)(a)

court in pursuance of the remand [or would be required to be brought before the court but for section 128(3A) below]¹² .

Amendments Pending

Pt I s. 5: repealed by Criminal Justice Act 2003 c. 44 Sch. 3(2) para. 51(3) (date to be appointed)

Pt I s. 5: repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

[5A.— Evidence which is admissible.

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

(2) Evidence falls within this subsection if it—

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

(3) The following evidence falls within this subsection—

- (a) written statements complying with section 5B below;
- (b) the documents or other exhibits (if any) referred to in such statements;
- (c) depositions complying with section 5C below;
- (d) the documents or other exhibits (if any) referred to in such depositions;
- (e) statements complying with section 5D below;
- (f) documents falling within section 5E below.

(4) In this section “document” means anything in which information of any description is recorded.
]¹³

Amendments Pending

Pt I s. 5A: repealed by Criminal Justice Act 2003 c. 44 Sch. 3(2) para. 51(3) (date to be appointed)

Pt I s. 5A: repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

[5B.— Written statements.

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

- (a) the conditions falling within subsection (2) below are met, and
- (b) such of the conditions falling within subsection (3) below as apply are met.

(2) The conditions falling within this subsection are that—

- (a) the statement purports to be signed by the person who made it;
- (b) the statement contains a declaration by that person to the effect that it is true to the best of his knowledge and belief and that he made the statement knowing that, if it were tendered

¹² Words inserted by Criminal Justice Act 1982 (c.48), s. 59(1), Sch. 9 para. 1(a)

¹³ Added by Criminal Procedure and Investigations Act 1996 c. 25 Sch.1(I) para.3 (March 8, 1997 as SI 1997/683; Sch.1 has effect on March 8, 1997 in relation to any alleged offence in relation to which Part I of this Act applies)

in evidence, he would be liable to prosecution if he wilfully stated in it anything which he knew to be false or did not believe to be true;

(c) before the statement is tendered in evidence a copy of the statement is given, by or on behalf of the prosecutor, to each of the other parties to the proceedings.

(3) The conditions falling within this subsection are that—

(a) if the statement is made by a person under 18 years old, it gives his age;

(b) if it is made by a person who cannot read it, it is read to him before he signs it and is accompanied by a declaration by the person who so read the statement to the effect that it was so read;

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

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

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

(6) In this section “document” means anything in which information of any description is recorded.
] ¹⁴

Amendments Pending

Pt I s. 5B: repealed by Criminal Justice Act 2003 c. 44 Sch. 3(2) para. 51(3) (date to be appointed)

Pt I s. 5B: repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

[5C.— Depositions.

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

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

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

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

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

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

¹⁴ Added by Criminal Procedure and Investigations Act 1996 c. 25 Sch.1(I) para.3 (March 8, 1997 as SI 1997/683; Sch.1 has effect on March 8, 1997 in relation to any alleged offence in relation to which Part I of this Act applies)

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

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

(6) In this section “document” means anything in which information of any description is recorded.
]¹⁵

Amendments Pending

Pt I s. 5C: repealed by Criminal Justice Act 2003 c. 44 Sch. 3(2) para. 51(3) (date to be appointed)

Pt I s. 5C: repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

[5D.— Statements.

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

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

- (a) that the statement might by virtue of section 23 or 24 of the Criminal Justice Act 1988 (statements in certain documents) be admissible as evidence if the case came to trial, and
- (b) that the statement would not be admissible as evidence otherwise than by virtue of section 23 or 24 of that Act if the case came to trial.

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

- (a) the prosecutor's belief is based on information available to him at the time he makes the notification,
- (b) he has reasonable grounds for his belief, and
- (c) he gives the reasons for his belief when he makes the notification.

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

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

] ¹⁶

¹⁵ Added by Criminal Procedure and Investigations Act 1996 c. 25 Sch.1(I) para.3 (March 8, 1997 as SI 1997/683; Sch.1 has effect on March 8, 1997 in relation to any alleged offence in relation to which Part I of this Act applies)

¹⁶ Added by Criminal Procedure and Investigations Act 1996 c. 25 Sch.1(I) para.3 (March 8, 1997 as SI 1997/683; Sch.1 has effect on March 8, 1997 in relation to any alleged offence in relation to which Part I of this Act applies)

Amendments Pending

Pt I s. 5D: repealed by Criminal Justice Act 2003 c. 44 Sch. 3(2) para. 51(3) (date to be appointed)

Pt I s. 5D: repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

[5E.— Other documents.

(1) The following documents fall within this section—

- (a) any document which by virtue of any enactment is evidence in proceedings before a magistrates' court inquiring into an offence as examining justices;
- (b) any document which by virtue of any enactment is admissible, or may be used, or is to be admitted or received, in or as evidence in such proceedings;
- (c) any document which by virtue of any enactment may be considered in such proceedings;
- (d) any document whose production constitutes proof in such proceedings by virtue of any enactment;
- (e) any document by the production of which evidence may be given in such proceedings by virtue of any enactment.

(2) In subsection (1) above—

- (a) references to evidence include references to prima facie evidence;
- (b) references to any enactment include references to any provision of this Act.

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

(4) In this section “document” means anything in which information of any description is recorded.
]¹⁷

Amendments Pending

Pt I s. 5E: repealed by Criminal Justice Act 2003 c. 44 Sch. 3(2) para. 51(3) (date to be appointed)

Pt I s. 5E: repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

[5F.— Proof by production of copy.

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

- (a) the statement, deposition or document, or
- (b) a copy of it or the material part of it.

¹⁷ Added by Criminal Procedure and Investigations Act 1996 c. 25 Sch.1(I) para.3 (March 8, 1997 as SI 1997/683; Sch.1 has effect on March 8, 1997 in relation to any alleged offence in relation to which Part I of this Act applies)

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

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

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

]¹⁸

Amendments Pending

Pt I s. 5F: repealed by Criminal Justice Act 2003 c. 44 Sch. 3(2) para. 51(3) (date to be appointed)

Pt I s. 5F: repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

6.— Discharge or committal for trial.

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

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

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

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

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

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

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

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

]¹⁹

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

¹⁸ Added by Criminal Procedure and Investigations Act 1996 c. 25 Sch.1(I) para.3 (March 8, 1997 as SI 1997/683; Sch.1 has effect on March 8, 1997 in relation to any alleged offence in relation to which Part I of this Act applies)

¹⁹ Substituted by Criminal Procedure and Investigations Act 1996 c. 25 Sch.1(I) para.4 (March 8, 1997 as SI 1997/683; Sch.1 has effect on March 8, 1997 in relation to any alleged offence in relation to which Part I of this Act applies)

- (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;

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

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

(5) Where a magistrates' court acting as examining justices commits any person for trial or determines to discharge him, the [designated officer for]²⁰ the court shall, on the day on which the committal proceedings are concluded or the next day, cause to be displayed in a part of the court house to which the public have access a notice—

- (a) in either case giving that person's name, address, and age (if known);
- (b) in a case where the court so commits him, stating the charge or charges on which he is committed and the court to which he is committed;
- (c) in a case where the court determines to discharge him, describing the offence charged and stating that it has so determined;

but this subsection shall have effect subject to [section 4 of the Sexual Offences (Amendment) Act 1976 (anonymity of complainant in rape etc. cases)]²¹.

(6) A notice displayed in pursuance of subsection (5) above shall not contain the name or address of any person under [the age of 18 years]²² unless the justices in question have stated that in their opinion he would be mentioned in the notice apart from the preceding provisions of this subsection and should be mentioned in it for the purpose of avoiding injustice to him.

Amendments Pending

Pt I s. 6: repealed by Criminal Justice Act 2003 c. 44 Sch. 3(2) para. 51(3) (date to be appointed)

Pt I s. 6: repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

7. Place of trial on indictment.

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

- (a) the convenience of the defence, the prosecution and the witnesses,
- (b) the expediting of the trial, and

²⁰ Words substituted by Courts Act 2003 c. 39 Sch.8 para.202 (April 1, 2005)

²¹ Words substituted by Criminal Justice Act 1988 (c.33), ss. 123(6), 170(1), Sch. 8 para. 16, Sch. 15 para. 66

²² Words substituted throughout Part I by Criminal Justice Act 1991 c. 53 Sch.8 para.6(1)(a) (October 1, 1992)

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

Amendments Pending

Pt I s. 7: repealed by Criminal Justice Act 2003 c. 44 Sch. 3(2) para. 51(3) (date to be appointed)

Pt I s. 7: repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

8.— Restrictions on reports of committal proceedings.

(1) Except as provided by subsections (2), (3) and (8) below, it shall not be lawful to publish in Great Britain a written report, or to [include in a relevant programme for reception]²³ in Great Britain a report, of any committal proceedings in England and Wales containing any matter other than that permitted by subsection (4) below.

(2) [Subject to subsection (2A) below]²⁴ a magistrates' court shall, on an application for the purpose made with reference to any committal proceedings by the accused or one of the accused, as the case may be, order that subsection (1) above shall not apply to reports of those proceedings.

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

(2B) An order under subsection (2) above shall not apply to reports of proceedings under subsection (2A) above, but any decisions of the court to make or not to make such an order may be contained in reports published [or included in a relevant programme]²⁵ before the time authorised by subsection (3) below.]²⁶

(3) It shall not be unlawful under this section to publish [or include in a relevant programme]²⁷ a report of committal proceedings containing any matter other than that permitted by subsection (4) below—

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

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

and where at any time during the inquiry the court proceeds to try summarily the case of one or more of the accused under section 25(3) or (7) below, while committing the other accused or one or more of the other accused for trial, it shall not be unlawful under this section to publish [or include in a relevant programme]²⁷ as part of a report of the summary trial, after the court determines

²³ Words substituted by Broadcasting Act 1990 (c.42), ss. 4(6), 87(6), 203(1), Sch. 20 para. 29(1)(a)

²⁴ Words inserted by Criminal Justice (Amendment) Act 1981 (c.27), s. 1(1)(4)

²⁵ Words substituted by Broadcasting Act 1990 (c.42), ss. 4(6), 87(6), 203(1), Sch. 20 para. 29(1)(b) and Cable and Broadcasting Act 1984 (c.46), s. 57(1), Sch. 5 para. 37(2)

²⁶ Ss. 8(2A)(2B) inserted by Criminal Justice (Amendment) Act 1981 (c.27), s. 1(2)(4)

²⁷ Words substituted by Cable and Broadcasting Act 1984 (c.46), s. 57(1), Sch. 5 para. 37(2) and by Broadcasting Act 1990 (c.42), ss. 4(6), 87(6), 203(1), Sch. 20 para. 29(1)(c)

to proceed as aforesaid, a report of so much of the committal proceedings containing any such matter as takes place before the determination.

(4) The following matters may be contained in a report of committal proceedings published [or included in a relevant programme]²⁸ without an order under subsection (2) above before the time authorised by subsection (3) above, that is to say—

- (a) the identity of the court and the names of the examining justices;
- (b) the names, addresses and occupations of the parties and witnesses and the ages of the accused and witnesses;
- (c) the offence or offences, or a summary of them, with which the accused is or are charged;
- (d) the names of [the legal representatives]²⁹ engaged in the proceedings;
- (e) any decision of the court to commit the accused or any of the accused for trial, and any decision of the court on the disposal of the case of any accused not committed;
- (f) where the court commits the accused or any of the accused for trial, the charge or charges, or a summary of them, on which he is committed and the court to which he is committed;
- (g) where the committal proceedings are adjourned, the date and place to which they are adjourned;
- (h) any arrangements as to bail on committal or adjournment;
- [(i) whether a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service was granted to the accused or any of the accused.]³⁰

(5) If a report is published [or included in a relevant programme]³¹ in contravention of this section, the following persons, that is to say—

- (a) in the case of a publication of a written report as part of a newspaper or periodical, any proprietor, editor or publisher of the newspaper or periodical;
- (b) in the case of a publication of a written report otherwise than as part of a newspaper or periodical, the person who publishes it;
- [(c) in the case of the inclusion of a report in a relevant programme, any body corporate which provides the service in which the programme is included and any person having functions in relation to the programme corresponding to those of an editor of a newspaper,]³²

shall be liable on summary conviction to a fine not exceeding [level 5 on the standard scale]³³ .

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

²⁸ Words substituted by Cable and Broadcasting Act 1984 (c.46), s. 57(1), Sch. 5 para. 37(2) and by Broadcasting Act 1990 (c.42), ss. 4(6), 87(6), 203(1), Sch. 20 para. 29(1)(b)

²⁹ Words substituted by Courts and Legal Services Act 1990 (c.41), s. 125(3), Sch. 18 para. 25(5)

³⁰ Substituted by Access to Justice Act 1999 c. 22 Sch.4 para.16 (April 2, 2001 subject to transitional provisions specified in SI 2001/916 Sch.2 para.2)

³¹ Words substituted by Cable and Broadcasting Act 1984 (c.46), s. 57(1), Sch. 5 para. 37(2) and Broadcasting Act 1990 (c.42), s. 203(1), Sch. 20 para. 29(1)(b)

³² Ss. 8(5)(c) substituted by Broadcasting Act 1990 (c.42), s. 203(1), Sch. 20 para. 29(1)(d)

³³ Words substituted by Criminal Justice Act 1982 (c.48), ss. 38, 46 and Criminal Procedure (Scotland) Act 1975 (c.21), ss. 289F, 289G

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

(8) For the purposes of this section committal proceedings shall, in relation to an information charging an indictable offence, be deemed to include any proceedings in the magistrates' court before the court proceeds to inquire into the information as examining justices; but where a magistrates' court which has begun to try an information summarily discontinues the summary trial in pursuance of section 25(2) or (6) below and proceeds to inquire into the information as examining justices, that circumstance shall not make it unlawful under this section for a report of any proceedings on the information which was published [or included in a relevant programme]³⁴ before the court determined to proceed as aforesaid to have been so published [or included in a relevant programme]³⁴.

(9) [...] ³⁵

(10) In this section—

[...] ³⁶ [...] ³⁷

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

[“relevant programme” means a programme included in a programme service (within the meaning of the Broadcasting Act 1990).] ³⁸

Amendments Pending

Pt I s. 8: repealed by Criminal Justice Act 2003 c. 44 Sch. 3(2) para. 51(3) (date to be appointed)

Pt I s. 8: repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

*[Pre-trial hearings]*³⁹

[8A Power to make rulings at pre-trial hearing

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

- (a) it relates to an information—
 - (i) which is to be tried summarily, and
 - (ii) to which the accused has pleaded not guilty, and
- (b) it takes place before the start of the trial.

³⁴ Words substituted by Cable and Broadcasting Act 1984 (c.46), s. 57(1), Sch. 5 para. 37(2) and Broadcasting Act 1990 (c.42), ss. 4(6), 87(6), 203(1), Sch. 20 para. 29(1)(b)

³⁵ Repealed by Contempt of Court Act 1981 (c.49), s. 4(4)

³⁶ Definition of \u201cbroadcast\u201drepealed by Broadcasting Act 1990 (c.42), ss. 4(6), 87(6), 203(1)(3), Sch. 20 para. 29(1)(e), Sch. 21

³⁷ Definition of \u201ccable programme\u201d repealed by Broadcasting Act 1990 (c.42), ss.4(6), 87(6), 203(1)(3), Sch. 20 para. 29(1)(e), Sch. 21

³⁸ Definition inserted by Broadcasting Act 1990 (c.42), s. 203(1), Sch. 20, para. 29(1)(e)

³⁹ Added by Courts Act 2003 c. 39 Sch.3 para.1 (April 1, 2005)

- (2) For the purposes of subsection (1)(b), the start of a summary trial occurs when the court begins—
- (a) to hear evidence from the prosecution at the trial, or
 - (b) to consider whether to exercise its power under section 37(3) of the Mental Health Act 1983 (power to make hospital order without convicting the accused).
- (3) At a pre-trial hearing, a magistrates' court may make a ruling as to any matter mentioned in subsection (4) if—
- (a) the condition in subsection (5) is met,
 - (b) the court has given the parties an opportunity to be heard, and
 - (c) it appears to the court that it is in the interests of justice to make the ruling.
- (4) The matters are—
- (a) any question as to the admissibility of evidence;
 - (b) any other question of law relating to the case.
- (5) The condition is that, if the accused is not legally represented [...] ⁴⁰ —
- (a) [the court must] ⁴¹ ask whether he wishes to be granted a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service, and
 - (b) if he does, [the Legal Services Commission must] ⁴² decide whether or not to grant him that right.
- (6) A ruling may be made under this section—
- (a) on an application by a party to the case, or
 - (b) of the court's own motion.
- (7) For the purposes of this section and section 8B, references to the prosecutor are to any person acting as prosecutor, whether an individual or body.
- ⁴³

[8B Effect of rulings at pre-trial hearing

- (1) Subject to subsections (3) and (6), a ruling under section 8A has binding effect from the time it is made until the case against the accused or, if there is more than one, against each of them, is disposed of.
- (2) The case against an accused is disposed of if—
- (a) he is acquitted or convicted,
 - (b) the prosecutor decides not to proceed with the case against him, or
 - (c) the information is dismissed.
- (3) A magistrates' court may discharge or vary (or further vary) a ruling under section 8A if—
- (a) the condition in section 8A(5) is met,
 - (b) the court has given the parties an opportunity to be heard, and

⁴⁰ Words repealed by Criminal Defence Service (Representation Orders and Consequential Amendments) Regulations 2006/2493 reg.7(a) (October 2, 2006)

⁴¹ Words inserted by Criminal Defence Service (Representation Orders and Consequential Amendments) Regulations 2006/2493 reg.7(b) (October 2, 2006)

⁴² Words inserted by Criminal Defence Service (Representation Orders and Consequential Amendments) Regulations 2006/2493 reg.7(c) (October 2, 2006)

⁴³ Added by Courts Act 2003 c. 39 Sch.3 para.1 (April 1, 2005)

- (c) it appears to the court that it is in the interests of justice to do so.
- (4) The court may act under subsection (3)–
- (a) on an application by a party to the case, or
 - (b) of its own motion.
- (5) No application may be made under subsection (4)(a) unless there has been a material change of circumstances since the ruling was made or, if a previous application has been made, since the application (or last application) was made.
- (6) A ruling under section 8A is discharged in relation to an accused if–
- (a) the magistrates' court commits or sends him to the Crown Court for trial for the offence charged in the information, or
 - (b) a count charging him with the offence is included in an indictment by virtue of section 40 of the Criminal Justice Act 1988.

] ⁴⁴

Amendments Pending

Pt I s. 8B(6): words repealed by Criminal Justice Act 2003 c. 44 Sch. 3(2) para. 51(4) (date to be appointed)

Pt I s. 8B(6)(a): words repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

[8C Restrictions on reporting

- (1) Except as provided by this section no report of matters falling within subsection (2) may be published in England and Wales.
- (2) The following matters fall within this subsection–
- (a) a ruling under section 8A;
 - (b) proceedings on an application for a ruling under section 8A;
 - (c) an order under section 8B that a ruling under section 8A be discharged, varied or further varied;
 - (d) proceedings on an application under section 8B for a ruling under section 8A to be discharged, varied or further varied.
- (3) A magistrates' court dealing with any matter falling within subsection (2) may order that subsection (1) does not apply, or does not apply to a specified extent, to a report of the matter.
- (4) Where there is only one accused and he objects to the making of an order under subsection (3)–
- (a) the court may make the order if (and only if) satisfied after hearing the representations of the accused that it is in the interests of justice to do so, and
 - (b) if the order is made, it shall not apply to the extent that a report deals with any such objection or representations.
- (5) Where there are two or more accused and one or more of them objects to the making of an order under subsection (3)–

⁴⁴ Added by Courts Act 2003 c. 39 Sch.3 para.1 (April 1, 2005)

- (a) the court may make the order if (and only if) satisfied after hearing the representations of each of the accused that it is in the interests of justice to do so, and
 - (b) if the order is made, it shall not apply to the extent that a report deals with any such objection or representations.
- (6) Subsection (1) does not apply to the publication of a report of matters after the case against the accused or, if more than one, against each of them, is disposed of.
- (7) Subsection (1) does not apply to a report which contains only one or more of the following matters—
- (a) the identity of the court and the names of the justices;
 - (b) the names, ages, home addresses and occupations of the accused and witnesses;
 - (c) the offence or offences, or a summary of them, with which the accused or any of the accused are charged;
 - (d) the names of counsel and solicitors in the proceedings;
 - (e) where the proceedings are adjourned, the date and place to which they are adjourned;
 - (f) any arrangements as to bail;
 - (g) whether a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service was granted to the accused or any of the accused.
- (8) The addresses that may be included in a report by virtue of subsection (7) are addresses—
- (a) at any relevant time, and
 - (b) at the time of their inclusion in the publication.
- (9) In subsection (8), “relevant time” means a time when events giving rise to the charges to which the proceedings relate are alleged to have occurred.
- (10) Nothing in this section affects any prohibition or restriction imposed by virtue of any other enactment on the publication of a report of any matter.
- (11) In this section and in section 8D—
- (a) references to publication of a report of matters falling within subsection (2)—
 - (i) include references to inclusion of those matters in any speech, writing, relevant programme or other communication in whatever form which is addressed to the public at large or any section of the public (and for this purpose every relevant programme is to be taken to be so addressed), but
 - (ii) do not include references to inclusion of those matters in a document prepared for use in particular legal proceedings;
 - (b) “relevant programme” means a programme included in a programme service, within the meaning of the Broadcasting Act 1990.

]⁴⁵

[8D Offences in connection with reporting

- (1) If a report is published in contravention of section 8C each of the following persons is guilty of an offence—
- (a) in the case of a publication of a report as part of a newspaper or periodical, any proprietor, editor or publisher of the newspaper or periodical;

⁴⁵ Added by Courts Act 2003 c. 39 Sch.3 para.1 (April 1, 2005)

- (b) in the case of the inclusion of a report in a relevant programme, any body corporate which is engaged in providing the service in which the programme is included and any person having functions in relation to the programme corresponding to those of an editor of a newspaper;
- (c) in the case of any other publication, any person publishing it.
- (2) If an offence under this section committed by a body corporate is proved—
- (a) to have been committed with the consent or connivance of, or
- (b) to be attributable to any neglect on the part of,
- an officer, the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.
- (3) In subsection (2), “officer” means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.
- (4) If the affairs of a body corporate are managed by its members, “director” in subsection (3) means a member of that body.
- (5) A person guilty of an offence under this section is liable on summary conviction to a fine of an amount not exceeding level 5 on the standard scale.
- (6) Proceedings for an offence under this section may not be instituted otherwise than by or with the consent of the Attorney General.
-]⁴⁶

Summary trial of information

9.— Procedure on trial.

- (1) On the summary trial of an information, the court shall, if the accused appears, state to him the substance of the information and ask him whether he pleads guilty or not guilty.
- (2) The court, after hearing the evidence and the parties, shall convict the accused or dismiss the information.
- (3) If the accused pleads guilty, the court may convict him without hearing evidence.

10.— Adjournment of trial.

- (1) A magistrates' court may at any time, whether before or after beginning to try an information, adjourn the trial, and may do so, notwithstanding anything in this Act, when composed of a single justice.
- (2) The court may when adjourning either fix the time and place at which the trial is to be resumed, or, unless it remands the accused, leave the time and place to be determined later by the court; but the trial shall not be resumed at that time and place unless the court is satisfied that the parties have had adequate notice thereof.
- (3) A magistrates' court may, for the purpose of enabling inquiries to be made or of determining the most suitable method of dealing with the case, exercise its power to adjourn after convicting

⁴⁶ Added by Courts Act 2003 c. 39 Sch.3 para.1 (April 1, 2005)

the accused and before sentencing him or otherwise dealing with him; but, if it does so, the adjournment shall not be for more than 4 weeks at a time unless the court remands the accused in custody and, where it so remands him, the adjournment shall not be for more than 3 weeks at a time.

[(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.

] ⁴⁷

(4) On adjourning the trial of an information the court may remand the accused and, where the accused has attained [the age of 18 years] ⁴⁸, shall do so if the offence is triable either way and—

- (a) on the occasion on which the accused first appeared, or was brought, before the court to answer to the information he was in custody or, having been released on bail, surrendered to the custody of the court; or
- (b) the accused has been remanded at any time in the course of proceedings on the information;

and, where the court remands the accused, the time fixed for the resumption of the trial shall be that at which he is required to appear or be brought before the court in pursuance of the remand [or would be required to be brought before the court but for section 128(3A) below] ⁴⁹.

11.— Non-appearance of accused: general provisions.

(1) [Subject to the provisions of this Act, where at the time and place appointed for the trial or adjourned trial of an information the prosecutor appears but the accused does not —

- (a) if the accused is under 18 years of age, the court may proceed in his absence; and
- (b) if the accused has attained the age of 18 years, the court shall proceed in his absence unless it appears to the court to be contrary to the interests of justice to do so.

This is subject to subsections (2), (2A), (3) and (4).] ⁵⁰

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

[(2A) The court shall not proceed in the absence of the accused if it considers that there is an acceptable reason for his failure to appear.] ⁵¹

(3) [In proceedings to which this subsection applies, the court] ⁵² shall not in a person's absence sentence him to imprisonment or detention in a detention centre or make [a [detention and training

⁴⁷ Added by Crime and Disorder Act 1998 c. 37 Pt III s.47(5) (September 30, 1998)

⁴⁸ Words substituted throughout Part I by Criminal Justice Act 1991 c. 53 Sch.8 para.6(1)(a) (October 1, 1992)

⁴⁹ Words inserted by Criminal Justice Act 1982 (c.48), s. 59(1), Sch. 9 para. 1(b)

⁵⁰ S.11(1)(a) and (b) substituted for words by Criminal Justice and Immigration Act 2008 c. 4 Pt 4 s.54(2) (July 14, 2008)

⁵¹ Added by Criminal Justice and Immigration Act 2008 c. 4 Pt 4 s.54(3) (July 14, 2008)

⁵² Words substituted by Criminal Justice and Immigration Act 2008 c. 4 Pt 4 s.54(4) (July 14, 2008)

order]⁵³ or]⁵⁴ an order under [paragraph 8(2)(a) or (b) of Schedule 12 to the Criminal Justice Act 2003]⁵⁵ that a suspended sentence passed on him shall take effect.

[(3A) But where a sentence or order of a kind mentioned in subsection (3) is imposed or given in the absence of the offender, the offender must be brought before the court before being taken to a prison or other institution to begin serving his sentence (and the sentence or order is not to be regarded as taking effect until he is brought before the court).]⁵⁶

(4) [In proceedings to which this subsection applies, the court]⁵² shall not in a person's absence impose any disqualification on him, except on resumption of the hearing after an adjournment under section 10(3) above; and where a trial is adjourned in pursuance of this subsection the notice required by section 10(2) above shall include notice of the reason for the adjournment.

[(5) Subsections (3) and (4) apply to—

- (a) proceedings instituted by an information, where a summons has been issued; and
- (b) proceedings instituted by a written charge.

(6) Nothing in this section requires the court to enquire into the reasons for the accused's failure to appear before deciding whether to proceed in his absence.

(7) The court shall state in open court its reasons for not proceeding under this section in the absence of an accused who has attained the age of 18 years; and the court shall cause those reasons to be entered in its register of proceedings.]⁵⁷

Amendments Pending

Pt I s. 11(3): words repealed by Criminal Justice and Court Services Act 2000 c. 43 Sch. 8 para. 1 (date to be appointed)

[12.— Non-appearance of accused; plea of guilty.

(1) This section shall apply where—

- (a) a summons has been issued requiring a person to appear before a magistrates' court, other than a youth court, to answer to an information for a summary offence, not being—
 - (i) [...] ⁵⁸
 - (ii) an offence specified in an order made by the Secretary of State by statutory instrument; and
- (b) the [designated officer for] ⁵⁹ the court is notified by or on behalf of the prosecutor that the documents mentioned in subsection (3) below have been served upon the accused with the summons.

⁵³ Words substituted by Crime and Disorder Act 1998 c. 37 Sch.8 para.39 (April 1, 2000: commencement order)

⁵⁴ Words inserted by Criminal Justice and Public Order Act 1994 c. 33 Sch.10 para.39 (March 1, 1998)

⁵⁵ Words substituted by Criminal Justice Act 2003 c. 44 Sch.32(1) para.26 (April 4, 2005)

⁵⁶ Added by Criminal Justice and Immigration Act 2008 c. 4 Pt 4 s.54(5) (July 14, 2008)

⁵⁷ Added by Criminal Justice and Immigration Act 2008 c. 4 Pt 4 s.54(6) (July 14, 2008)

⁵⁸ Repealed by Criminal Justice Act 2003 c. 44 Sch.37(12) para.1 (April 4, 2005 as SI 2005/950)

⁵⁹ Words substituted by Courts Act 2003 c. 39 Sch.8 para.203(a) (April 1, 2005)

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

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

- (a) a notice containing such statement of the effect of this section as may be prescribed;
- [(b) either of the following, namely—
 - (i) a concise statement of such facts relating to the charge as will be placed before the court by the prosecutor if the accused pleads guilty without appearing before the court, or
 - (ii) a copy of such written statement or statements complying with subsections (2)(a) and (b) and (3) of section 9 of the Criminal Justice Act 1967 (proof by written statement) as will be so placed in those circumstances; and

] ⁶⁰

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

(4) Where the [designated officer for] ⁶¹ the court receives a notification in writing purporting to be given by the accused or by a legal representative acting on his behalf that the accused desires to plead guilty without appearing before the court—

- (a) the [designated officer for] ⁶¹ the court shall inform the prosecutor of the receipt of the notification; and
- (b) the following provisions of this section shall apply:

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

- (a) the accused does not appear; and
- (b) it is proved to the satisfaction of the court, on oath or in such manner as may be prescribed, that the documents mentioned in subsection (3) above have been served upon the accused with the summons,

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

(6) If at any time before the hearing the [designated officer for] ⁶² the court receives an indication in writing purporting to be given by or on behalf of the accused that he wishes to withdraw the notification—

- (a) the [designated officer for] ⁶² the court shall inform the prosecutor of the withdrawal; and
- (b) the court shall deal with the information as if the notification had not been given.

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

⁶⁰ Substituted subject to transitional provisions specified in SI 1999/1197 art.3 by Magistrates' Courts (Procedure) Act 1998 c. 15 s.1(1) (May 4, 1999: substitution has effect subject to transitional provisions specified in SI 1999/1197 art.3)

⁶¹ Words substituted by Courts Act 2003 c. 39 Sch.8 para.203(b) (April 1, 2005)

⁶² Words substituted by Courts Act 2003 c. 39 Sch.8 para.203(c) (April 1, 2005)

- [(a) in a case where a statement of facts as mentioned in subsection (3)(b)(i) above was served on the accused with the summons, that statement;
- (aa) in a case where a statement or statements as mentioned in subsection (3)(b)(ii) above was served on the accused with the summons and the court does not otherwise direct, that statement or those statements;]⁶³
- (b) any information contained in a notice so served, and any information described in such a notice and produced by or on behalf of the prosecutor;
- (c) the notification under subsection (4) above; and
- (d) any submission received with the notification which the accused wishes to be brought to the attention of the court with a view to mitigation of sentence.

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

(7B) Whether or not a direction under paragraph (aa) of subsection (7) above is given in relation to any statement served as mentioned in that paragraph the court need not cause to be read out the declaration required by section 9(2)(b) of the Criminal Justice Act 1967.]⁶⁴

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

- (a) any other statement with respect to any facts relating to the offence charged; or
- (b) any other information relating to the accused,

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

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

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

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

- (a) which is for not more than 4 weeks; and
- (b) the purpose of which is to enable the court to proceed under subsection (5) above at a later time.

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

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

⁶³ S.12(7)(a)-(aa) substituted for s.12(7)(a) subject to transitional provisions specified in SI 1999/1197 art.3 by Magistrates' Courts (Procedure) Act 1998 c. 15 s.1(2) (May 4, 1999: substitution has effect subject to transitional provisions specified in SI 1999/1197 art.3)

⁶⁴ Added subject to transitional provisions specified in SI 1999/1197 art.3 by Magistrates' Courts (Procedure) Act 1998 c. 15 s.1(3) (May 4, 1999: addition has effect subject to transitional provisions specified in SI 1999/1197 art.3)

] ⁶⁵**[12A.— Application of section 12 where accused appears.**

(1) Where the [designated officer for]⁶⁶ the court has received such a notification as is mentioned in subsection (4) of section 12 above but the accused nevertheless appears before the court at the time and place appointed for the trial or adjourned trial, the court may, if he consents, proceed under subsection (5) of that section as if he were absent.

(2) Where the [designated officer for]⁶⁷ the court has not received such a notification and the accused appears before the court at that time and place and informs the court that he desires to plead guilty, the court may, if he consents, proceed under section 12(5) above as if he were absent and the [designated officer]⁶⁸ had received such a notification.

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

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

- (a) before accepting the plea of guilty and convicting the accused under subsection (5) of section 12 above, the court shall afford the accused an opportunity to make an oral submission with a view to mitigation of sentence; and
- (b) where he makes such a submission, subsection (7)(d) of that section shall not apply.

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

- (a) subsection (6) of section 12 above shall apply as if any reference to the notification under subsection (4) of that section were a reference to the consent under subsection (2) above;
- (b) subsection (7)(c) and (d) of that section shall not apply; and
- (c) before accepting the plea of guilty and convicting the accused under subsection (5) of that section, the court shall afford the accused an opportunity to make an oral submission with a view to mitigation of sentence..

] ⁶⁹**13.— Non-appearance of accused: issue of warrant.**

(1) Subject to the provisions of this section, where the court, instead of proceeding in the absence of the accused, adjourns or further adjourns the trial, the court may [...] ⁷⁰ issue a warrant for his arrest.

⁶⁵ Substituted by Criminal Justice and Public Order Act 1994 c. 33 Sch.5 para.1 (September 4, 1995)

⁶⁶ Words substituted by Courts Act 2003 c. 39 Sch.8 para.204(2) (April 1, 2005)

⁶⁷ Words substituted by Courts Act 2003 c. 39 Sch.8 para.204(3)(a) (April 1, 2005)

⁶⁸ Word substituted by Courts Act 2003 c. 39 Sch.8 para.204(3)(b) (April 1, 2005)

⁶⁹ Added by Criminal Justice and Public Order Act 1994 c. 33 Sch.5 para.2 (September 4, 1995)

⁷⁰ Words repealed subject to transitional provisions in SI 1998/1837 art.4 by Magistrates' Courts (Procedure) Act 1998 c. 15 s.3(1) (September 1, 1998: repeal has effect subject to transitional provisions in SI 1998/1837 art.4)

(2) Where a summons has been issued, the court shall not issue a warrant under this section [unless the condition in subsection (2A) below or that in subsection (2B) below is fulfilled]⁷¹ .

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

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

- (a) the adjournment now being made is a second or subsequent adjournment of the trial.
- (b) the accused was present on the last (or only) occasion when the trial was adjourned, and
- (c) on that occasion the court determined the time for the hearing at which the adjournment is now being made.

] ⁷²

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

- (a) [...] ⁷³ the offence to which the warrant relates is punishable with imprisonment, or
- (b) the court, having convicted the accused, proposes to impose a disqualification on him.

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

[(a) the offence to which the warrant relates is punishable, in the case of a person who has attained the age of 18, with imprisonment, or] ⁷⁴

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

] ⁷⁵

[(4) This section shall not apply to an adjournment on the occasion of the accused's conviction in his absence under subsection (5) of section 12 above or to an adjournment required by subsection (9) of that section..] ⁷⁶

(5) [...] ⁷⁷

14.— Proceedings invalid where accused did not know of them.

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

⁷¹ Words substituted by Criminal Procedure and Investigations Act 1996 c. 25 Pt VI s.48(2) (July 4, 1996: substitution has effect where the court proposes to issue a warrant under 1996 c.25 s.13 on or after October 1, 1996)

⁷² Added by Criminal Procedure and Investigations Act 1996 c. 25 Pt VI s.48(3) (July 4, 1996: insertion has effect where the court proposes to issue a warrant under 1996 c.25 s.13 on or after October 1, 1996)

⁷³ Words repealed by Criminal Justice Act 2003 c. 44 Pt 4 s.31(2) (January 29, 2004)

⁷⁴ Substituted by Criminal Justice Act 2003 c. 44 Pt 4 s.31(3) (January 29, 2004)

⁷⁵ S.13(3) and (3A) substituted for s.13(3) subject to transitional provisions in SI 1998/1837 art.4 by Magistrates' Courts (Procedure) Act 1998 c. 15 s.3(2) (September 1, 1998: substitution has effect subject to transitional provisions in SI 1998/1837 art.4)

⁷⁶ Substituted by Criminal Justice and Public Order Act 1994 c. 33 Sch.5 para.3(2) (September 4, 1995)

⁷⁷ Repealed by Criminal Justice and Immigration Act 2008 c. 4 Sch.28(4) para.1 (July 14, 2008 as SI 2008/1586)

- (a) the accused, at any time during or after the trial, makes a statutory declaration that he did not know of the summons or the proceedings until a date specified in the declaration, being a date after the court has begun to try the information; and
- (b) within 21 days of that date the declaration is served on the [designated officer for the court]⁷⁸ ,

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

(2) For the purposes of subsection (1) above a statutory declaration shall be deemed to be duly served on the [designated officer]⁷⁹ if it is delivered to him, or left at his office, or is sent in a registered letter or by the recorded delivery service addressed to him at his office.

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

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

15.— Non-appearance of prosecutor.

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

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

16. Non-appearance of both parties.

Subject to section 11(3) and (4) and to section 12 above, where at the time and place appointed for the trial or adjourned trial of an information neither the prosecutor nor the accused appears, the court may dismiss the information or, if evidence has been received on a previous occasion, proceed in their

Offences triable on indictment or summarily

17.— Certain offences triable either way.

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

⁷⁸ Words substituted by Courts Act 2003 c. 39 Sch.8 para.205(2) (April 1, 2005)

⁷⁹ Words substituted by Courts Act 2003 c. 39 Sch.8 para.205(3) (April 1, 2005)

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

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

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

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

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

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

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

(b) he may be committed for sentence to the Crown Court under [section 3 of the Powers of Criminal Courts (Sentencing) Act 2000]⁸⁰ below if the court is of such opinion as is mentioned in subsection (2) of that section.

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

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

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

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

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

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

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

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

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

]⁸¹

Amendments Pending

Pt I s. 17A(4)(b): substituted by Criminal Justice Act 2003 c. 44 Sch. 3(1) para. 2(2) (date to be appointed)

⁸⁰ Words substituted by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.9 para.62 (August 25, 2000)

⁸¹ Added by Criminal Procedure and Investigations Act 1996 c. 25 Pt VI s.49(2) (July 4, 1996)

Pt I s. 17A(10): added by Criminal Justice Act 2003 c. 44 Sch. 3(1) para. 2(3) (date to be appointed)

[17B.— Intention as to plea: absence of accused.

(1) This section shall have effect where—

- (a) a person who has attained the age of 18 years appears or is brought before a magistrates' court on an information charging him with an offence triable either way.
- (b) the accused is represented by a legal representative,
- (c) the court considers that by reason of the accused's disorderly conduct before the court it is not practicable for proceedings under section 17A above to be conducted in his presence, and
- (d) the court considers that it should proceed in the absence of the accused.

(2) In such a case—

- (a) the court shall cause the charge to be written down, if this has not already been done, and to be read to the representative;
- (b) the court shall ask the representative whether (if the offence were to proceed to trial) the accused would plead guilty or not guilty;
- (c) if the representative indicates that the accused would plead guilty the court shall proceed as if the proceedings constituted from the beginning the summary trial of the information, and as if section 9(1) above was complied with and the accused pleaded guilty under it;
- (d) if the representative indicates that the accused would plead not guilty section 18(1) below shall apply.

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

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

- (a) asking the representative under this section whether (if the offence were to proceed to trial) the accused would plead guilty or not guilty;
- (b) an indication by the representative under this section of how the accused would plead.

]⁸²

[17C. Intention as to plea adjournment.

A magistrates' court proceeding under section 17A or 17B above may adjourn the proceedings at any time, and on doing so on any occasion when the accused is present may remand the accused, and shall remand him if—

- (a) on the occasion on which he first appeared, or was brought, before the court to answer to the information he was in custody or, having been released on bail, surrendered to the custody of the court; or
- (b) he has been remanded at any time in the course of proceedings on the information;

⁸² Added by Criminal Procedure and Investigations Act 1996 c. 25 Pt VI s.49(2) (July 4, 1996)

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

] ⁸³

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

(1) Sections 19 to 23 below shall have effect where a person who has attained [the age of 18 years] ⁸⁴ appears or is brought before a magistrates' court on an information charging him with an offence triable either way [and—] ⁸⁵

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

(b) his representative indicates under section 17B above that (if the offence were to proceed to trial) he would plead not guilty.] ⁸⁵

(2) Without prejudice to section 11(1) above, everything that the court is required to do under sections 19 to 22 below must be done before any evidence is called and, subject to subsection (3) below and section 23 below, with the accused present in court.

(3) The court may proceed in the absence of the accused in accordance with such of the provisions of sections 19 to 22 below as are applicable in the circumstances if the court considers that by reason of his disorderly conduct before the court it is not practicable for the proceedings to be conducted in his presence; and subsections (3) to (5) of section 23 below, so far as applicable, shall have effect in relation to proceedings conducted in the absence of the accused by virtue of this subsection (references in those subsections to the person representing the accused being for this purpose read as references to the person, if any, representing him).

(4) A magistrates' court proceeding under sections 19 to 23 below may adjourn the proceedings at any time, and on doing so on any occasion when the accused is present may remand the accused, and shall remand him if—

(a) on the occasion on which he first appeared, or was brought, before the court to answer to the information he was in custody or, having been released on bail, surrendered to the custody of the court; or

(b) he has been remanded at any time in the course of proceedings on the information;

and where the court remands the accused, the time fixed for the resumption of the proceedings shall be that at which he is required to appear or be brought before the court in pursuance of the remand [or would be required to be brought before the court but for section 128(3A) below] ⁸⁶ .

(5) The functions of a magistrates' court under sections 19 to 23 below may be discharged by a single justice, but the foregoing provision shall not be taken to authorise the summary trial of an information by a magistrates' court composed of less than two justices.

⁸³ Added by Criminal Procedure and Investigations Act 1996 c. 25 Pt VI s.49(2) (July 4, 1996)

⁸⁴ Words substituted throughout Part I by Criminal Justice Act 1991 c. 53 Sch.8 para.6(1)(a) (October 1, 1992)

⁸⁵ Added by Criminal Procedure and Investigations Act 1996 c. 25 Pt VI s.49(3) (July 4, 1996)

⁸⁶ Words inserted by Criminal Justice Act 1982 (c.48), s. 59(1), Sch. 9 para. 1(c)

Amendments Pending

Pt I s. 18(5): substituted by Criminal Justice Act 2003 c. 44 Sch. 3(1) para. 4 (date to be appointed)

19.— Court to begin by considering which mode of trial appears more suitable.

(1) The court shall consider whether, having regard to the matters mentioned in subsection (3) below and any representations made by the prosecutor or the accused, the offence appears to the court more suitable for summary trial or for trial on indictment.

(2) Before so considering, the court—

(a) [...] ⁸⁷

(b) shall afford first the prosecutor and then the accused an opportunity to make representations as to which mode of trial would be more suitable.

(3) The matters to which the court is to have regard under subsection (1) above are the nature of the case; whether the circumstances make the offence one of serious character; whether the punishment which a magistrates' court would have power to inflict for it would be adequate; and any other circumstances which appear to the court to make it more suitable for the offence to be tried in one way rather than the other.

(4) If the prosecution is being carried on by the Attorney General, the Solicitor General or the Director of Public Prosecutions and he applies for the offence to be tried on indictment, the preceding provisions of this section and sections 20 and 21 below shall not apply, and the court shall proceed to inquire into the information as examining justices.

[(5) The power of the Director of Public Prosecutions under subsection (4) above to apply for an offence to be tried on indictment shall not be exercised except with the consent of the Attorney General.] ⁸⁸

Amendments Pending

Pt I s. 19: substituted by Criminal Justice Act 2003 c. 44 Sch. 3(1) para. 5 (date to be appointed)

Pt I s. 19(3): words substituted by Coroners and Justice Act 2009 c. 25 Sch. 21(8) para. 80 (date to be appointed: substitution came into force April 6, 2010 but cannot take effect until the commencement of 2003 c.44 Sch.3)

Pt I s. 19(5): substituted by Armed Forces Act 2006 c. 52 Sch. 16 para. 88 (date to be appointed: substitution came into force on October 31, 2009 but cannot take effect until the commencement of 2003 c.44 Sch.3 para.5)

Pt I s. 19(5)(a): word repealed by Coroners and Justice Act 2009 c. 25 Sch. 23(5) para. 1 (date to be appointed)

Pt I s. 19(5)(aa): added by Coroners and Justice Act 2009 c. 25 Sch. 17 para. 4(2) (date to be appointed)

⁸⁷ Repealed by Criminal Procedure and Investigations Act 1996 c. 25 Pt VI s.49(4) (July 4, 1996)

⁸⁸ S. 19(5) inserted by Prosecution of Offences Act 1985 (c.23), s. 31(5), Sch. 1 Pt. I para. 2

Pt I s. 19(5A): added by Coroners and Justice Act 2009 c. 25 Sch. 17 para. 4(3) (date to be appointed)

20.— Procedure where summary trial appears more suitable.

(1) If, where the court has considered as required by section 19(1) above, it appears to the court that the offence is more suitable for summary trial, the following provisions of this section shall apply (unless excluded by section 23 below).

(2) The court shall explain to the accused in ordinary language—

(a) that it appears to the court more suitable for him to be tried summarily for the offence, and that he can either consent to be so tried or, if he wishes, be tried by a jury; and

(b) that if he is tried summarily and is convicted by the court, he may be committed for sentence to the Crown Court under [section 3 of the Powers of Criminal Courts (Sentencing) Act 2000]⁸⁹ if the convicting court, [is of such opinion as is mentioned in subsection (2) of that section]⁹⁰ .

(3) After explaining to the accused as provided by subsection (2) above the court shall ask him whether he consents to be tried summarily or wishes to be tried by a jury, and—

(a) if he consents to be tried summarily, shall proceed to the summary trial of the information;

(b) if he does not so consent, shall proceed to inquire into the information as examining justices.

Amendments Pending

Pt I s. 20: ss.20-20A substituted for s.20 by Criminal Justice Act 2003 c. 44 Sch. 3(1) para. 6 (date to be appointed)

21. Procedure where trial on indictment appears more suitable.

If, where the court has considered as required by section 19(1) above, it appears to the court that the offence is more suitable for trial on indictment, the court shall tell the accused that the court has decided that it is more suitable for him to be tried for the offence by a jury, and shall proceed to inquire into the information as examining justices.

⁸⁹ Words substituted by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.9 para.63 (August 25, 2000)

⁹⁰ Words substituted by Criminal Justice Act 1991 c. 53 Sch.11 para.25 (October 1, 1992 as SI 1992/333)

Amendments Pending

Pt I s. 21: substituted by Criminal Justice Act 2003 c. 44 Sch. 3(1) para. 7 (date to be appointed)

22.— Certain offences triable either way to be tried summarily if value involved is small.

(1) If the offence charged by the information is one of those mentioned in the first column of Schedule 2 to this Act (in this section referred to as “scheduled offences”) then, [...] ⁹¹ the court shall, before proceeding in accordance with section 19 above, consider whether, having regard to any representations made by the prosecutor or the accused, the value involved (as defined in subsection (10) below) appears to the court to exceed the relevant sum.

For the purposes of this section the relevant sum is [£5,000] ⁹² .

(2) If, where subsection (1) above applies, it appears to the court clear that, for the offence charged, the value involved does not exceed the relevant sum, the court shall proceed as if the offence were triable only summarily, and sections 19 to 21 above shall not apply.

(3) If, where subsection (1) above applies, it appears to the court clear that, for the offence charged, the value involved exceeds the relevant sum, the court shall thereupon proceed in accordance with section 19 above in the ordinary way without further regard to the provisions of this section.

(4) If, where subsection (1) above applies, it appears to the court for any reason not clear whether, for the offence charged, the value involved does or does not exceed the relevant sum, the provisions of subsections (5) and (6) below shall apply.

(5) The court shall cause the charge to be written down, if this has not already been done, and read to the accused, and shall explain to him in ordinary language—

(a) that he can, if he wishes, consent to be tried summarily for the offence and that if he consents to be so tried, he will definitely be tried in that way; and

(b) that if he is tried summarily and is convicted by the court, his liability to imprisonment or a fine will be limited as provided in section 33 below.

(6) After explaining to the accused as provided by subsection (5) above the court shall ask him whether he consents to be tried summarily and—

(a) if he so consents, shall proceed in accordance with subsection (2) above as if that subsection applied;

(b) if he does not so consent, shall proceed in accordance with subsection (3) above as if that subsection applied.

(7) [...] ⁹³

(8) Where a person is convicted by a magistrates' court of a scheduled offence, it shall not be open to him to appeal to the Crown Court against the conviction on the ground that the convicting court's decision as to the value involved was mistaken.

⁹¹ Words repealed by Criminal Justice and Public Order Act 1994 c. 33 Sch.11 para.1 (February 3, 1995 as SI 1995/127)

⁹² Words substituted by Criminal Justice and Public Order Act 1994 c. 33 Pt III s.46(1) (February 3, 1995)

⁹³ Repealed by Criminal Justice Act 1988 (c.33), ss. 123(6), 170(2), Sch. 8 para. 16, Sch. 16

(9) If, where subsection (1) above applies, the offence charged is one with which the accused is charged jointly with a person who has not attained the age of 17, the reference in that subsection to any representations made by the accused shall be read as including any representations made by the person [under 18]⁹⁴ .

(10) In this section “the value involved”, in relation to any scheduled offence, means the value indicated in the second column of Schedule 2 to this Act, measured as indicated in the third column of that Schedule; and in that Schedule “the material time” means the time of the alleged offence.

[(11) Where—

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

(b) the offence charged consists in incitement to commit two or more scheduled offences, this section shall have effect as if any reference in it to the value involved were a reference to the aggregate of the values involved.

]⁹⁵

[(12) Subsection (8) of section 12A of the Theft Act 1968 (which determines when a vehicle is recovered) shall apply for the purposes of paragraph 3 of Schedule 2 to this Act as it applies for the purposes of that section.]⁹⁶

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

(1) Where—

(a) the accused is represented by [a legal representative]⁹⁷ who in his absence signifies to the court the accused's consent to the proceedings for determining how he is to be tried for the offence being conducted in his absence; and

(b) the court is satisfied that there is good reason for proceeding in the absence of the accused,

the following provisions of this section shall apply.

(2) Subject to the following provisions of this section, the court may proceed in the absence of the accused in accordance with such of the provisions of sections 19 to 22 above as are applicable in the circumstances.

(3) If, in a case where subsection (1) of section 22 above applies, it appears to the court as mentioned in subsection (4) of that section, subsections (5) and (6) of that section shall not apply and the court—

(a) if the accused's consent to be tried summarily has been or is signified by the person representing him, shall proceed in accordance with subsection (2) of that section as if that subsection applied; or

(b) if that consent has not been and is not so signified, shall proceed in accordance with subsection (3) of that section as if that subsection applied.

⁹⁴ Words substituted by Criminal Justice Act 1991 c. 53 Sch.8 para.6(1)(b) (October 1, 1992)

⁹⁵ S. 22(11) inserted by Criminal Justice Act 1988 (c.33), ss. 38(3)(4), 123(6), Sch. 8 para. 16

⁹⁶ Added by Aggravated Vehicle-Taking Act 1992 c. 11 s.2(2) (April 1, 1992)

⁹⁷ Words substituted by Courts and Legal Services Act 1990 (c.41), s. 125(3), Sch. 18 para. 25(3)(a)

(4) If, where the court has considered as required by section 19(1) above, it appears to the court that the offence is more suitable for summary trial then—

(a) if the accused's consent to be tried summarily has been or is signified by the person representing him, section 20 above shall not apply, and the court shall proceed to the summary trial of the information; or

(b) if that consent has not been and is not so signified, section 20 above shall not apply and the court shall proceed to inquire into the information as examining justices and may adjourn the hearing without remanding the accused.

(5) If, where the court has considered as required by section 19(1) above, it appears to the court that the offence is more suitable for trial on indictment, section 21 above shall not apply, and the court shall proceed to inquire into the information as examining justices and may adjourn the hearing without remanding the accused.

Amendments Pending

Pt I s. 23(4): words substituted by Criminal Justice Act 2003 c. 44 Sch. 3(1) para. 8(2)(a) (date to be appointed)

Pt I s. 23(4)(b): words substituted by Criminal Justice Act 2003 c. 44 Sch. 3(1) para. 8(2)(b) (date to be appointed)

Pt I s. 23(5): substituted by Criminal Justice Act 2003 c. 44 Sch. 3(1) para. 8(3) (date to be appointed)

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

(1) Where a person under [the age of 18 years]⁹⁸ appears or is brought before a magistrates' court on an information charging him with an indictable offence other than [one falling within subsection (1B) below]⁹⁹, he shall be tried summarily unless—

(a) [...] ¹⁰⁰ the offence is such as is mentioned in [subsection (1) or (2) of section 91 of the Powers of Criminal Courts (Sentencing) Act 2000]¹⁰¹ (under which young persons convicted on indictment of certain grave crimes may be sentenced to be detained for long periods) and the court considers that if he is found guilty of the offence it ought to be possible to sentence him in pursuance of [subsection 3 of that section]¹⁰²; or

(b) he is charged jointly with a person who has attained [the age of 18 years]⁹⁸ and the court consider it necessary in the interests of justice to commit them both for trial;

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

[(1A) Where a magistrates' court—

(a) commits a person under the age of 18 for trial for an offence [falling within subsection (1B) below]¹⁰³; or

⁹⁸ Words substituted throughout Part I by Criminal Justice Act 1991 c. 53 Sch.8 para.6(1)(a) (October 1, 1992)

⁹⁹ Word substituted by Criminal Justice Act 2003 c. 44 Pt 6 s.42(2)(a) (January 22, 2004)

¹⁰⁰ Words repealed by Criminal Justice and Public Order Act 1994 c. 33 Sch.11 para.1 (January 9, 1995 as SI 1994/3192)

¹⁰¹ Words substituted by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.9 para.64(2) (August 25, 2000)

¹⁰² Words substituted by Crime and Disorder Act 1998 c. 37 Sch.8 para.40(1) (September 30, 1998)

¹⁰³ Words substituted by Criminal Justice Act 2003 c. 44 Pt 6 s.42(2)(b) (January 22, 2004)

(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.

] ¹⁰⁴

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

(a) it is an offence of homicide; [...]¹⁰⁵

(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 [; or]¹⁰⁵

[(c) section 29(3) of the 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.

] ¹⁰⁵

] ¹⁰⁶

(2) Where, in a case falling within subsection (1)(b) above, a magistrates' court commits a person under [the age of 18 years]⁹⁸ for trial for an offence with which he is charged jointly with a person who has attained that age, the court may also commit him for trial for any other indictable offence with which he is charged at the same time (whether jointly with the person who has attained that age or not) if [the charges for both offences could be joined in the same indictment]¹⁰⁷ .

(3) If on trying a person summarily in pursuance of subsection (1) above the court finds him guilty, it may impose a fine of an amount not exceeding [£1,000]¹⁰⁸ or may exercise the same powers as it could have exercised if he had been found guilty of an offence for which, but for [[section 89(1) of the said Act of 2000]¹⁰⁹ , it could have sentenced him to imprisonment for a term not exceeding—

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

(b) six months,

whichever is the less.] ¹¹⁰

(4) In relation to a person under the age of 14 subsection (3) above shall have effect as if for the words “ [£1,000]¹⁰⁸ ” there were substituted the words “ [£250]¹¹¹ ” [...] ¹¹² .

Amendments Pending

Pt I s. 24(1): substituted by Criminal Justice Act 2003 c. 44 Sch. 3(1) para. 9(2) (date to be appointed)

¹⁰⁴ Added by Crime and Disorder Act 1998 c. 37 Pt III s.47(6) (September 30, 1998)

¹⁰⁵ Added by Violent Crime Reduction Act 2006 c. 38 Sch.1 para.1 (April 6, 2007)

¹⁰⁶ Added by Criminal Justice Act 2003 c. 44 Pt 6 s.42(2)(c) (January 22, 2004)

¹⁰⁷ Words substituted by Crime and Disorder Act 1998 c. 37 Sch.8 para.40(2) (January 4, 1999 for purposes specified in SI 1998/2327 art.4(2) and Sch.2; January 15, 2001 subject to savings specified in SI 2000/3283 art.3 otherwise)

¹⁰⁸ Figure substituted - possible drafting error - 1000 to be substituted for 400, however 200 appears instead of 400 by Criminal Justice Act 1991 c. 53 Pt I s.17(2)(a) (October 1, 1992)

¹⁰⁹ Words substituted by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.9 para.64(3) (August 25, 2000)

¹¹⁰ Words substituted by Criminal Justice Act 1982 (c.48), s.77, Sch. 14 para.47

¹¹¹ Words substituted by Criminal Justice Act 1991 c. 53 Pt I s.17(2)(b) (October 1, 1992)

¹¹² Words repealed by Criminal Justice Act 1991 c. 53 Sch.13 para.1 (October 1, 1992 as SI 1992/333)

Pt I s. 24(1A): repealed by Criminal Justice Act 2003 c. 44 Sch. 3(1) para. 9(3) (date to be appointed)

Pt I s. 24(1A): repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

Pt I s. 24(1B): repealed by Criminal Justice and Immigration Act 2008 c. 4 Sch. 28(4) para. 1 (date to be appointed)

Pt I s. 24(2): repealed by Criminal Justice Act 2003 c. 44 Sch. 3(1) para. 9(3) (date to be appointed)

Pt I s. 24(2): repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

25.— Power to change from summary trial to committal proceedings, and vice versa.

(1) Subsections (2) to (4) below shall have effect where a person who has attained [the age of 18 years]¹¹³ appears or is brought before a magistrates' court on an information charging him with an offence triable either way.

(2) Where the court has (otherwise than in pursuance of section 22(2) above) begun to try the information summarily, the court may, at any time before the conclusion of the evidence for the prosecution, discontinue the summary trial and proceed to inquire into the information as examining justices and, on doing so, [shall adjourn the hearing.]¹¹⁴

(3) Where the court has begun to inquire into the information as examining justices, then, if at any time during the inquiry it appears to the court, having regard to any representations made in the presence of the accused by the prosecutor, or made by the accused, and to the nature of the case, that the offence is after all more suitable for summary trial, the court may, after doing as provided in subsection (4) below, ask the accused whether he consents to be tried summarily and, if he so consents, may [subject to subsection (3A) below]¹¹⁵ proceed to try the information summarily; [...]¹¹⁶

[(3A) Where the prosecution is being carried on by the Attorney General or the Solicitor General, the court shall not exercise the power conferred by subsection (3) above without his consent and, where the prosecution is being carried on by the Director of Public Prosecutions, shall not exercise that power if the Attorney General directs that it should not be exercised.]¹¹⁷

(4) Before asking the accused under subsection (3) above whether he consents to be tried summarily, the court shall in ordinary language—

(a) explain to him that it appears to the court more suitable for him to be tried summarily for the offence, but that this can only be done if he consents to be so tried; and

(b) unless it has already done so, explain to him, as provided in section 20(2)(b) above, about the court's power to commit to the Crown Court for sentence.

¹¹³ Words substituted throughout Part I by Criminal Justice Act 1991 c. 53 Sch.8 para.6(1)(a) (October 1, 1992)

¹¹⁴ Words substituted by Criminal Procedure and Investigations Act 1996 c. 25 Sch.1(I) para.5(2) (March 8, 1997 as SI 1997/683; Sch.1 has effect on March 8, 1997 in relation to any alleged offence in relation to which Part I of this Act applies)

¹¹⁵ Words inserted by Prosecution of Offences Act 1985 (c.23), s. 31(5), Sch. 1 Pt. I para. 3

¹¹⁶ Words repealed by Prosecution of Offences Act 1985 (c.23), s. 31(6), Sch. 2

¹¹⁷ S. 25(3A) inserted by Prosecution of Offences Act 1985 (c.23), s. 31(5), Sch. 1 Pt. I para. 3

(5) Where a person under [the age of 18 years]¹¹³ appears or is brought before a magistrates' court on an information charging him with an indictable offence other than [one falling within section 24(1B) above]¹¹⁸, and the court—

(a) has begun to try the information summarily on the footing that the case does not fall within paragraph (a) or (b) of section 24(1) above and must therefore be tried summarily, as required by the said section 24(1); or

(b) has begun to inquire into the case as examining justices on the footing that the case does so fall,

subsection (6) or (7) below, as the case may be, shall have effect.

(6) If, in a case falling within subsection (5)(a) above, it appears to the court at any time before the conclusion of the evidence for the prosecution that the case is after all one which under the said section 24(1) ought not to be tried summarily, the court may discontinue the summary trial and proceed to inquire into the information as examining justices and, on doing so, [shall adjourn the hearing.]¹¹⁴

(7) If, in a case falling within subsection (5)(b) above, it appears to the court at any time during the inquiry that the case is after all one which under the said section 24(1) ought to be tried summarily, the court may proceed to try the information summarily.

[(8) If the court adjourns the hearing under subsection (2) or (6) above it may (if it thinks fit) do so without remanding the accused.]¹¹⁹

Amendments Pending

Pt I s. 25(1): words substituted by Criminal Justice Act 2003 c. 44 Sch. 3(1) para. 11(2) (date to be appointed)

Pt I s. 25(2): s.25(2)-(2D) substituted for s.25(2) by Criminal Justice Act 2003 c. 44 Sch. 3(1) para. 11(3) (date to be appointed)

Pt I s. 25(3): repealed by Criminal Justice Act 2003 c. 44 Sch. 3(1) para. 11(4) (date to be appointed)

Pt I s. 25(3): repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

Pt I s. 25(3A): repealed by Criminal Justice Act 2003 c. 44 Sch. 3(1) para. 11(4) (date to be appointed)

Pt I s. 25(3A): repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

Pt I s. 25(4): repealed by Criminal Justice Act 2003 c. 44 Sch. 3(1) para. 11(4) (date to be appointed)

Pt I s. 25(4): repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

Pt I s. 25(5): repealed by Criminal Justice Act 2003 c. 44 Sch. 3(1) para. 11(4) (date to be appointed)

Pt I s. 25(5): repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

Pt I s. 25(6): repealed by Criminal Justice Act 2003 c. 44 Sch. 3(1) para. 11(4) (date to be appointed)

Pt I s. 25(6): repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

Pt I s. 25(7): repealed by Criminal Justice Act 2003 c. 44 Sch. 3(1) para. 11(4) (date to be appointed)

Pt I s. 25(7): repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

Pt I s. 25(8): repealed by Criminal Justice Act 2003 c. 44 Sch. 3(1) para. 11(4) (date to be appointed)

¹¹⁸ Word substituted by Criminal Justice Act 2003 c. 44 Pt 6 s.42(3) (January 22, 2004)

¹¹⁹ Added by Criminal Procedure and Investigations Act 1996 c. 25 Sch.1(I) para.5(3) (March 8, 1997 as SI 1997/683; Sch.1 has effect on March 8, 1997 in relation to any alleged offence in relation to which Part I of this Act applies)

Pt I s. 25(8): repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

26.— Power to issue summons to accused in certain circumstances.

(1) Where—

- (a) in the circumstances mentioned in section 23(1)(a) above the court is not satisfied that there is good reason for proceeding in the absence of the accused; or
- (b) subsection (4)(b) or (5) of section 23 or subsection (2) or (6) of section 25 above applies, and the court adjourns the hearing in pursuance of that subsection without remanding the accused,

the justice or any of the justices of which the court is composed may issue a summons directed to the accused requiring his presence before the court.

(2) If the accused is not present at the time and place appointed—

- (a) in a case within subsection (1)(a) above, for the proceedings under section 19(1) or 22(1) above, as the case may be; or
- (b) in a case within subsection (1)(b) above, for the resumption of the hearing,

the court may issue a warrant for his arrest.

Amendments Pending

Pt I s. 26(1): substituted by Criminal Justice Act 2003 c. 44 Sch. 3(1) para. 12 (date to be appointed)

Pt I s. 26(2): substituted by Criminal Justice Act 2003 c. 44 Sch. 3(1) para. 12 (date to be appointed)

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

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

28. [...]¹²⁰

*[Transfer of criminal proceedings]*¹²¹

[27A Power to transfer criminal proceedings]

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

- (a) to be tried by the court for an offence, or
- (b) for the court to inquire into the offence as examining justices,

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

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

¹²⁰ Repealed by Criminal Procedure and Investigations Act 1996 c. 25 Sch.1(I) para.6 (March 8, 1997 as SI 1997/683; Sch.1 has effect on March 8, 1997 in relation to any alleged offence in relation to which Part I of this Act applies)

¹²¹ Added by Courts Act 2003 c. 39 Pt 3 s.46(1) (April 1, 2005)

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

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

]¹²²

Power to remit person under 17 for trial to juvenile court

29.— Power of magistrates' court to remit a person under 17 for trial to a [youth court]¹²³ in certain circumstances.

(1) Where—

(a) a person [the age of 18 years]¹²⁴ (“the juvenile”) appears or is brought before a magistrates' court other than a [youth court]¹²³ on an information jointly charging him and one or more other persons with an offence; and

(b) that other person, or any of those other persons, has attained that age, subsection (2) below shall have effect notwithstanding proviso (a) in section 46(1) of the Children and Young Persons Act 1933 (which would otherwise require the charge against the juvenile to be heard by a magistrates' court other than a [youth court]¹²³).

In the following provisions of this section “the older accused” means such one or more of the accused as have attained [the age of 18 years]¹²⁴.

(2) If—

(a) the court proceeds to the summary trial of the information in the case of both or all of the accused, and the older accused or each of the older accused pleads guilty; or

(b) the court—

(i) in the case of the older accused or each of the older accused, [sends him to the Crown Court for trial under section 51 or 51A of the Crime and Disorder Act 1998; and]¹²⁵

(ii) in the case of the juvenile, proceeds to the summary trial of the information, then, if in either situation the juvenile pleads not guilty, the court may before any evidence is called in his case remit him for trial to a [youth court]¹²³ acting for the same place as the remitting court or for the place where he habitually resides.

(3) A person remitted to a [youth court]¹²³ under subsection (2) above shall be brought before and tried by a [youth court]¹²³ accordingly.

(4) Where a person is so remitted to a [youth court]¹²³ —

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

¹²² Added by Courts Act 2003 c. 39 Pt 3 s.46(1) (April 1, 2005)

¹²³ Words substituted by Criminal Justice Act 1991 c. 53 Sch.11 para.40(2)(n) (October 1, 1992)

¹²⁴ Words substituted throughout Part I by Criminal Justice Act 1991 c. 53 Sch.8 para.6(1)(a) (October 1, 1992)

¹²⁵ Words substituted by Criminal Justice Act 2003 c. 44 Sch.3(2) para.51(5) (May 9, 2005 in relation to cases sent for trial under 1998 c.37 s.51 or s.51A(3)(d))

(b) the remitting court may [, subject to section 25 of the Criminal Justice and Public Order Act 1994,]¹²⁶ give such directions as appear to be necessary with respect to his custody or for his release on bail until he can be brought before the [youth court]¹²³ .

(5) The preceding provisions of this section shall apply in relation to a corporation as if it were an individual who has attained [the age of 18 years]¹²⁴ .

Remand for medical examination

30.— [...] ¹²⁷

Powers in respect of offenders

31.— [...] ¹²⁸

32.— Penalties on summary conviction for offences triable either way.

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

(a) a magistrates' court shall not have power to impose imprisonment for an offence so listed if the Crown Court would not have that power in the case of an adult convicted of it on indictment [.]¹²⁹

(b) [...] ¹²⁹

(c) [...] ¹³⁰

(2) For any offence triable either way which is not listed in Schedule 1 to this Act, being an offence under a relevant enactment, the maximum fine which may be imposed on summary conviction shall by virtue of this subsection be the prescribed sum unless the offence is one for which by virtue of an enactment other than this subsection a larger fine may be imposed on summary conviction.

(3) Where, by virtue of any relevant enactment, a person summarily convicted of an offence triable either way would, apart from this section, be liable to a maximum fine of one amount in the case of a first conviction and of a different amount in the case of a second or subsequent conviction, subsection (2) above shall apply irrespective of whether the conviction is a first, second or subsequent one.

(4) Subsection (2) above shall not affect so much of any enactment as (in whatever words) makes a person liable on summary conviction to a fine not exceeding a specified amount for each day on which a continuing offence is continued after conviction or the occurrence of any other specified event.

(5) Subsection (2) above shall not apply on summary conviction of any of the following offences:—

¹²⁶ Words inserted by Criminal Justice and Public Order Act 1994 c. 33 Sch.10 para.41 (April 10, 1995)

¹²⁷ Repealed by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.12(I) para.1 (August 25, 2000)

¹²⁸ Repealed by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.12(I) para.1 (August 25, 2000)

¹²⁹ Repealed by Serious Crime Act 2007 c. 27 Sch.14 para.1 (October 1, 2008 as SI 2008/2504)

¹³⁰ Repealed by Criminal Attempts Act 1981 (c.47), s. 10, Sch. Pt. I

- (a) offences under section 5(2) of the Misuse of Drugs Act 1971 (having possession of a controlled drug) where the controlled drug in relation to which the offence was committed was a Class B or Class C drug;
- (b) offences under the following provisions of that Act, where the controlled drug in relation to which the offence was committed was a Class C drug, namely—
- (i) section 4(2) (production, or being concerned in the production, of a controlled drug);
 - (ii) section 4(3) (supplying or offering a controlled drug or being concerned in the doing of either activity by another);
 - (iii) section 5(3) (having possession of a controlled drug with intent to supply it to another);
 - (iv) section 8 (being the occupier, or concerned in the management, of premises and permitting or suffering certain activities to take place there);
 - (v) section 12(6) (contravention of direction prohibiting practitioner etc. from possessing, supplying etc. controlled drugs); or
 - (vi) section 13(3) (contravention of direction prohibiting practitioner etc. from prescribing, supplying etc. controlled drugs).
- (6) Where, as regards any offence triable either way, there is under any enactment (however framed or worded) a power by subordinate instrument to restrict the amount of the fine which on summary conviction can be imposed in respect of that offence—
- (a) subsection (2) above shall not affect that power or override any restriction imposed in the exercise of that power; and
 - (b) the amount to which that fine may be restricted in the exercise of that power shall be any amount less than the maximum fine which could be imposed on summary conviction in respect of the offence apart from any restriction so imposed.
- (7) [...] ¹³¹
- (8) In subsection (5) above “controlled drug”, “Class B drug” and “Class C drug” have the same meaning as in the Misuse of Drugs Act 1971.
- (9) In this section—
- “fine” includes a pecuniary penalty but does not include a pecuniary forfeiture or pecuniary compensation;
- “the prescribed sum” means [£5,000] ¹³² or such sum as is for the time being substituted in this definition by an order in force under section 143(1) below;
- “relevant enactment” means an enactment contained in the Criminal Law Act 1977 or in any Act passed before, or in the same Session as, that Act.

¹³¹ Repealed by Criminal Justice Act 1988 (c.33), ss. 123(6), 170(2), Sch. 8 para. 16, Sch. 16

¹³² Word substituted by Criminal Justice Act 1991 c. 53 Pt I s.17(2)(c) (October 1, 1992)

Amendments Pending

Pt I s. 32(1): words substituted by Criminal Justice Act 2003 c. 44 Pt 12 c. 8 s. 282(1) (date to be appointed)

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

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

(a) [subject to subsection (3) below]¹³³ the court shall not have power to impose on him in respect of that offence imprisonment for more than 3 months or a fine greater than [level 4 on the standard scale]¹³⁴; and

(b) [section 3 of the Powers of Criminal Courts (Sentencing) Act 2000 (committal to Crown Court for sentence)]¹³⁵ shall not apply as regards that offence.

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

[(3) Paragraph (a) of subsection (1) above does not apply to an offence under section 12A of the Theft Act 1968 (aggravated vehicle-taking).]¹³⁶

Amendments Pending

Pt I s. 33(1)(a): words substituted by Criminal Justice Act 2003 c. 44 Sch. 32(1) para. 27 (date to be appointed)

Pt I s. 33(1)(b): repealed by Criminal Justice Act 2003 c. 44 Sch. 3(1) para. 13 (date to be appointed: repeal cannot take effect as 2003 c.44 sch.3 para.13 never came into force)

Pt I s. 33(1)(b): repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

34.— Mitigation of penalties, etc.

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

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

(3) Where under any such enactment a magistrates' court has power to sentence an offender to imprisonment or other detention but not to a fine, then, except where an Act passed after 31st

¹³³ Words added by Aggravated Vehicle-Taking Act 1992 c. 11 s.2(3)(a) (April 1, 1992)

¹³⁴ Word substituted by Criminal Justice Act 1991 c. 53 Sch.4(II) para.1 (October 1, 1992)

¹³⁵ Words substituted by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.9 para.65 (August 25, 2000)

¹³⁶ Added by Aggravated Vehicle-Taking Act 1992 c. 11 s.2(3)(b) (April 1, 1992)

December 1879 expressly provides to the contrary, the court may, instead of sentencing him to imprisonment or other detention, impose a fine which—

- (a) for an offence triable either way, shall not exceed the prescribed sum within the meaning of section 32 above; and
- (b) for a summary offence, shall—
 - (i) not exceed [level 3 on the standard scale]¹³⁷ ; and
 - (ii) not be of such an amount as would subject the offender, in default of payment of the fine, to a longer term of imprisonment or detention than the term to which he is liable on conviction of the offence.

35. [...] ¹³⁸

36.— [...] ¹³⁹

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

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

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

(3) Any order under this section may contain transitional and other consequential provisions.
] ¹⁴⁰

37.— [...] ¹⁴¹

38.— [...] ¹⁴²

38A.— [...] ¹⁴³

39.— [...] ¹⁴⁴

40.— [...] ¹⁴⁵

¹³⁷ Word substituted by Criminal Justice Act 1991 c. 53 Sch.4(II) para.1 (October 1, 1992)

¹³⁸ Repealed by Criminal Justice Act 1991 c. 53 Sch.13 para.1 (October 1, 1992 as SI 1992/333)

¹³⁹ Repealed by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.12(I) para.1 (August 25, 2000)

¹⁴⁰ S. 36A inserted by Criminal Justice Act 1988 (c.33), ss. 123(6), 164(3), Sch. 8 para. 16

¹⁴¹ Repealed by Crime and Disorder Act 1998 c. 37 Sch.10 para.1 (April 1, 2000 as SI 1999/3426)

¹⁴² Repealed by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.12(I) para.1 (August 25, 2000)

¹⁴³ Repealed by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.12(I) para.1 (August 25, 2000)

¹⁴⁴ Repealed by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.12(I) para.1 (August 25, 2000)

¹⁴⁵ Repealed by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.12(I) para.1 (August 25, 2000)

*Miscellaneous***41. Restriction on grant of bail in treason.**

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

42.— Restriction on justices sitting after dealing with bail.

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

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

Amendments Pending

Pt I s. 42: repealed by Criminal Justice Act 2003 c. 44 Sch. 3(1) para. 14 (date to be appointed)

Pt I s. 42: repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

[43.— Bail on arrest.

(1) Where a person has been granted bail under [Part IV of]¹⁴⁶ the Police and Criminal Evidence Act 1984 subject to a duty to appear before a magistrates' court, the court before which he is to appear may appoint a later time as the time at which he is to appear and may enlarge the recognizances of any sureties for him at that time.

(2) The recognizance of any surety for any person granted bail subject to a duty to attend at a police station may be enforced as if it were conditioned for his appearance before a magistrates' court [acting in the local justice]¹⁴⁷ area in which the police station named in the recognizance is situated.

]¹⁴⁸

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

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

¹⁴⁶ Words inserted by Criminal Justice and Public Order Act 1994 c. 33 Sch.10 para.43 (April 10, 1995)

¹⁴⁷ Words substituted by Courts Act 2003 c. 39 Sch.8 para.206 (April 1, 2005)

¹⁴⁸ S. 43 substituted by Police and Criminal Evidence Act 1984 (c.60), ss. 47(8)(a), 51, 52

- (a) the magistrates' court shall commit him in custody or release him on bail until he can be brought or appear before the Crown Court at the time and place appointed by the Crown Court;
- (b) if the warrant is endorsed for bail, but the person in custody is unable to satisfy the conditions endorsed, the magistrates' court may vary those conditions, if satisfied that it is proper to do so.

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

]¹⁴⁹

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

(1) Where a custody officer—

- (a) grants bail to any person under Part IV of the Police and Criminal Evidence Act 1984 in criminal proceedings and imposes conditions, or
- (b) varies, in relation to any person, conditions of bail in criminal proceedings under section 3(8) of the Bail Act 1976

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

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

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

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

]¹⁵⁰

44.— Aiders and abettors.

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

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

45.— [...]¹⁵¹

¹⁴⁹ S. 43A inserted by Supreme Court Act 1981 (c.54), s. 152(1), Sch. 5

¹⁵⁰ Added by Criminal Justice and Public Order Act 1994 c. 33 Sch.3 para.3 (April 10, 1995)

¹⁵¹ Repealed by Serious Crime Act 2007 c. 27 Sch.14 para.1 (October 1, 2008 as SI 2008/2504)

46. Corporations.

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

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

Where any enactment requires, expressly or by implication, that a summons in respect of an offence shall be issued or served within a specified period after the commission of the offence, and service of the summons may under [rules of court]¹⁵² be effected by post, then, if under the rules service of the summons is not treated as proved, but it is shown that a letter containing the summons was posted at such time as to enable it to be delivered in the ordinary course of post within that period, a second summons may be issued on the same information; and the enactment shall have effect, in relation to that summons, as if the specified period were a period running from the return day of the original summons.

48. Return of property taken from accused.

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

49.— [...] ¹⁵³

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

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

¹⁵² Words substituted subject to saving specified in SI 2004/2066 art.3 by Courts Act 2003 c. 39 Sch.8 para.207 (September 1, 2004: substitution has effect subject to saving specified in SI 2004/2066 art.3)

¹⁵³ Repealed by Police and Criminal Evidence Act 1984 (c.64), s. 119(2), Sch. 7 Pt. I

PART II
CIVIL JURISDICTION AND PROCEDURE

Jurisdiction to issue summons and deal with complaints

[51 Issue of summons on complaint

Where a complaint relating to a person is made to a justice of the peace, the justice of the peace may issue a summons to the person requiring him to appear before a magistrates' court to answer to the complaint.]¹⁵⁴

[52 Jurisdiction to deal with complaints

- (1) A magistrates' court has jurisdiction to hear any complaint.
- (2) But subsection (1) is subject to provision made by any enactment.
] ¹⁵⁵

Hearing of complaint

53.— Procedure on hearing.

- (1) On the hearing of a complaint, the court shall, if the defendant appears, state to him the substance of the complaint.
- (2) The court, after hearing the evidence and the parties, shall make the order for which the complaint is made or dismiss the complaint.
- (3) Where a complaint is for an order for the payment of a sum recoverable summarily as a civil debt, or for the variation of the rate of any periodical payments ordered by a magistrates' court to be made, or for such other matter as may be prescribed, the court may make the order with the consent of the defendant without hearing evidence.

54.— Adjournment.

- (1) A magistrates' court may at any time, whether before or after beginning to hear a complaint, adjourn the hearing, and may do so, notwithstanding anything in this Act, when composed of a single justice.
- (2) The court may when adjourning either fix the time and place at which the hearing is to be resumed or, unless it remands the defendant under section 55 below, leave the time and place to be determined later by the court; but the hearing shall not be resumed at that time and place unless the court is satisfied that the parties have had adequate notice thereof.

¹⁵⁴ Substituted by Courts Act 2003 c. 39 Pt 3 s.47(1) (April 1, 2005)

¹⁵⁵ Substituted by Courts Act 2003 c. 39 Pt 3 s.47(2) (April 1, 2005)

55.— Non-appearance of defendant.

- (1) Where at the time and place appointed for the hearing or adjourned hearing of a complaint the complainant appears but the defendant does not [¹⁵⁶]¹⁵⁷, the court may, subject to subsection (3) below, proceed in his absence.
- (2) Where the court, instead of proceeding in the absence of the defendant, adjourns, or further adjourns, the hearing, the court may, if the complaint has been substantiated on oath, and subject to the following provisions of this section, issue a warrant for his arrest.[¹⁵⁶]¹⁵⁷
- (3) The court shall not begin to hear the complaint in the absence of the defendant or issue a warrant under this section unless either it is proved to the satisfaction of the court, on oath or in such other manner as may be prescribed, that the summons was served on him within what appears to the court to be a reasonable time before the hearing or adjourned hearing or the defendant has appeared on a previous occasion to answer to the complaint.[¹⁵⁸]¹⁵⁹
- (4) Where the defendant fails to appear at an adjourned hearing, the court shall not issue a warrant under this section unless it is satisfied that he has had adequate notice of the time and place of the adjourned hearing.
- (5) Where the defendant is arrested under a warrant issued under this section, the court may, on any subsequent adjournment of the hearing, but subject to the provisions of subsection (6) below, remand him.
- (6) The court shall not issue a warrant or remand a defendant under this section or further remand him by virtue of section 128(3) below after he has given evidence in the proceedings.
- (7) Where the court remands the defendant, the time fixed for the resumption of the hearing shall be that at which he is required to appear or be brought before the court in pursuance of the remand.
- (8) A warrant under this section shall not be issued in any proceedings for the recovery or enforcement of a sum recoverable summarily as a civil debt or in proceedings in any matter of bastardy.

56. Non-appearance of complainant.

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

57. Non-appearance of both parties.

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

¹⁵⁶ In relation to contempt of court under section 18 of the Criminal Procedure and Investigations Act 1996: [See Westlaw UK].

¹⁵⁷ Words substituted and omitted in relation to contempt of court under 1996 c.25 s.18 by Magistrates' Courts (Criminal Procedure and Investigations Act 1996) (Confidentiality) Rules 1997/704 rule 5(5) (April 1, 1997)

¹⁵⁸ Where the proceedings are taken of the court's own motion or by way of complaint for an order: [See Westlaw UK].

¹⁵⁹ Words inserted by Contempt of Court Act 1981 c. 49 Sch.3 para.3 (October 1, 1997: commenced by an amendment)

[Transfer of civil proceedings (other than family proceedings)]¹⁶⁰

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

- (1) A magistrates' court may at any time, whether before or after beginning to hear a complaint, transfer the hearing to another magistrates' court.
- (2) But if the court transfers the matter after it has begun to hear the evidence and the parties, the court to which the matter is transferred must begin hearing the evidence and the parties again.
- (3) This section does not apply to family proceedings.
- (4) The power of the court under this section to transfer a hearing must be exercised in accordance with any directions given under section 30(3) of the Courts Act 2003.

]¹⁶¹

Civil debt

58.— Money recoverable summarily as civil debt.

- (1) A magistrates' court shall have power to make an order on complaint for the payment of any money recoverable summarily as a civil debt.
- (2) Any sum payment of which may be ordered by a magistrates' court shall be recoverable summarily as a civil debt except—
 - (a) a sum recoverable on complaint for [a magistrates' court maintenance order]¹⁶² ; or
 - (b) a sum that may be adjudged to be paid by a summary conviction or by an order enforceable as if it were a summary conviction.

Orders for periodical payment

[59.— Orders for periodical payment: means of payment.

- (1) In any case where a magistrates' court orders money to be paid periodically by one person (in this section referred to as “the debtor”) to another (in this section referred to as “the creditor”), then—
 - (a) if the order is a qualifying maintenance order, the court shall at the same time exercise one of its powers under paragraphs (a) to (d) of subsection (3) below;
 - (b) if the order is not a maintenance order, the court shall at the same time exercise one of its powers under paragraphs (a) and (b) of that subsection.
- (2) For the purposes of this section a maintenance order is a “qualifying maintenance order” if, at the time it is made, the debtor is ordinarily resident in England and Wales.
- (3) The powers of the court are—

¹⁶⁰ Added by Courts Act 2003 c. 39 Pt 3 s.48 (April 1, 2005)

¹⁶¹ Added by Courts Act 2003 c. 39 Pt 3 s.48 (April 1, 2005)

¹⁶² Words substituted by Family Law Reform Act 1987 (c.42), ss. 33(1)(2), Sch. 2 para. 80, Sch. 3 paras. 1, 6

- (a) the power to order that payments under the order be made directly by the debtor to the creditor;
- (b) the power to order that payments under the order be made to [the designated officer for the court or for any other magistrates' court]¹⁶³ ;
- (c) the power to order that payments under the order be made by the debtor to the creditor by such method of payment falling within subsection (6) below as may be specified;
[(cc) the power to order that payments under the order be made in accordance with arrangements made by the Secretary of State for their collection;]¹⁶⁴
- (d) the power to make an attachment of earnings order under the Attachment of Earnings Act 1971 to secure payments under the order.

[(3A) No order made by a magistrates' court under paragraphs (a) to (d) of subsection (3) above (other than one made under paragraph (cc)) shall have effect at any time when the Secretary of State is arranging for the collection of payments under the qualifying maintenance order concerned.]¹⁶⁵

(4) In any case where—

- (a) the court proposes to exercise its power under paragraph (c) of subsection (3) above, and
- (b) having given the debtor an opportunity of opening an account from which payments under the order may be made in accordance with the method of payment proposed to be ordered under that paragraph, the court is satisfied that the debtor has failed, without reasonable excuse, to open such an account,

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

(5) In deciding, in the case of a maintenance order, which of the powers under paragraphs (a) to (d) of subsection (3) above [(other than paragraph (cc))]¹⁶⁶ it is to exercise, the court having (if practicable) given them an opportunity to make representations shall have regard to any representations made—

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

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

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

(7) Where the maintenance order is an order—

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

¹⁶³ Words substituted by Courts Act 2003 c. 39 Sch.8 para.208(2) (April 1, 2005)

¹⁶⁴ Added by Child Support Act 1991 (Consequential Amendments) Order 1994/731 art.3(2) (April 11, 1994)

¹⁶⁵ Added by Child Support Act 1991 (Consequential Amendments) Order 1994/731 art.3(3) (April 11, 1994)

¹⁶⁶ Words inserted by Child Support Act 1991 (Consequential Amendments) Order 1994/731 art.3(4) (April 11, 1994)

(b) under Part I of the Domestic Proceedings and Magistrates' Courts Act 1978 [or Schedule 6 to the Civil Partnership Act 2004]¹⁶⁷ , or

(c) under, or having effect as if made under, Schedule 1 to the Children Act 1989, and the court does not propose to exercise its power under [paragraph (c), (cc) or (d)]¹⁶⁸ of subsection (3) above, the court shall, unless upon representations expressly made in that behalf by the person who applied for the maintenance order it is satisfied that it is undesirable to do so, exercise its power under paragraph (b) of that subsection.

(8) The [Lord Chancellor]¹⁶⁹ may by regulations confer on magistrates' courts, in addition to their powers under paragraphs (a) to (d) of subsection (3) above, the power (the “additional power”) to order that payments under a qualifying maintenance order be made by the debtor to the creditor or [the designated officer for a magistrates' court]¹⁷⁰ (as the regulations may provide) by such method of payment as may be specified in the regulations.

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

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

(11) The power of the [Lord Chancellor]¹⁶⁹ to make regulations under subsection (8) above shall be exercisable by statutory instrument and any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.

[(12) For the purposes of this section—

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

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

]¹⁷¹
]¹⁷²

[59A.— Orders for periodical payment: proceedings by [designated officer]¹⁷³ .

(1) Where payments under a relevant UK order are required to be made periodically—

¹⁶⁷ Words inserted by Civil Partnership Act 2004 c. 33 Sch.27 para.64 (December 5, 2005)

¹⁶⁸ Words substituted by Child Support Act 1991 (Consequential Amendments) Order 1994/731 art.3(5) (April 11, 1994)

¹⁶⁹ Words substituted by Transfer of Functions (Magistrates' Courts and Family Law) Order 1992/709 art.3(2) (April 11, 1994)

¹⁷⁰ Words substituted by Courts Act 2003 c. 39 Sch.8 para.208(3) (April 1, 2005)

¹⁷¹ Substituted by Child Support Act 1991 (Consequential Amendments) Order 1994/731 art.3(6) (April 11, 1994)

¹⁷² Substituted by Maintenance Enforcement Act 1991 c. 17 s.2 (April 1, 1992)

¹⁷³ Words substituted by Courts Act 2003 c. 39 Sch.8 para.209(7) (April 1, 2005)

(a) to or through [the designated officer for a magistrates' court]¹⁷⁴, or
 (b) by any method of payment falling within section 59(6) above,
 and any sums payable under the order are in arrear, [the relevant designated officer]¹⁷⁵ shall, if the person for whose benefit the payments are required to be made so requests in writing, and unless it appears [to that designated officer]¹⁷⁶ that it is unreasonable in the circumstances to do so, proceed in his own name for the recovery of those sums.

(2) Where payments under a relevant UK order are required to be made periodically to or through [the designated officer for a magistrates' court]¹⁷⁷, the person for whose benefit the payments are required to be made may, at any time during the period in which the payments are required to be so made, give authority in writing to [the relevant designated officer for him]¹⁷⁸ to proceed as mentioned in subsection (3) below.

(3) Where authority under subsection (2) above is given to [the relevant designated officer, he]¹⁷⁹ shall, unless it appears to him that it is unreasonable in the circumstances to do so, proceed in his own name for the recovery of any sums payable to or through him under the order in question which, on or after the date of the giving of the authority, fall into arrear.

(4) In any case where—

(a) authority under subsection (2) above has been given to [the relevant designated officer]¹⁸⁰, and
 (b) the person for whose benefit the payments are required to be made gives notice in writing to the [relevant designated officer cancelling]¹⁸¹ the authority,
 the authority shall cease to have effect and, accordingly, the [relevant designated officer shall]¹⁸² not continue any proceedings already commenced by virtue of the authority.

(5) The person for whose benefit the payments are required to be made shall have the same liability for all the costs properly incurred in or about proceedings taken under subsection (1) above at his request or under subsection (3) above by virtue of his authority (including any costs incurred as a result of any proceedings commenced not being continued) as if the proceedings had been taken by him.

(6) Nothing in subsection (1) or (3) above shall affect any right of a person to proceed in his own name for the recovery of sums payable on his behalf under an order of any court.

(7) In this section—

[“the relevant designated officer”, in relation to an order, means—

(a) in a case where payments under the order are required to be made to or through the designated officer for a magistrates' court, the designated officer for that magistrates' court;

¹⁷⁴ Words substituted by Courts Act 2003 c. 39 Sch.8 para.209(2)(a) (April 1, 2005)

¹⁷⁵ Words substituted by Courts Act 2003 c. 39 Sch.8 para.209(2)(b) (April 1, 2005)

¹⁷⁶ Words substituted by Courts Act 2003 c. 39 Sch.8 para.209(2)(c) (April 1, 2005)

¹⁷⁷ Words substituted by Courts Act 2003 c. 39 Sch.8 para.209(3)(a) (April 1, 2005)

¹⁷⁸ Words substituted by Courts Act 2003 c. 39 Sch.8 para.209(3)(b) (April 1, 2005)

¹⁷⁹ Words substituted by Courts Act 2003 c. 39 Sch.8 para.209(4) (April 1, 2005)

¹⁸⁰ Words substituted by Courts Act 2003 c. 39 Sch.8 para.209(5)(a) (April 1, 2005)

¹⁸¹ Words substituted by Courts Act 2003 c. 39 Sch.8 para.209(5)(b) (April 1, 2005)

¹⁸² Words substituted by Courts Act 2003 c. 39 Sch.8 para.209(5)(c) (April 1, 2005)

- (b) in a case where such payments are required to be made by any method of payment falling within section 59(6) and the order was made by a magistrates' court, the designated officer for that magistrates' court; and
- (c) in a case where such payments are required to be made by any method of payment falling within section 59(6) and the order was not made by a magistrates' court, the designated officer for the magistrates' court in which the order is registered;

]¹⁸³

“relevant UK order” means—

- (a) an order made by a magistrates' court, other than an order made by virtue of Part II of the Maintenance Orders (Reciprocal Enforcement) Act 1972;
- (b) an order made by the High Court or a county court (including an order deemed to be made by the High Court by virtue of section 1(2) of the Maintenance Orders Act 1958) and registered under Part I of that Act of 1958 in a magistrates' court; or
- (c) an order made by a court in Scotland or Northern Ireland and registered under Part II of the Maintenance Orders Act 1950 in a magistrates' court;

and any reference to payments required to be made periodically includes, in the case of a maintenance order, a reference to instalments required to be paid in respect of a lump sum payable by instalments.

]¹⁸⁴

[59B.— Maintenance orders: penalty for breach.

(1) In any case where—

- (a) payments under a relevant English maintenance order are required to be made periodically in the manner mentioned in paragraph (a) or (b) of section 59A(1) above, and
- (b) the debtor fails, on or after the date of commencement of this section, to comply with the order in so far as the order relates to the manner of payment concerned,

the person for whose benefit the payments are required to be made may make a complaint to a relevant justice giving details of the failure to comply.

(2) If the relevant justice is satisfied that the nature of the alleged failure to comply may be such as to justify the relevant court in exercising its power under subsection (3) below, he shall issue a summons directed to the debtor requiring him to appear before the relevant court to answer the complaint.

(3) On the hearing of the complaint, the relevant court may order the debtor to pay a sum not exceeding £1000.

(4) Any sum ordered to be paid under subsection (3) above shall for the purposes of this Act be treated as adjudged to be paid by a conviction of a magistrates' court.

(5) In this section—

“debtor” has the same meaning as it has in section 59 above;

[“the relevant court”, in relation to an order, means—

- (a) in a case where payments under the order are required to be made to or through the designated officer for a magistrates' court, that magistrates' court;

¹⁸³ Definition substituted by Courts Act 2003 c. 39 Sch.8 para.209(6) (April 1, 2005)

¹⁸⁴ Added by Maintenance Enforcement Act 1991 c. 17 s.3 (April 1, 1992)

(b) in a case where such payments are required to be made by any method of payment falling within section 59(6) and the order was made by a magistrates' court, that magistrates' court; and

(c) in a case where such payments are required to be made by any method of payment falling within section 59(6) and the order was not made by a magistrates' court, the magistrates' court in which the order is registered;

]¹⁸⁵

“relevant English maintenance order” means—

(a) a maintenance order made by a magistrates' court, other than an order made by virtue of Part II of the Maintenance Orders (Reciprocal Enforcement) Act 1972; or

(b) an order made by the High Court or a county court (other than an order deemed to be made by the High Court by virtue of section 1(2) of the Maintenance Orders Act 1958) and registered under Part I of that Act of 1958 in a magistrates' court;

“relevant justice”, in relation to a relevant court, means a justice of the peace [acting in the local justice area in]¹⁸⁶ which the relevant court is acting;

and any reference to payments required to be made periodically includes a reference to instalments required to be paid in respect of a lump sum payable by instalments.

]¹⁸⁷

[60.— Revocation variation, etc. of orders for periodical payment

(1) Where a magistrates' court has made an order for money to be paid periodically by one person to another, the court may, by order on complaint, revoke, revive or vary the order.

(2) The power under subsection (1) above to vary an order shall include power to suspend the operation of any provision of the order temporarily and to revive the operation of any provision so suspended.

(3) Where the order mentioned in subsection (1) above is a maintenance order, the power under that subsection to vary the order shall include power, if the court is satisfied that payment has not been made in accordance with the order, to exercise one of its powers under paragraphs (a) to (d) of section 59(3) above.

(4) In any case where—

(a) a magistrates' court has made a maintenance order, and

(b) payments under the order are required to be made by any method of payment falling within section 59(6) above,

an interested party may apply in writing to [...] ¹⁸⁸ the court for the order to be varied as mentioned in subsection (5) below.

(5) Subject to subsection (8) below, where an application has been made under subsection (4) above, [a justices' clerk] ¹⁸⁹, after giving written notice (by post or otherwise) of the application to any other interested party and allowing that party, within the period of 14 days beginning with

¹⁸⁵ Definition substituted by Courts Act 2003 c. 39 Sch.8 para.210(2) (April 1, 2005)

¹⁸⁶ Words substituted by Courts Act 2003 c. 39 Sch.8 para.210(3) (April 1, 2005)

¹⁸⁷ Added by Maintenance Enforcement Act 1991 c. 17 s.3 (April 1, 1992)

¹⁸⁸ Words repealed by Courts Act 2003 c. 39 Sch.10 para.1 (April 1, 2005 as SI 2005/910)

¹⁸⁹ Words substituted by Courts Act 2003 c. 39 Sch.8 para.211(3)(a) (April 1, 2005)

the date of the giving of that notice, an opportunity to make written representations, may vary the order to provide that payments under the order shall be made [to the designated officer for the court]¹⁹⁰ .

(6) The clerk may proceed with an application under subsection (4) above notwithstanding that any such interested party as is referred to in subsection (5) above has not received written notice of the application.

(7) In subsections (4) to (6) above “interested party”, in relation to a maintenance order, means —

- (a) the debtor;
- (b) the creditor; and
- (c) if the person who applied for the maintenance order is a person other than the creditor, that other person.

(8) Where an application has been made under subsection (4) above, the clerk may, if he considers it inappropriate to exercise his power under subsection (5) above, refer the matter to the court which may vary the order by exercising one of its powers under paragraphs (a) to (d) of section 59(3) above.

(9) Subsections (4), (5) and (7) of section 59 above shall apply for the purposes of subsections (3) and (8) above as they apply for the purposes of that section.

(10) None of the powers of the court, or of [a justices' clerk]¹⁹¹ , conferred by subsections (3) to (9) above shall be exercisable in relation to a maintenance order which is not a qualifying maintenance order (within the meaning of section 59 above).

(11) For the purposes of this section—

- (a) “creditor” and “debtor” have the same meaning as they have in section 59 above; and
- (b) the reference in subsection (1) above to money paid periodically by one person to another includes, in the case of a maintenance order, a reference to a lump sum paid by instalments by one person to another.

]¹⁹²

61.— Periodical payments payable by one person under more than one order.

(1) [Rules of court may]¹⁹³ make provision—

- (a) for enabling a person to make one complaint for the recovery of payments required to be made to him by another person under more than one periodical payments order; and
- (b) for apportioning between two or more periodical payments orders, in such manner as may be prescribed by the rules, any sum paid to [the designated officer for a magistrates' court]¹⁹⁴ on any date by the person liable to make payments means under the orders which is less than the total sum required to be paid on that date to [that designated officer]¹⁹⁵ by that person in respect of those orders (being orders one of which requires payments to be

¹⁹⁰ Words substituted by Courts Act 2003 c. 39 Sch.8 para.211(3)(b) (April 1, 2005)

¹⁹¹ Words substituted by Courts Act 2003 c. 39 Sch.8 para.211(4) (April 1, 2005)

¹⁹² Substituted by Maintenance Enforcement Act 1991 c. 17 s.4 (April 1, 1992)

¹⁹³ Words substituted by Courts Act 2003 c. 39 Sch.8 para.212(1) (April 1, 2005)

¹⁹⁴ Words substituted by Courts Act 2003 c. 39 Sch.8 para.212(2)(a) (April 1, 2005)

¹⁹⁵ Words substituted by Courts Act 2003 c. 39 Sch.8 para.212(2)(b) (April 1, 2005)

made for the benefit of a child to the person with whom the child has his home and one or more of which requires payments to be made to that person either for his own benefit or for the benefit of another child who has his home with him).

(2) In this section—

“child” means a person who has not attained the age of 18;

“periodical payments order” means an order made by a magistrates' court, or registered in a magistrates' court under Part II of the Maintenance Orders Act 1950 or Part I of the Maintenance Orders Act 1958, which requires the making of periodical payments, and any payments required under a periodical payments order to be made to a child shall for the purposes of subsection (1) above be treated as if they were required to be made to the person with whom the child has his home.

Payments to children

62.— Provisions as to payments required to be made to a child, etc.

(1) Where—

(a) periodical payments are required to be made, or a lump sum is required to be paid, to a child under an order made by a magistrates' court, or

(b) periodical payments are required to be made to a child under an order which is registered in a magistrates' court,

any sum required under the order to be paid to the child may be paid to the person with whom the child has his home, and that person—

(i) may proceed in his own name for the variation, revival or revocation of the order, and

(ii) may either proceed in his own name for the recovery of any sum required to be paid under the order or [request or authorise the [designated officer for]¹⁹⁶ the magistrates' court under subsection (1) or subsection (2) respectively of section 59A above]¹⁹⁷ , to proceed for the recovery of that sum.

(2) Where a child has a right under any enactment to apply for the revival of an order made by a magistrates' court which provided for the making of periodical payments to or for the benefit of the child, the person with whom the child has his home may proceed in his own name for the revival of that order.

(3) Where any person by whom periodical payments are required to be paid to a child under an order made by or registered in a magistrates' court makes a complaint for the variation or revocation of that order, the person with whom the child has his home may answer the complaint in his own name.

(4) Nothing in subsections (1) and (2) above shall affect any right of a child to proceed in his own name for the variation, revival or revocation of an order or for the recovery of any sum payable thereunder.

[(5) In this section references to the person with whom a child has his home—

¹⁹⁶ Words substituted by Courts Act 2003 c. 39 Sch.8 para.213 (April 1, 2005)

¹⁹⁷ Restricted territory. words substituted by Maintenance Enforcement Act 1991 c. 17 Sch.2 para.5 (April 1, 1992)

- (a) in the case of any child who is being looked after by a local authority (within the meaning of section 22 of the Children Act 1989), are references to that local authority; and
- (b) in any other case, are references to the person who, disregarding any absence of the child at a hospital or boarding school and any other temporary absence, has care of the child.

]¹⁹⁸

(6) In this section any reference to an order registered in a magistrates' court is a reference to an order registered in a magistrates' court under Part II of the Maintenance Orders Act 1950 or Part I of the Maintenance Orders Act 1958.

(7) In this section “child” means a person who has not attained the age of 18.

Orders other than for payment of money

63.— Orders other than for payment of money.

(1) Where under any Act passed after 31st December 1879 a magistrates' court has power to require the doing of anything other than the payment of money, or to prohibit the doing of anything, any order of the court for the purpose of exercising that power may contain such provisions for the manner in which anything is to be done, for the time within which anything is to be done, or during which anything is not to be done, and generally for giving effect to the order, as the court thinks fit.

(2) The court may by order made on complaint suspend or rescind any such order as aforesaid.

(3) Where any person disobeys and order of a magistrates' court made under an Act passed after 31st December 1879 to do anything other than the payment of money or to abstain from doing anything the court may—

(a) order him to pay a sum not exceeding £50 for every day during which he is in default or a sum not exceeding [£5,000]¹⁹⁹ ; or

(b) commit him to custody until he has remedied his default or for a period not exceeding 2 months;

but a person who is ordered to pay a sum for every day during which he is in default or who is committed to custody until he has remedied his default shall not by virtue of this section be ordered to pay more than £1,000 or be committed for more than 2 months in all for doing or abstaining from doing the same thing contrary to the order (without prejudice to the operation of this section in relation to any subsequent default).

(4) Any sum ordered to be paid under subsection (3) above shall for the purposes of this Act be treated as adjudged to be paid by a conviction of a magistrates' court.

(5) The preceding provisions of this section shall not apply to any order for the enforcement of which provision is made by any other enactment.

¹⁹⁸ Substituted by Children Act 1989 c. 41 Sch.13 para.44(2) (October 14, 1991)

¹⁹⁹ Word substituted by Criminal Justice Act 1991 c. 53 Sch.4(I) para.1 (October 1, 1992)

*Costs***64.— Power to award costs and enforcement of costs.**

(1) On the hearing of a complaint, a magistrates' court shall have power in its discretion to make such order as to costs—

(a) on making the order for which the complaint is made, to be paid by the defendant to the complainant;

(b) on dismissing the complaint, to be paid by the complainant to the defendant, as it thinks just and reasonable; but if the complaint is for an order for the periodical payment of money, or for the revocation, revival or variation of such an order, or for the enforcement of such an order, the court may, whatever adjudication it makes, order either party to pay the whole or any part of the other's costs.

(2) The amount of any sum ordered to be paid under subsection (1) above shall be specified in the order, or order of dismissal, as the case may be.

(3) Subject to subsection (4) below, costs ordered to be paid under this section shall be enforceable as a civil debt.

[(4) Any costs awarded on a complaint for a maintenance order, or for the enforcement, variation, revocation, discharge or revival of such an order, against the person liable to make payments under the order shall be enforceable as a sum ordered to be paid by a magistrates' court maintenance order.]²⁰⁰

(5) The preceding provisions of this section shall have effect subject to any other Act enabling a magistrates' court to order a successful party to pay the other party's costs.

*Domestic proceedings***65.— Meaning of domestic proceedings.**

(1) [...] ²⁰¹ In this Act [“family proceedings”] ²⁰² means proceedings under any of the following enactments, that is to say—

(a) the Maintenance Orders (Facilities for Enforcement) Act 1920;

(b) [...] ²⁰¹

(c) section 3 of the Marriage Act 1949;

[(ca) Schedule 2 to the Civil Partnership Act 2004;] ²⁰³

(d) [...] ²⁰⁴

[(ee) section 35 of the Matrimonial Causes Act 1973;] ²⁰⁵

[(ef) paragraphs 69 to 72 of Schedule 5 to the Civil Partnership Act 2004;] ²⁰⁶

²⁰⁰ S. 64(4) substituted by Family Law Reform Act 1987 (c.42), ss. 33(1)(2), Sch. 2 para. 81, Sch. 3 paras. 1, 6

²⁰¹ Repealed by Health and Social Care Act 2008 c. 14 Sch.15(5) para.1 (April 6, 2009 as SI 2009/462)

²⁰² Words substituted by Children Act 1989 c. 41 Sch.11(II) para.8(c) (October 14, 1991)

²⁰³ Added by Civil Partnership Act 2004 c. 33 Sch.27 para.65(2) (December 5, 2005)

²⁰⁴ Repealed by Family Law Reform Act 1987 (c.42), ss. 33(2)(4), Sch. 3 paras. 1, 6, Sch. 4

²⁰⁵ S. 65(1)(ee) inserted by Matrimonial and Family Proceedings Act 1984 (c.42), s. 44

- (f) Part I of the Maintenance Orders (Reciprocal Enforcement) Act 1972;
- (g) [...] ²⁰⁷
- [(h) the Adoption and Children Act 2002;] ²⁰⁸
- (i) section 18 [...] ²⁰⁹ of the Supplementary Benefits Act 1976;
- (j) Part I of the Domestic Proceedings and Magistrates' Courts Act 1978;
- [(ja) Schedule 6 to the Civil Partnership Act 2004;] ²¹⁰
- (k) [...] ²¹¹
- (l) section 60 of this Act;
- [(m) Part I of the Civil Jurisdiction and Judgments Act 1982, so far as that Part relates to the recognition or enforcement of maintenance orders;] ²¹²
- (m) [...] ²¹³
- [(mm) section 55A of the Family Law Act 1986;] ²¹⁴
- (m) [...] ²⁰⁷
- [(n) the Children Act 1989;] ²¹⁵
- [(nza) section 72 or section 79 of the Childcare Act 2006;] ²¹⁶
- [(na) section 54 of the Human Fertilisation and Embryology Act 2008;] ²¹⁷
- [(nb) section 106 of the Social Security Administration Act 1992;] ²¹⁸
- [(o) section 20 (so far as it provides, by virtue of an order under section 45 ²¹⁹, for appeals to be made to a court) [of the Child Support Act 1991] ²²⁰ ;] ²²¹
- [(p) Part IV of the Family Law Act 1996;] ²²²
- [(q) sections 11 and 12 of the Crime and Disorder Act 1998;] ²²³
- [(r) Council Regulation (EC) No. 44/2001 of 22nd December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters [, as amended from time to time and as applied by the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ No. L 299 16.11.2005

²⁰⁶ Added by Civil Partnership Act 2004 c. 33 Sch.27 para.65(3) (December 5, 2005)

²⁰⁷ Repealed by Children Act 1989 c. 41 Sch.15 para.1 (October 14, 1991)

²⁰⁸ Substituted by Adoption and Children Act 2002 c. 38 Sch.3 para.37 (December 30, 2005)

²⁰⁹ Words repealed by Family Law Reform Act 1987 (c.42), s. 33(2)(4), Sch. 3 paras. 1, 6, Sch. 4

²¹⁰ Added by Civil Partnership Act 2004 c. 33 Sch.27 para.65(4) (December 5, 2005)

²¹¹ Repealed by Courts and Legal Services Act 1990 c. 41 Sch.20 para.1 (October 14, 1991 as SI 1991/1883)

²¹² S. 65(1)(m) inserted by Civil Jurisdiction and Judgments Act 1982 (c.27), s. 15(4), Sch. 12 Pt. I para. 7(a)

²¹³ Repealed by Social Security (Consequential Provisions) Act 1992 c. 6 Sch.1 para.1 (July 1, 1992)

²¹⁴ Added by Child Support, Pensions and Social Security Act 2000 c. 19 Sch.8 para.2(2) (April 1, 2001)

²¹⁵ Added by Children Act 1989 c. 41 Sch.11(II) para.8(a) (October 14, 1991)

²¹⁶ Added by Childcare Act 2006 c. 21 Sch.2 para.2 (April 6, 2007 in relation to England)

²¹⁷ Substituted by Human Fertilisation and Embryology Act 2008 c. 22 Sch.6(1) para.20 (April 6, 2010)

²¹⁸ Existing s.65(1)(n) renumbered as s.65(1)(nb) by Courts Act 2003 c. 39 Sch.8 para.214(3) (April 1, 2005)

²¹⁹ S.I. 1993/961 provides for appeals on parentage issues to be made to a court instead of to a child support appeals tribunal.

²²⁰ Words repealed by Child Support, Pensions and Social Security Act 2000 c. 19 Sch.9(IX) para.1 (April 1, 2001)

²²¹ Added by Maintenance Orders (Backdating) Order 1993/623 Sch.2 para. (April 5, 1993)

²²² Added by Family Law Act 1996 c. 27 Sch.8(III) para.49 (October 1, 1997)

²²³ Added by Crime and Disorder Act 1998 c. 37 Sch.8 para.42 (September 30, 1998)

at p62)]²²⁴ , so far as that Regulation relates to the recognition or enforcement of maintenance orders;]²²⁵

[(s) Council Regulation (EC) No 2201/2003 of 27th November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and matters of parental responsibility, so far as that Regulation relates to jurisdiction, recognition and enforcement in parental responsibility matters;]²²⁶

except that, subject to subsection (2) below, it does not include—

- (i) proceedings for the enforcement of any order made, confirmed or registered under any of those enactments;
- (ii) proceedings for the variation of any provision for the periodical payment of money contained in an order made, confirmed or registered under any of those enactments; or
- (iii) proceedings on an information in respect of the commission of an offence under any of those enactments.

(2) The court before which there fall to be heard any of the following proceedings, that is to say—

- (a) proceedings (whether under this Act or any other enactment) for the enforcement of any order made, confirmed or registered under any of the enactments specified in paragraphs (a) to (k) [(m), (n) [(p) and (r)]²²⁷]²²⁸ of subsection (1) above;
- (b) proceedings (whether under this Act or any other enactment) for the variation of any provision for the making of periodical payments contained in an order made, confirmed or registered under any of those enactments;
- (c) proceedings for an attachment of earnings order to secure maintenance payments within the meaning of the Attachment of Earnings Act 1971 or for the discharge or variation of such an order; or
- (d) proceedings for the enforcement of a maintenance order which is registered in a magistrates' court under Part II of the Maintenance Orders Act 1950 or Part I of the Maintenance Orders Act 1958 or for the variation of the rate of payments specified by such an order,
- [(e) [proceedings under]²²⁹ section 20 (so far as it provides, by virtue of an order under section 45 , for appeals to be made to a court) [of the Child Support Act 1991]²³⁰ .]²³⁰

may if it thinks fit order that those proceedings and any other proceedings being heard therewith shall, notwithstanding anything in subsection (1) above, be treated as [family proceedings]²⁰² for the purposes of this Act.

(3) Where the same parties are parties—

- (a) to proceedings which are [family proceedings]²⁰² by virtue of subsection (1) above, and

²²⁴ Words inserted by Civil Jurisdiction and Judgments Regulations 2007/1655 Sch.1(1) para.9 (July 1, 2007)

²²⁵ Added by Civil Jurisdiction and Judgments Order 2001/3929 Sch.3 para.11(a) (March 1, 2002)

²²⁶ Added by European Communities (Jurisdiction and Judgments in Matrimonial and Parental Responsibility Matters) Regulations 2005/265 reg.4 (March 1, 2005)

²²⁷ Words substituted by Civil Jurisdiction and Judgments Order 2001/3929 Sch.3 para.11(b) (March 1, 2002)

²²⁸ Words substituted by Family Law Act 1996 (Modifications of Enactments) Order 1997/1898 art.2 (October 1, 1997)

²²⁹ Words inserted by Child Support, Pensions and Social Security Act 2000 c. 19 Sch.8 para.2(3) (April 1, 2001)

²³⁰ Added by Maintenance Orders (Backdating) Order 1993/623 Sch.2 para.2 (April 5, 1993)

(b) to proceedings which the court has power to treat as [family proceedings]²⁰² by virtue of subsection (2) above, and the proceedings are heard together by a magistrates' court, the whole of those proceedings shall be treated as [family proceedings]²⁰² for the purposes of this Act.

(4) No appeal shall lie from the making of, or refusal to make, an order under subsection (2) above.

(5) Until the Adoption Act 1976 comes into force subsection (1) above shall have effect as if for paragraph (h) thereof there were substituted the following paragraph—

“

(h) the Adoption Act 1958, the Adoption Act 1960 or Part I of the Children Act 1975, except proceedings under section 42 or 43 of the Adoption Act 1958.

”

(6) Until the Child Care Act 1980 comes into force subsection (1) above shall have effect as if for paragraph (k) thereof there were substituted the following paragraph—

“

(k) section 87 or section 88 of the Children and Young Persons Act 1933 or section 26 of the Children Act 1948.

”

Amendments Pending

Pt II s. 65(1): words inserted by Parental Responsibility and Measures for the Protection of Children (International Obligations) (England and Wales and Northern Ireland) Regulations 2010/1898 Sch. 1 para. 1(a) (date to be appointed)

Pt II s. 65(1)(i): words inserted by Parental Responsibility and Measures for the Protection of Children (International Obligations) (England and Wales and Northern Ireland) Regulations 2010/1898 Sch. 1 para. 1(c) (date to be appointed)

Pt II s. 65(1)(nzb): added by Children and Families (Wales) Measure 2010 c. 01 Sch. 1 para. 2 (date to be appointed)

Pt II s. 65(1)(t): added by Parental Responsibility and Measures for the Protection of Children (International Obligations) (England and Wales and Northern Ireland) Regulations 2010/1898 Sch. 1 para. 1(b) (date to be appointed)

Pt II s. 65(1)(ii): words inserted by Parental Responsibility and Measures for the Protection of Children (International Obligations) (England and Wales and Northern Ireland) Regulations 2010/1898 Sch. 1 para. 1(c) (date to be appointed)

[66.— Composition of magistrates' courts for family proceedings: general.

(1) A magistrates' court when hearing family proceedings shall be composed of—

(a) two or three lay justices; or

(b) a District Judge (Magistrates' Courts) as chairman and one or two lay justices;

or, if it is not practicable for such a court to be so composed, a District Judge (Magistrates' Courts) sitting alone.

(2) Except where such a court is composed of a District Judge (Magistrates' Courts) sitting alone, it shall, so far as practicable, include both a man and a woman.

(3) In this section [“lay justice” has the same meaning as in the Courts Act 2003]²³¹ .

²³¹ Words substituted by Courts Act 2003 c. 39 Sch.8 para.215 (April 1, 2005)

] ²³²

[67 Family proceedings courts

(1) Magistrates' courts—

- (a) constituted in accordance with this section or section 66 of the Courts Act 2003 (judges having powers of District Judges (Magistrates' Courts)), and
- (b) sitting for the purpose of hearing family proceedings,

are to be known as family proceedings courts.

(2) A justice of the peace is not qualified to sit as a member of a family proceedings court to hear family proceedings of any description unless he has an authorisation extending to the proceedings.

(3) He has an authorisation extending to the proceedings only if he has been authorised by the [Lord Chief Justice] ²³³ to sit as a member of a family proceedings court to hear—

- (a) proceedings of that description, or
- (b) all family proceedings.

(4) The [Lord Chief Justice may, after consulting the Lord Chancellor, by rules] ²³⁴ make provision about—

- (a) the grant and revocation of authorisations,
- (b) the appointment of chairmen of family proceedings courts, and
- (c) the composition of family proceedings courts.

(5) Rules under subsection (4) may confer powers on the [Lord Chief Justice] ²³⁵ with respect to any of the matters specified in the rules.

(6) Rules under subsection (4) may be made only after consultation with the Family Procedure Rule Committee.

(7) Rules under subsection (4) are to be made by statutory instrument.

(8) A statutory instrument containing rules under subsection (4) is subject to annulment in pursuance of a resolution of either House of Parliament.

[(9) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (3) or (4) or the powers conferred on him by rules under subsection (4).] ²³⁶

] ²³⁷

²³² Substituted by Access to Justice Act 1999 c. 22 Sch.11 para.27 (August 31, 2000)

²³³ Words substituted by Constitutional Reform Act 2005 c. 4 Sch.4(1) para.101(2) (April 3, 2006)

²³⁴ Words substituted by Constitutional Reform Act 2005 c. 4 Sch.4(1) para.101(3) (April 3, 2006)

²³⁵ Words substituted by Constitutional Reform Act 2005 c. 4 Sch.4(1) para.101(4) (April 3, 2006)

²³⁶ Added by Constitutional Reform Act 2005 c. 4 Sch.4(1) para.101(5) (April 3, 2006)

²³⁷ Substituted by Courts Act 2003 c. 39 Pt 3 s.49(1) (April 1, 2005)

Amendments Pending

Pt II s. 67(8): repealed by Access to Justice Act 1999 c. 22 Sch. 15(V)(1) para. 1 (date to be appointed: commencement order)

68.— [...] ²³⁸

69.— Sittings of magistrates' courts for [family proceedings] ²³⁹ .

(1) The business of magistrates' courts shall, so far as is consistent with the due dispatch of business, be arranged in such manner as may be requisite for separating the hearing and determination of [family proceedings] ²³⁹ from other business.

(2) In the case of [family proceedings] ²³⁹ in a magistrates' court other than proceedings under [the Adoption and Children Act 2002] ²⁴⁰ , no person shall be present during the hearing and determination by the court of the proceedings except—

- (a) officers of the court;
- (b) parties to the case before the court, their [legal representatives] ²⁴¹ , witnesses and other persons directly concerned in the case;
- (c) representatives of newspapers or news agencies;
- (d) any other person whom the court may in its discretion permit to be present, so, however, that permission shall not be withheld from a person who appears to the court to have adequate grounds for attendance.

(3) In relation to any [family proceedings] ²³⁹ under [the Adoption and Children Act 2002] ²⁴⁰ , subsection (2) above shall apply with the omission of paragraphs (c) and (d).

(4) When hearing [family proceedings] ²³⁹ , a magistrates' court may, if it thinks it necessary in the interest of the administration of justice or of public decency, direct that any persons, not being officers of the court or parties to the case, the parties' [legal representatives] ²⁴² , or other persons directly concerned in the case, be excluded during the taking of any indecent evidence.

(5) The powers conferred on a magistrates' court by this section shall be in addition and without prejudice to any other powers of the court to hear proceedings in camera.

(6) Nothing in this section shall affect the exercise by a magistrates' court of the power to direct that witnesses shall be excluded until they are called for examination.

(7) Until the coming into operation of the Adoption Act 1976 this section shall have effect as if for any reference to that Act there were substituted a reference to the Adoption Act 1958, the Adoption Act 1960 and Part I of the Children Act 1975.

Amendments Pending

Pt II s. 69(2): repealed by Children, Schools and Families Act 2010 c. 26 Sch. 3(2) para. 6 (date to be appointed)

²³⁸ Repealed by Courts Act 2003 c. 39 Sch.10 para.1 (April 1, 2005 as SI 2005/910)

²³⁹ Words substituted by Children Act 1989 c. 41 Sch.11(II) para.8(c) (October 14, 1991)

²⁴⁰ Words substituted by Adoption and Children Act 2002 c. 38 Sch.3 para.38 (December 30, 2005)

²⁴¹ Words substituted by Courts and Legal Services Act 1990 (c.41), s. 125(3), Sch. 18 para. 25(6)(a)

²⁴² Words substituted by Courts and Legal Services Act 1990 (c.41), s. 125(3), Sch. 18 para. 25(6)(b)

- Pt II s. 69(2): repealed by Children, Schools and Families Act 2010 c. 26 Sch. 4(2) para. 1 (date to be appointed)
- Pt II s. 69(3): repealed by Children, Schools and Families Act 2010 c. 26 Sch. 3(2) para. 6 (date to be appointed)
- Pt II s. 69(3): repealed by Children, Schools and Families Act 2010 c. 26 Sch. 4(2) para. 1 (date to be appointed)
- Pt II s. 69(4): repealed by Children, Schools and Families Act 2010 c. 26 Sch. 3(2) para. 6 (date to be appointed)
- Pt II s. 69(4): repealed by Children, Schools and Families Act 2010 c. 26 Sch. 4(2) para. 1 (date to be appointed)
- Pt II s. 69(5): repealed by Children, Schools and Families Act 2010 c. 26 Sch. 3(2) para. 6 (date to be appointed)
- Pt II s. 69(5): repealed by Children, Schools and Families Act 2010 c. 26 Sch. 4(2) para. 1 (date to be appointed)
- Pt II s. 69(6): repealed by Children, Schools and Families Act 2010 c. 26 Sch. 3(2) para. 6 (date to be appointed)
- Pt II s. 69(6): repealed by Children, Schools and Families Act 2010 c. 26 Sch. 4(2) para. 1 (date to be appointed)
- Pt II s. 69(7): repealed by Children, Schools and Families Act 2010 c. 26 Sch. 4(2) para. 1 (date to be appointed)

70.— Jurisdiction of magistrates' courts in inner London for [family proceedings]²⁴³ .

(1) A relevant court for [acting in an inner London local justice]²⁴⁴ area shall, in addition to hearing proceedings which (apart from subsection (2) below) may be heard by a relevant court [acting in that]²⁴⁵ area, have jurisdiction to hear proceedings which could be heard before a relevant court [acting in any]²⁴⁶ other such area, but shall not exercise the jurisdiction conferred by this subsection except in such cases or classes of case as may be determined by the [Lord Chancellor]²⁴⁷ .

(2) A magistrates' court [acting in an inner London local justice]²⁴⁸ area shall not hear any [family proceedings]²⁴³ if the [Lord Chancellor so determines]²⁴⁹ .

(3) In this section—

“relevant court” means a magistrates' court when composed for the purpose of exercising jurisdiction to hear [family proceedings]²⁴³ ;

[“inner London local justice area” means any local justice area falling wholly or partly within the area consisting of the inner London boroughs and the City of London.]²⁵⁰

71.— Newspaper reports of [family proceedings]²⁵¹ .

[(1) In the case of [family proceedings]²⁵¹ in a magistrates' court [...] ²⁵² it shall not be lawful for a person to whom this subsection applies—

²⁴³ Words substituted by Children Act 1989 c. 41 Sch.11(II) para.8(c) (October 14, 1991)

²⁴⁴ Words substituted by Courts Act 2003 c. 39 Sch.8 para.216(2)(a) (April 1, 2005)

²⁴⁵ Words substituted by Courts Act 2003 c. 39 Sch.8 para.216(2)(b) (April 1, 2005)

²⁴⁶ Words substituted by Courts Act 2003 c. 39 Sch.8 para.216(2)(c) (April 1, 2005)

²⁴⁷ Words substituted by Courts Act 2003 c. 39 Sch.8 para.216(2)(d) (April 1, 2005)

²⁴⁸ Words substituted by Courts Act 2003 c. 39 Sch.8 para.216(3)(a) (April 1, 2005)

²⁴⁹ Words substituted by Courts Act 2003 c. 39 Sch.8 para.216(3)(b) (April 1, 2005)

²⁵⁰ Words substituted by Courts Act 2003 c. 39 Sch.8 para.216(4) (April 1, 2005)

²⁵¹ Words substituted by Children Act 1989 c. 41 Sch.11(II) para.8(c) (October 14, 1991)

²⁵² Words repealed by Adoption and Children Act 2002 c. 38 Sch.5 para.1 (December 30, 2005 as SI 2005/2897)

(a) to print or publish, or cause or procure to be printed or published, in a newspaper or periodical, or

(b) to include, or cause or procure to be included, in a programme included in a programme service (within the meaning of the Broadcasting Act 1990) for reception in Great Britain.

any particulars of the proceedings other than such particulars as are mentioned in subsection (1A) below.

(1A) The particulars referred to in subsection (1) above are—

(a) the names, addresses and occupations of the parties and witnesses;

(b) the grounds of the application, and a concise statement of the charges, defences and counter-charges in support of which evidence has been given;

(c) submissions on any point of law arising in the course of the proceedings and the decision of the court on the submissions;

(d) the decision of the court, and any observations made by the court in giving it.

(1B) Subsection (1) above applies—

(a) in relation to paragraph (a) of that subsection, to the proprietor, editor or publisher of the newspaper or periodical, and

(b) in relation to paragraph (b) of that subsection, to any body corporate which provides the service in which the programme is included and to any person having functions in relation to the programme corresponding to those of an editor of a newspaper.

]²⁵³

(2) In the case of [family proceedings]²⁵¹ in a magistrates' court under [the Adoption and Children Act 2002]²⁵⁴, [subsection (1A)]²⁵⁵ above shall apply with the omission of paragraphs (a) and (b) [.]²⁵²

(a)-(c) [...] ²⁵²

(3) Any person acting in contravention of this section shall be liable on summary conviction to a fine not exceeding [level 4 on the standard scale]²⁵⁶.

(4) No prosecution for an offence under this section shall be begun without the consent of the Attorney General.

(5) Nothing in this section shall prohibit the printing or publishing of any matter in a newspaper or periodical of a technical character bona fide intended for circulation among members of the legal or medical professions.

(6) Until the coming into operation of the Adoption Act 1976 this section shall have effect as if for any reference to that Act there were substituted a reference to the Adoption Act 1958, the Adoption Act 1960 and Part I of the Children Act 1975.

Amendments Pending

Pt II s. 71: repealed by Children, Schools and Families Act 2010 c. 26 Sch. 3(2) para. 7 (date to be appointed)

²⁵³ S. 71(1)(1A)(1B) substituted by Broadcasting Act 1990 (c.42), ss. 4(6), 87(6), 203(1), Sch. 20 para. 29(2)

²⁵⁴ Words substituted by Adoption and Children Act 2002 c. 38 Sch.3 para.39(b)(i) (December 30, 2005)

²⁵⁵ Words substituted by Broadcasting Act 1990 (c.42), s. 203(1), Sch. 20 para. 29(2)

²⁵⁶ Words substituted by Criminal Justice Act 1982 (c.48), s. 46

Pt II s. 71: repealed by Children, Schools and Families Act 2010 c. 26 Sch. 4(2) para. 1 (date to be appointed)

72.— [...] ²⁵⁷

73. Examination of witnesses by court.

Where in any [family proceedings] ²⁵⁸, or in any proceedings for the enforcement or variation of an order made in [family proceedings] ²⁵⁸, it appears to a magistrates' court that any party to the proceedings who is not legally represented is unable effectively to examine or cross-examine a witness, the court shall ascertain from that party what are the matters about which the witness may be able to depose or on which the witness ought to be cross-examined, as the case may be, and shall put, or cause to be put, to the witness such questions in the interests of that party as may appear to the court to be proper.

74.— Reasons for decisions in [family proceedings] ²⁵⁹.

(1) [Rules of court may] ²⁶⁰ make provision for the recording by a magistrates' court, in such manner as may be prescribed by the rules, of reasons for a decision made in such [family proceedings] ²⁵⁹ or class of [family proceedings] ²⁵⁹ as may be so prescribed, and for making available a copy of any record made in accordance with those rules of the reasons for a decision of a magistrates' court to any person who requests a copy thereof for the purposes of an appeal against that decision or for the purpose of deciding whether or not to appeal against that decision.

(2) A copy of any record made by virtue of this section of the reasons for a decision of a magistrates' court shall, if certified by such officer of the court as may be prescribed, be admissible as evidence of those reasons.

PART III

SATISFACTION AND ENFORCEMENT

General provisions

75.— Power to dispense with immediate payment.

(1) A magistrates' court by whose conviction or order a sum is adjudged to be paid may, instead of requiring immediate payment, allow time for payment, or order payment by instalments.

²⁵⁷ Repealed by Criminal Justice and Court Services Act 2000 c. 43 Sch.8 para.1 (April 1, 2001 as SI 2001/919)

²⁵⁸ Words substituted by Children Act 1989 c. 41 Sch.11(II) para.8(c) (October 14, 1991)

²⁵⁹ Words substituted by Children Act 1989 c. 41 Sch.11(II) para.8(c) (October 14, 1991)

²⁶⁰ Words substituted by Courts Act 2003 c. 39 Sch.8 para.217 (April 1, 2005)

(2) Where a magistrates' court has allowed time for payment, the court may, on application by or on behalf of the person liable to make the payment, allow further time or order payment by instalments.

[(2A) An order under this section that a lump sum required to be paid under a maintenance order shall be paid by instalments (a "maintenance instalments order") shall be treated for the purposes of sections 59, 59B and 60 above as a maintenance order.

(2B) Subsections (5) and (7) of section 59 above (including those subsections as they apply for the purposes of section 60 above) shall have effect in relation to a maintenance instalments order—

(a) as if in subsection (5), paragraph (c) and the word "and" immediately preceding it were omitted; and

(b) as if in subsection (7)—

(i) the reference to the maintenance order were a reference to the maintenance order in respect of which the maintenance instalments order in question is made;

(ii) for the words "the person who applied for the maintenance order" there were substituted "the debtor".

(2C) Section 60 above shall have effect in relation to a maintenance instalments order as if in subsection (7), paragraph (c) and the word "and" immediately preceding it were omitted.]²⁶¹

(3) Where a court has ordered payment by instalments and default is made in the payment of any one instalment, proceedings may be taken as if the default had been made in the payment of all the instalments then unpaid.

76.— Enforcement of sums adjudged to be paid.

(1) Subject to the following provisions of this Part of this Act, and to section 132 below [...] ²⁶², where default is made in paying a sum adjudged to be paid by a conviction or order of a magistrates' court, the court may issue a warrant of distress for the purposes of levying the sum or issue a warrant committing the defaulter to prison.

(2) A warrant of commitment may be issued as aforesaid either—

(a) where it appears on the return to a warrant of distress that the money and goods of the defaulter are insufficient to satisfy the sum with the costs and charges of levying the sum; or

(b) instead of a warrant of distress.

(3) The period for which a person may be committed to prison under such a warrant as aforesaid shall not, subject to the provisions of any enactment passed after 31st December 1879, exceed the period applicable to the case under Schedule 4 to this Act.

[(4) Where proceedings are brought for the enforcement of a magistrates' court maintenance order under this section, the court may vary the order by exercising one of its powers under paragraphs (a) to (d) of section 59(3) above.

(5) Subsections (4), (5) and (7) of section 59 above shall apply for the purposes of subsection (4) above as they apply for the purposes of that section.

²⁶¹ Restricted territory by Maintenance Enforcement Act 1991 c. 17 Sch.2 para.6 (June 27, 1991)

²⁶² Words repealed by Criminal Justice Act 1982 (c.48), s. 78, Sch. 16

(6) Subsections (4) and (5) above shall not have effect in relation to a maintenance order which is not a qualifying maintenance order (within the meaning of section 59 above).]²⁶³

Amendments Pending

Pt III s. 76(1): words substituted by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 46(2) (date to be appointed)

Pt III s. 76(2)(a): words substituted by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 46(3)(a) (date to be appointed)

Pt III s. 76(2)(a): words substituted by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 46(3)(b) (date to be appointed)

Pt III s. 76(2)(b): substituted by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 46(4) (date to be appointed)

77.— Postponement of issue of warrant.

(1) Where a magistrates' court has power to issue a warrant of distress under this Part of this Act, it may, if it thinks it expedient to do so, postpone the issue of the warrant until such time and on such conditions, if any, as the court thinks just.

(2) Where a magistrates' court has power to issue a warrant of commitment under this Part of this Act, it may, if it thinks it expedient to do so, fix a term of imprisonment [or detention under [section 108 of the Powers of Criminal Courts (Sentencing) Act 2000]²⁶⁴ (detention of persons aged [18]²⁶⁵ to 20 for default)]²⁶⁶ and postpone the issue of the warrant until such time and on such conditions, if any, as the court thinks just.

[(3) A magistrates' court shall have power at any time to do either or both of the following—

(a) to direct that the issue of the warrant of commitment shall be postponed until a time different from that to which it was previously postponed;

(b) to vary any of the conditions on which its issue is postponed,

but only if it thinks it just to do so having regard to a change of circumstances since the relevant time.

(4) In this section “the relevant time” means —

(a) where neither of the powers conferred by subsection (3) above has been exercised previously, the date when the issue of the warrant was postponed under subsection (2) above; and

(b) in any other case, the date of the exercise or latest exercise of either or both of the powers.

(5) Without prejudice to the generality of subsection (3) above, if on an application by a person in respect of whom issue of a warrant has been postponed it appears to a justice of the peace acting

²⁶³ Added by Maintenance Enforcement Act 1991 c. 17 s.7 (April 1, 1992)

²⁶⁴ Words substituted by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.9 para.66 (August 25, 2000)

²⁶⁵ Words substituted by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.9 para.67(2) (August 25, 2000)

²⁶⁶ Words inserted by Criminal Justice Act 1982 (c.48), s. 77, Sch. 14 para. 50

[in the local justice]²⁶⁷ area in which the warrant has been or would have been issued that since the relevant time there has been a change of circumstances which would make it just for the court to exercise one or other or both of the powers conferred by that subsection, he shall refer the application to the court.

[(6) Where such an application is referred to the court—

- (a) the clerk of the court shall fix a time and place for the application to be heard; and
- (b) the designated officer for the court shall give the applicant notice of that time and place.

]²⁶⁸

(7) Where such a notice has been given but the applicant does not appear at the time and place specified in the notice, the court may proceed with the consideration of the application in his absence.

(8) If a warrant of commitment in respect of the sum adjudged to be paid has been issued before the hearing of the application, the court shall have power to order that the warrant shall cease to have effect and, if the applicant has been arrested in pursuance of it, to order that he shall be released, but it shall only make an order under this subsection if it is satisfied that the change of circumstances on which the applicant relies was not put before the court when it was determining whether to issue the warrant.]²⁶⁹

Amendments Pending

Pt III s. 77(1): words substituted by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 47 (date to be appointed)

Pt III s. 77(2): words repealed by Criminal Justice and Court Services Act 2000 c. 43 Sch. 8 para. 1 (date to be appointed)

78.— Defect in distress warrant and irregularity in its execution.

(1) A warrant of distress issued for the purpose of levying a sum adjudged to be paid by the conviction or order of a magistrates' court shall not, if it states that the sum has been so adjudged to be paid, be held void by reason of any defect in the warrant.

(2) A person acting under a warrant of distress shall not be deemed to be a trespasser from the beginning by reason only of any irregularity in the execution of the warrant.

(3) Nothing in this section shall prejudice the claim of any person for special damages in respect of any loss caused by a defect in the warrant or irregularity in its execution.

(4) If any person removes any goods marked in accordance with [rules of court]²⁷⁰ as articles impounded in the execution of a warrant of distress, or defaces or removes any such mark, he shall be liable on summary conviction to a fine not exceeding [level 1 on the standard scale]²⁷¹ .

²⁶⁷ Words substituted by Courts Act 2003 c. 39 Sch.8 para.218(2) (April 1, 2005)

²⁶⁸ Substituted by Courts Act 2003 c. 39 Sch.8 para.218(3) (April 1, 2005)

²⁶⁹ S. 77(3)-(8) inserted by Criminal Justice Act 1988 (c.33), ss. 61(1)(2), 123(6), Sch. 8 para. 16

²⁷⁰ Words substituted subject to saving specified in SI 2004/2066 art.3 by Courts Act 2003 c. 39 Sch.8 para.219(a) (September 1, 2004: substitution has effect subject to saving specified in SI 2004/2066 art.3)

²⁷¹ Words substituted by Criminal Justice Act 1982 (c.48), s. 46

(5) If any person charged with the execution of a warrant of distress wilfully retains from the proceeds of a sale of the goods on which distress is levied, or otherwise exacts, any greater costs and charges than those properly payable, or makes any improper charge, he shall be liable on summary conviction to a fine not exceeding [level 1 on the standard scale]²⁷¹.

79.— Release from custody and reduction of detention on payment.

(1) Where imprisonment or other detention has been imposed on any person by the order of a magistrates' court in default of payment of any sum adjudged to be paid by the conviction or order of a magistrates' court or for want of sufficient distress to satisfy such a sum, then, on the payment of the sum, together with the costs and charges, if any, of the commitment and distress, the order shall cease to have effect; and if the person has been committed to custody he shall be released unless he is in custody for some other cause.

(2) Where, after a period of imprisonment or other detention has been imposed on any person in default of payment of any sum adjudged to be paid by the conviction or order of a magistrates' court or for want of sufficient distress to satisfy such a sum, payment is made in accordance with [rules of court]²⁷² of part of the sum, the period of detention shall be reduced by such number of days as bears to the total number of days in that period less one day the same proportion as the amount so paid bears to so much of the said sum, and the costs and charges of any distress levied to satisfy that sum, as was due at the time the period of detention was imposed.

(3) In calculating the reduction required under subsection (2) above any fraction of a day shall be left out of account.

Amendments Pending

Pt III s. 79(1): word substituted by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 48(2)(a) (date to be appointed)

Pt III s. 79(1): words substituted by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 48(2)(b) (date to be appointed)

Pt III s. 79(2): word substituted by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 48(3)(a) (date to be appointed)

Pt III s. 79(2): s.79(2)(a) and (b) substituted for words by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 48(3)(b) (date to be appointed)

Pt III s. 79(4): added by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 48(4) (date to be appointed)

Pt III s. 79(5): added by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 48(4) (date to be appointed)

80.— Application of money found on defaulter to satisfy sum adjudged.

(1) Where a magistrates' court has adjudged a person to pay a sum by a conviction or has ordered the enforcement of a sum due from a person under [a magistrates' court maintenance order]²⁷³, the court may order him to be searched.

²⁷² Words substituted subject to saving specified in SI 2004/2066 art.3 by Courts Act 2003 c. 39 Sch.8 para.219(b) (September 1, 2004: substitution has effect subject to saving specified in SI 2004/2066 art.3)

²⁷³ Words substituted by Family Law Reform Act 1987 (c.42), s. 33(1), Sch. 2 para. 83

(2) Any money found on the arrest of a person adjudged to pay such a sum as aforesaid, or on a search as aforesaid, or on his being taken to a prison or other place of detention in default of payment of such a sum or for want of sufficient distress to satisfy such a sum, may, unless the court otherwise directs, be applied towards payment of the said sum; and the balance, if any, shall be returned to him.

(3) A magistrates' court shall not allow the application as aforesaid of any money found on a person if it is satisfied that the money does not belong to him or that the loss of the money would be more injurious to his family than would be his detention.

Amendments Pending

Pt III s. 80(2): word substituted by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 49 (date to be appointed)

Sums adjudged to be paid by a conviction

81.— Enforcement of fines imposed on young offenders.

(1) Where a magistrates' court would, but for [section 89 of the Powers of Criminal Courts (Sentencing) Act 2000]²⁷⁴, have power to commit to prison a person under [the age of 18]²⁷⁵ for a default consisting in failure to pay, or want of sufficient distress to satisfy, a sum adjudged to be paid by a conviction, the court may, subject to the following provisions of this section, make—

- (a) an order requiring the defaulter's parent or guardian to enter into a recognizance to ensure that the defaulter pays so much of that sum as remains unpaid; or
- (b) an order directing so much of that sum as remains unpaid to be paid by the defaulter's parent or guardian instead of by the defaulter.

(2) An order under subsection (1) above shall not be made in respect of a defaulter—

- (a) in pursuance of paragraph (a) of that subsection, unless the parent or guardian in question consents;
- (b) in pursuance of paragraph (b) of that subsection, unless the court is satisfied in all the circumstances that it is reasonable to make the order.

(3) None of the following orders, namely—

- (a) an order under [section 60(1) of the said Act of 2000]²⁷⁶ for attendance at an attendance centre; or
- (b) any order under subsection (1) above,

shall be made by a magistrates' court in consequence of a default of a person under [the age of 18 years]²⁷⁵ consisting in failure to pay, or want of sufficient distress to satisfy, a sum adjudged to be paid by a conviction unless the court has since the conviction inquired into the defaulter's means in his presence on at least one occasion.

²⁷⁴ Words substituted by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.9 para.67(2) (August 25, 2000)

²⁷⁵ Words substituted by Criminal Justice Act 1991 c. 53 Sch.8 para.6(2) (October 1, 1992)

²⁷⁶ Words substituted by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.9 para.67(3) (August 25, 2000)

(4) An order under subsection (1) above shall not be made by a magistrates' court unless the court is satisfied that the defaulter has, or has had since the date on which the sum in question was adjudged to be paid, the means to pay the sum or any instalment of it on which he has defaulted, and refuses or neglects or, as the case may be, has refused or neglected, to pay it.

(5) An order under subsection (1) above may be made in pursuance of paragraph (b) of that subsection against a parent or guardian who, having been required to attend, has failed to do so; but, save as aforesaid, an order under that subsection shall not be made in pursuance of that paragraph without giving the parent or guardian an opportunity of being heard.

(6) A parent or guardian may appeal to the Crown Court against an order under subsection (1) above made in pursuance of paragraph (b) of that subsection.

(7) Any sum ordered under subsection (1)(b) above to be paid by a parent or guardian may be recovered from him in like manner as if the order had been made on the conviction of the parent or guardian of an offence.

(8) In this section—

“guardian” , in relation to a person under [the age of 18]²⁷⁵ , means a person appointed, according to law, to be his guardian [...] ²⁷⁷ or by order of a court of competent jurisdiction; [...] ²⁷⁸

“sum adjudged to be paid by a conviction” means any fine, costs, compensation or other sum adjudged to be paid by an order made on a finding of guilt, including an order made under [section 130 of the said Act of 2000]²⁷⁹ (compensation orders) [...] ²⁷⁷ .

Amendments Pending

Pt III s. 81(1): word substituted by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 50 (date to be appointed)

Pt III s. 81(3): word substituted by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 50 (date to be appointed)

Pt III s. 81(3)(a): substituted by Criminal Justice and Immigration Act 2008 c. 4 Sch. 26(1) para. 1 (date to be appointed)

82.— Restriction on power to impose imprisonment for default.

(1) A magistrates' court shall not on the occasion of convicting an offender of an offence issue a warrant of commitment for a default in paying any sum adjudged to be paid by the conviction unless—

(a) in the case of an offence punishable with imprisonment, he appears to the court to have sufficient means to pay the sum forthwith;

(b) it appears to the court that he is unlikely to remain long enough at a place of abode in the United Kingdom to enable payment of the sum to be enforced by other methods; or

²⁷⁷ Words repealed by Children Act 1989 c. 41 Sch.15 para.1 (October 14, 1991)

²⁷⁸ Definition of the statutory restrictions upon the imprisonment of young offenders repealed by Criminal Justice Act 1982 (c.48), s. 78, Sch. 16

²⁷⁹ Words substituted by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.9 para.67(4) (August 25, 2000)

(c) on the occasion of that conviction the court sentences him to immediate imprisonment [, youth custody]²⁸⁰ or detention in a detention centre for that or another offence or he is already serving [a sentence of custody for life, or a term of imprisonment, youth custody, detention under section 9 of the Criminal Justice Act 1982]²⁸¹ or detention in a detention centre.

(2) A magistrates' court shall not in advance of the issue of a warrant of commitment fix a term of imprisonment which is to be served by an offender in the event of a default in paying a sum adjudged to be paid by a conviction, except where it has power to issue a warrant of commitment forthwith, but postpones issuing the warrant under section 77(2) above.

(3) Where on the occasion of the offender's conviction a magistrates' court does not issue a warrant of commitment for a default in paying any such sum as aforesaid or fix a term of imprisonment under the said section 77(2) which is to be served by him in the event of any such default, it shall not thereafter issue a warrant of commitment for any such default or for want of sufficient distress to satisfy such a sum unless—

- (a) he is already serving [a sentence of custody for life, or a term of imprisonment, youth custody, detention under section 9 of the Criminal Justice Act 1982]²⁸¹ or detention in a detention centre; or
- (b) the court has since the conviction inquired into his means in his presence on at least one occasion.

(4) Where a magistrates' court is required by subsection (3) above to inquire into a person's means, the court may not on the occasion of the inquiry or at any time thereafter issue a warrant of commitment for a default in paying any such sum unless—

- (a) in the case of an offence punishable with imprisonment, the offender appears to the court to have sufficient means to pay the sum forthwith; or
- (b) the court—
 - (i) is satisfied that the default is due to the offender's wilful refusal or culpable neglect; and
 - (ii) has considered or tried all other methods of enforcing payment of the sum and it appears to the court that they are inappropriate or unsuccessful.

[(4A) The methods of enforcing payment mentioned in subsection (4)(b)(ii) above are—

- (a) a warrant of distress under section 76 above;
- (b) an application to the High Court or county court for enforcement under section 87 below;
- (c) an order under section 88 below;
- (d) an attachment of earnings order; and
- (e) if the offender is [under the age of 25]²⁸² , an order under section 17 of the Criminal Justice Act 1982 (attendance centre orders).

]²⁸³

[(4B) The cases in which the offender's default may be regarded for the purposes of subsection (4)(b)(i) as being attributable to his wilful refusal or culpable neglect include any case in which—

²⁸⁰ Words inserted by Criminal Justice Act 1982 (c.48), s. 77, Sch. 14 para. 52(a)

²⁸¹ Words substituted by Criminal Justice Act 1982 (c.48), s. 77, Sch. 14 para. 52(b)

²⁸² Words substituted by Crime (Sentences) Act 1997 c. 43 Sch.4 para.10(1) (October 1, 1997)

²⁸³ S. 82(4A) inserted by Criminal Justice Act 1988 (c.33), ss. 61(3), 123(6), Sch. 8 para. 16

- (a) he has refused, otherwise than on reasonable grounds, to consent to a work order proposed to be made under Schedule 6 to the Courts Act 2003 (discharge of fines by unpaid work), or
- (b) he has without reasonable excuse failed to comply with such an order.

]²⁸⁴

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

- (a) the court has previously fixed a term of imprisonment under section 77(2) above which is to be served by the offender in the event of a default in paying a sum adjudged to be paid by the conviction; or
- (b) the offender is serving [a sentence of custody for life, or a term of imprisonment, youth custody, detention under section 9 of the Criminal Justice Act 1982]²⁸¹ or detention in a detention centre,

issue a warrant of commitment for a default in paying the sum or fix such a term except at a hearing at which the offender is present.

[(5A) A magistrates' court may not issue a warrant of commitment under subsection (5) above at a hearing at which the offender is not present unless the [designated officer for]²⁸⁵ the court has first served on the offender a notice in writing stating that the court intends to hold a hearing to consider whether to issue such a warrant and giving the reason why the court so intends.

(5B) Where after the occasion of an offender's conviction by a magistrates' court the court holds a hearing for the purpose of considering whether to issue a warrant of commitment for default in paying a sum adjudged to be paid by the conviction, it shall consider such information about the offender's means as is available to it unless it has previously—

- (a) inquired into the offender's means; and
- (b) postponed the issue of the warrant of commitment under section 77(2) above.

(5C) A notice under subsection (5A) above—

- (a) shall state the time and place appointed for the hearing; and
- (b) shall inform the offender that, if he considers that there are grounds why the warrant should not be issued, he may make representations to the court in person or in writing,

but the court may exercise its powers in relation to the issue of a warrant whether or not he makes representations.

(5D) Except as mentioned in subsection (5E) below, the time stated in a notice under subsection (5A) above shall not be earlier than 21 days after the issue of the notice.

(5E) Where a magistrates' court exercises in relation to an offender the power conferred by section 77(2) above and at the same hearing issues a notice under subsection (5A) above in relation to him, the time stated in the notice may be a time on any day following the end of the period for which the issue of the warrant of commitment has been postponed.

(5F) A notice under subsection (5A) above to be served on any person shall be deemed to be served on that person if it is sent by registered post or the recorded delivery service addressed to him at his last known address, notwithstanding that the notice is returned as undelivered or is for any other reason not received by that person.]²⁸⁶

²⁸⁴ Added by Courts Act 2003 c. 39 Sch.8 para.220(2) (April 1, 2005)

²⁸⁵ Words substituted by Courts Act 2003 c. 39 Sch.8 para.220(3) (April 1, 2005)

(6) Where a magistrates' court issues a warrant of commitment on the ground that one of the conditions mentioned in subsection (1) or (4) above is satisfied, it shall state that fact, specifying the ground, in the warrant.

Amendments Pending

Pt III s. 82(1)(c): words repealed by Criminal Justice and Court Services Act 2000 c. 43 Sch. 7(II) para. 63(a) (date to be appointed)

Pt III s. 82(1)(c): words substituted by Criminal Justice and Court Services Act 2000 c. 43 Sch. 7(II) para. 63(b) (date to be appointed)

Pt III s. 82(1)(c): words repealed by Criminal Justice and Court Services Act 2000 c. 43 Sch. 8 para. 1 (date to be appointed)

Pt III s. 82(3): word substituted by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 51(2) (date to be appointed)

Pt III s. 82(3)(a): words substituted by Criminal Justice and Court Services Act 2000 c. 43 Sch. 7(II) para. 63(b) (date to be appointed)

Pt III s. 82(4A)(a): words substituted by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 51(3) (date to be appointed)

Pt III s. 82(4A)(e): repealed by Criminal Justice Act 2003 c. 44 Sch. 37(7) para. 1 (date to be appointed)

Pt III s. 82(4A)(e): words substituted by Criminal Justice and Court Services Act 2000 c. 43 Sch. 7(II) para. 63(c) (date to be appointed)

Pt III s. 82(5)(b): words substituted by Criminal Justice and Court Services Act 2000 c. 43 Sch. 7(II) para. 63(b) (date to be appointed)

83.— Process for securing attendance of offender [...] ²⁸⁷ .

(1) A magistrates' court may, for the purpose of enabling inquiry to be made under section 82 above or for securing the attendance of an offender at a hearing required to be held by subsection (5) of that section—

- (a) issue a summons requiring the offender to appear before the court at the time and place appointed in the summons; or
- (b) issue a warrant to arrest him and bring him before the court.

(2) On the failure of the offender to appear before the court in answer to a summons [issued under this section, or by virtue of Schedule 5 to the Courts Act 2003] ²⁸⁸ the court may issue a warrant to arrest him and bring him before the court.

(3) A warrant issued under this section may be executed in like manner, and the like proceedings may be taken with a view to its execution, in any part of the United Kingdom, as if it had been issued under section 13 above.

(4) [...] ²⁸⁹

²⁸⁶ S. 82(5A)-(5F) inserted by Criminal Justice Act 1988 (c.33), ss. 61(4), 123(6), Sch. 8 para. 16

²⁸⁷ Words substituted by Collection of Fines (Final Scheme) Order 2006/1737 art.47(b) (July 3, 2006)

²⁸⁸ Words substituted by Collection of Fines (Final Scheme) Order 2006/1737 art.47(a) (July 3, 2006)

84.— Power to require statement of means.

(1) A magistrates' court may, either before or on inquiring into a person's means under section 82 above, and a justice of the peace acting [in the same local justice]²⁹⁰ area as that court may before any such inquiry, order him to furnish to the court within a period specified in the order such a statement of his means as the court may require.

(2) A person who fails to comply with an order under sub-section (1) above shall be liable on summary conviction to a fine not exceeding [level 3 on the standard scale]²⁹¹.

(3) If a person in furnishing any statement in pursuance of an order under subsection (1) above makes a statement which he knows to be false in a material particular or recklessly furnishes a statement which is false in a material particular, or knowingly fails to disclose any material fact, he shall be liable on summary conviction to imprisonment for a term not exceeding 4 months or a fine not exceeding [level 3 on the standard scale]²⁹¹ or both.

(4) Proceedings in respect of an offence under subsection (3) above may, notwithstanding anything in section 127(1) below, be commenced at any time within 2 years from the date of the commission of the offence or within 6 months from its first discovery by the prosecutor, whichever period expires the earlier.

Amendments Pending

Pt III s. 84(3): words repealed by Criminal Justice Act 2003 c. 44 Sch. 37(9) para. 1 (date to be appointed)

[85.— Power to remit fine.

(1) Where a fine has been imposed on conviction of an offender by a magistrates' court, the court may at any time remit the whole or any part of the fine, but only if it thinks it just to do so having regard to a change of circumstances which has occurred—

- (a) where the court is considering whether to issue a warrant of commitment after the issue of such a warrant in respect of the fine has been postponed under [subsection (2) of section 77 above, since the relevant time as defined in subsection (4)]²⁹² of that section; and
- (b) in any other case, since the date of the conviction.

(2) Where the court remits the whole or part of the fine after a term of imprisonment has been fixed, it shall also reduce the term by an amount which bears the same proportion to the whole term as the amount remitted bears to the whole or, as the case may be, shall remit the whole term.

[(2A) Where the court remits the whole or part of the fine after an order has been made under section 35(2)(a) or (b) of the Crime (Sentences) Act 1997, it shall also reduce the total number of hours or days to which the order relates by a number which bears the same proportion as the amount remitted bears to the whole sum or, as the case may be, shall revoke the order.

²⁸⁹ Repealed subject to transitional provisions specified in SI 2001/168 art.3 by Access to Justice Act 1999 c. 22 Sch.15(V)(8) para.1 (February 19, 2001: repeal has effect subject to transitional provisions specified in SI 2001/168 art.3)

²⁹⁰ Words substituted by Courts Act 2003 c. 39 Sch.8 para.221 (April 1, 2005)

²⁹¹ Words substituted by Criminal Justice Act 1982 (c.48), ss. 38, 46

²⁹² Words substituted by Crime and Disorder Act 1998 c. 37 Sch.7 para.32 (September 30, 1998)

[(2B) Where the court remits the whole or part of the fine after a work order has been made under Schedule 6 to the Courts Act 2003 (discharge of fines by unpaid work), it shall also reduce the number of hours specified in the order by a number which bears the same proportion as the amount remitted bears to the whole sum or, as the case may be, shall revoke the order.]²⁹³

(3) In calculating any reduction required by subsection (2) [, (2A) or (2B)]²⁹⁴ above any fraction of a day or hour shall be left out of account.]²⁹⁵

(4) Notwithstanding the definition of “fine” in section 150(1) below, references in this section to a fine do not include any other sum adjudged to be paid on conviction, whether as a pecuniary penalty, forfeiture, compensation or otherwise.
] ²⁹⁶

Amendments Pending

Pt III s. 85(2A): words substituted by Criminal Justice Act 2003 c. 44 Sch. 32(1) para. 28 (date to be appointed)

[85A. Variation of instalments of sum adjudged to be paid by conviction.

Where under section 75 above a magistrates' court orders that a sum adjudged to be paid by a conviction shall be paid by instalments, the court, on an application made by the person liable to pay that sum, shall have power to vary that order by varying the number of instalments payable, the amount of any instalments payable, and the date on which any instalment becomes payable.
] ²⁹⁷

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

[(1) A magistrates' court which has exercised in relation to a sum adjudged to be paid by a conviction either of the powers conferred by section 75(1) above shall have power, either then or later, to fix a day on which, if the relevant condition is satisfied, the offender must appear in person before the court for either or both of the following purposes, namely—

- (a) to enable an inquiry into his means to be made under section 82 above;
- (b) to enable a hearing required by subsection (5) of the said section 82 to be held.

(1A) Where the power which the court has exercised is the power to allow time for payment of a sum (“the adjudged sum”), the relevant condition is satisfied if any part of that sum remains unpaid on the day fixed by the court.

(1B) Where the power which the court has exercised is the power to order payment by instalments, the relevant condition is satisfied if an instalment which has fallen due remains unpaid on the day fixed by the court.]²⁹⁸

²⁹³ Added by Courts Act 2003 c. 39 Sch.8 para.222(2) (April 1, 2005)

²⁹⁴ Words substituted by Courts Act 2003 c. 39 Sch.8 para.222(3) (April 1, 2005)

²⁹⁵ Substituted by Crime (Sentences) Act 1997 c. 43 Sch.4 para.10(2) (January 1, 1998)

²⁹⁶ S. 85 substituted by Criminal Justice Act 1988 (c.33), ss. 61(5), 123(6), Sch. 8 para. 16

²⁹⁷ S. 85A inserted by Criminal Justice Act 1982 (c.48), s. 51(1)

²⁹⁸ S. 86(1)(1A)(1B) substituted by Criminal Justice Act 1982 (c.48), s. 51(2)(a)

(2) Except as provided in subsection (3) below, the power to fix a day under this section shall be exercisable only in the presence of the offender.

(3) Where a day has been fixed under this section, the court may fix a later day in subsection for the day previously fixed, and may do so—

- (a) when composed of a single justice; and
- (b) whether the offender is present or not.

(4) Subject to subsection (5) below, if on the day fixed under this section—

[(a) the relevant condition is satisfied; and]²⁹⁹

(b) the offender fails to appear in person before the court,

the court may issue a warrant to arrest him and bring him before the court; and [subsection (3) of section 83]³⁰⁰ above shall apply in relation to a warrant issued under this section.

(5) Where under subsection (3) above a later day has in the absence of the offender been fixed in substitution for a day previously fixed under this section, the court shall not issue a warrant under this section unless it is proved to the satisfaction of the court, on oath or in such other manner as may be prescribed, that notice in writing of the substituted day was served on the offender not less than what appears to the court to be a reasonable time before that day.

87.— Enforcement of payment of fines by High Court and county court.

(1) Subject to the provisions of subsection (2) below, payment of a sum adjudged to be paid by a conviction of a magistrates' court may be enforced by the High Court or a county court (otherwise than by issue of a writ of fieri facias or other process against goods or by imprisonment or attachment of earnings) as if the sum were due to the [designated officer for]³⁰¹ the magistrates' court in pursuance of a judgment or order of the High Court or county court, as the case may be.

[(1A) For the purposes of taking the step mentioned in paragraph 38(1)(e) of Schedule 5 to the Courts Act 2003, the reference in subsection (1) above to “the designated officer for the magistrates' court” shall be construed as a reference to the fines officer.]³⁰²

(2) Subsection (1) above shall not be construed as authorising the enforcement by a county court of payment of a fine exceeding the [county court limit]³⁰³ .[³⁰⁴]³⁰⁵

²⁹⁹ S. 86(4)(a) substituted by Criminal Justice Act 1982 (c.48), s. 51(2)(b)

³⁰⁰ Words substituted by Access to Justice Act 1999 c. 22 Pt V s.97(3) (February 19, 2001: subject to transitional provisions in SI 2001/168 art.3)

³⁰¹ Words substituted by Courts Act 2003 c. 39 Sch.8 para.223(2) (April 1, 2005)

³⁰² Added by Collection of Fines (Final Scheme) Order 2006/1737 art.48(a) (July 3, 2006)

³⁰³ Words substituted by County Court Act 1984 (c.28), s. 148(1), Sch. 2 Pt. V para. 73(a)

³⁰⁴ Subsection (2) is repealed except in so far as relates to family proceedings within the meaning of Part V of the Matrimonial and Family Proceedings Act 1984 or proceedings to which section 27(1) of the County Courts Act 1984 applies:

³⁰⁵ Subject to savings specified in art.12 by High Court and County Courts Jurisdiction Order 1991/724 Sch.1(I) para.1 (July 1, 1991)

[(2A) In subsection (2) above 'the county court limit' means the amount which for the time being is the county court limit for the purposes of section 16 of the County Courts Act 1984 (money recoverable by statute).]³⁰⁶]³⁰⁵]³⁰⁷

(3) The [designated officer for the magistrates' court]³⁰⁸ shall not take proceedings by virtue of subsection (1) above to recover any sum adjudged to be paid by a conviction of the court from any person unless [there has been an inquiry under section 82 above into that person's means and he appeared to the court to have sufficient means to pay the sum forthwith.]³⁰⁹ [³¹⁰]³¹¹

[(3A) The fines officer shall not, for the purposes of taking the step mentioned in paragraph 38(1)(e) of Schedule 5 to the Courts Act 2003, take proceedings by virtue of subsection (1) above to recover from any person a sum mentioned in paragraph 1 of that Schedule, unless the fines officer has made an inquiry into that person's means and he appeared to the fines officer to have sufficient means to pay the sum forthwith.]³¹²

(4) [...]³¹³

Amendments Pending

Pt III s. 87(1): words substituted by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 52 (date to be appointed)

[87A.— Fines imposed on companies.

(1) Where—

- (a) a magistrates' court has, or is treated by any enactment as having, adjudged a company by a conviction to pay a sum; and
- (b) the court has issued a warrant of distress under section 76(1) above for the purpose of levying the sum; and
- (c) it appears on the return to the warrant that the money and goods of the company are insufficient to satisfy the sum with the costs and charges of levying the same,

³⁰⁶ Subsection (2A) is repealed except in so far as relates to family proceedings within the meaning of Part V of the Matrimonial and Family Proceedings Act 1984 or proceedings to which section 27(1) of the County Courts Act 1984 applies:

³⁰⁷ S. 87(2A) inserted by County Court Act 1984 (c.28), s. 148(1), Sch. 2 Pt. V para. 73(b)

³⁰⁸ Words substituted by Courts Act 2003 c. 39 Sch.8 para.223(3) (April 1, 2005)

³⁰⁹ Words substituted by Criminal Procedure and Investigations Act 1996 c. 25 Pt VI s.50(1) (October 1, 1996: substitution has effect where the clerk of a magistrates' court proposes to take proceedings by virtue of 1996 c.25 s.87(1) on or after October 1, 1996)

³¹⁰ Subsection (3) is repealed in the application of Part III of the Magistrates' Court Act 1980 to amounts payable under confiscation orders:

³¹¹ Words repealed by Drug Trafficking Act 1994 c. 37 Pt I s.9(4)(b) (February 3, 1995)

³¹² Added by Collection of Fines (Final Scheme) Order 2006/1737 art.48(b) (July 3, 2006)

³¹³ Repealed by Courts Act 2003 c. 39 Sch.10 para.1 (April 1, 2005 as SI 2005/910)

the [designated officer for]³¹⁴ the court may make an application in relation to the company under [section 124 of, or paragraph 12 of Schedule B1 to, the Insolvency Act 1986]³¹⁵ (administration or winding up).

(2) [...] ³¹⁶
] ³¹⁷

Amendments Pending

Pt III s. 87A(1)(b): words substituted by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 53(2) (date to be appointed)

Pt III s. 87A(1)(c): substituted by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 53(3) (date to be appointed)

Pt III s. 87A(3): added by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 53(4) (date to be appointed)

88.— Supervision pending payment.

(1) Where any person is adjudged to pay a sum by a summary conviction and the convicting court does not commit him to prison forthwith in default of payment, the court may, either on the occasion of the conviction or on a subsequent occasion, order him to be placed under the supervision of such person as the court may from time to time appoint.

(2) An order placing a person under supervision in respect of any sum shall remain in force so long as he remains liable to pay the sum or any part of it unless the order ceases to have effect or is discharged under subsection (3) below.

(3) An order under this section shall cease to have effect on the making of a transfer of fine order under section 89 below with respect to the sum adjudged to be paid and may be discharged by the court that made it, without prejudice in either case to the making of a new order.

(4) Where a person under 21 years old has been adjudged to pay a sum by a summary conviction and the convicting court does not commit him to [detention under [section 108 of the Powers of Criminal Courts (Sentencing) Act 2000]³¹⁸]³¹⁹ forthwith in default of payment, the court shall not commit him to [to such detention]³²⁰ in default of payment of the sum, or for want of sufficient distress to satisfy the sum, unless he has been placed under supervision in respect of the sum or the court is satisfied that it is undesirable or impracticable to place him under supervision.

³¹⁴ Words substituted by Courts Act 2003 c. 39 Sch.8 para.224(2) (April 1, 2005)

³¹⁵ Words substituted subject to transitional provisions specified in SI 2003/2093 art.3 by Enterprise Act 2002 c. 40 Sch.17 para.2 (September 15, 2003: substitution has effect subject to transitional provisions specified in SI 2003/2093 art.3)

³¹⁶ Repealed by Courts Act 2003 c. 39 Sch.10 para.1 (April 1, 2005 as SI 2005/910)

³¹⁷ S. 87A inserted by Criminal Justice Act 1988 (c.33), ss. 62(1), 123(6), Sch. 8 para. 16

³¹⁸ Words substituted by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.9 para.68 (August 25, 2000)

³¹⁹ Words substituted by Criminal Justice Act 1982 (c.48), s. 77, Sch. 14 para. 53(a)(i)

³²⁰ Words substituted by Criminal Justice Act 1982 (c.48), s. 77, Sch. 14 para. 53(a)(ii)

(5) Where a court, being satisfied as aforesaid, commits a person under 21 years old to [such detention]³²¹ without an order under this section having been made, the court shall state the grounds on which it is so satisfied in the warrant of commitment.

(6) Where an order placing a person under supervision with respect to a sum is in force, a magistrates' court shall not commit him to prison in default of payment of the sum, or for want of sufficient distress to satisfy the sum, unless the court has before committing him taken such steps as may be reasonably practicable to obtain from the person appointed for his supervision an oral or written report on the offender's conduct and means and has considered any report so obtained, in addition, in a case where an inquiry is required by section 82 above, to that inquiry.

Amendments Pending

Pt III s. 88(4): words substituted by Criminal Justice and Court Services Act 2000 c. 43 Sch. 7(II) para. 64(a) (date to be appointed)

Pt III s. 88(4): word substituted by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 54 (date to be appointed)

Pt III s. 88(5): word substituted by Criminal Justice and Court Services Act 2000 c. 43 Sch. 7(II) para. 64(b) (date to be appointed)

Pt III s. 88(6): substituted by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 54 (date to be appointed)

89.— Transfer of fine order.

(1) Where a magistrates' court [in a local justice area]³²² has, or is treated by any enactment as having, adjudged a person by a conviction to pay a sum and it appears to the court [, or where that sum is the subject of a collection order, it appears to the court or the fines officer as the case may be,]³²³ that the person is residing [in England and Wales]³²⁴, the court [or the fines officer, as the case may be,]³²⁵ may make a transfer of fine order, that is to say, an order making payment enforceable in [another local justice area]³²⁶ and that area shall be specified in the order.

[(2) As from the date on which a transfer of fine order is made with respect to any sum, all functions under this Part of this Act or under Schedule 5 to the Courts Act 2003 relating to that sum which, if no order had been made, would have been exercisable by any court or person mentioned in column 1 of the Table below shall be exercisable by the court or person mentioned in the corresponding entry in column 2, and not otherwise.

Table

<i>Column 1</i>	<i>Column 2</i>
(A) The court which made the order.	

³²¹ Words substituted by Criminal Justice Act 1982 (c.48), s. 77, Sch. 14 para. 53(b)

³²² Words inserted by Courts Act 2003 c. 39 Sch.8 para.225(2)(a) (April 1, 2005)

³²³ Words inserted by Collection of Fines (Final Scheme) Order 2006/1737 art.49(a)(i) (July 3, 2006)

³²⁴ Words substituted by Courts Act 2003 c. 39 Sch.8 para.225(2)(b) (April 1, 2005)

³²⁵ Words inserted by Collection of Fines (Final Scheme) Order 2006/1737 art.49(a)(ii) (July 3, 2006)

³²⁶ Words substituted by Courts Act 2003 c. 39 Sch.8 para.225(2)(c) (April 1, 2005)

<i>Column 1</i>	<i>Column 2</i>
(B) A court acting in the same local justice area as was the fines officer who made the order.	In either case, a court acting in the local justice area specified in the order.
The designated officer for the court mentioned in the row above.	The designated officer for the court mentioned in the row above.
(A) The fines officer who made the order.	
(B) A fines officer acting in the same local justice area as was the court which made the order.	In either case, a fines officer acting in the local justice area specified in the order.

]³²⁷

[(2A) The functions of the court [under this Part of this Act]³²⁸ to which subsection (2) above relates shall be deemed to include the court's power to apply to the Secretary of State under any regulations made by him under section 24(1)(a) of the Criminal Justice Act 1991 (power to deduct fines etc. from income support)..]³²⁹

[(3) A court [or a fines officer, as the case may be, by which or whom]³³⁰ functions in relation to any sum are for the time being exercisable by virtue of a transfer of fine order may make a further transfer of fine order with respect to that sum.]³³¹

(4) In this section and sections 90 and 91 below, references to this Part of this Act do not include references to section 81(1) above.

Amendments Pending

Pt III s. 89(2A): words substituted by Welfare Reform Act 2009 c. 24 Sch. 2 para. 1 (date to be appointed)

90.— Transfer of fines to Scotland or Northern Ireland.

(1) Where a magistrates' court has, or is treated by any enactment as having, adjudged a person by a conviction to pay a sum, and it appears to the court [(or where that sum is the subject of a collection order, it appears to the court or the fines officer as the case may be)]³³² that he is residing—

(a) within the jurisdiction of a court of summary jurisdiction in Scotland, or

(b) in any petty sessions district in Northern Ireland,

the court [(or the fines officer as the case may be)]³³³ may order that payment of the sum shall be enforceable by that court of summary jurisdiction or, as the case may be, in that petty sessions district.

(2) An order under this section shall specify the court of summary jurisdiction by which or petty sessions district in which payment of the sum in question is to be enforceable; and if—

³²⁷ Substituted by Collection of Fines (Final Scheme) Order 2006/1737 art.49(b) (July 3, 2006)

³²⁸ Words inserted by Collection of Fines (Final Scheme) Order 2006/1737 art.49(c) (July 3, 2006)

³²⁹ Added by Criminal Justice and Public Order Act 1994 c. 33 Pt III s.47(1) (February 3, 1995)

³³⁰ Words substituted by Collection of Fines (Final Scheme) Order 2006/1737 art.49(d) (July 3, 2006)

³³¹ Substituted by Courts Act 2003 c. 39 Sch.8 para.225(4) (April 1, 2005)

³³² Words inserted by Collection of Fines (Final Scheme) Order 2006/1737 art.50(a)(i) (July 3, 2006)

³³³ Words inserted by Collection of Fines (Final Scheme) Order 2006/1737 art.50(a)(ii) (July 3, 2006)

(a) that sum is more than £100 or is a fine originally imposed by the Crown Court or the sheriff court, and

(b) payment is to be enforceable in Scotland,
the court to be so specified shall be the sheriff court.

(3) Where an order is made under this section with respect to any sum, any functions under this Part of this Act relating to that sum which, if no such order had been made, would have been exercisable by [a magistrates' court in England and Wales or by the designated officer for that court, or by a fines officer]³³⁴ shall cease to be so exercisable.

[(3A) The functions of the court [under this Part of this Act]³³⁵ which shall cease to be exercisable by virtue of subsection (3) above shall be deemed to include the court's power to apply to the Secretary of State under regulations made by him under section 24(1)(a) of the Criminal Justice Act 1991 (power to deduct fines from income support).]³³⁶

Amendments Pending

Pt III s. 90(3A): words substituted by Welfare Reform Act 2009 c. 24 Sch. 2 para. 1 (date to be appointed)

91.— Transfer of fines from Scotland or Northern Ireland.

(1) Where a transfer of fine order under section 403 of the Criminal Procedure (Scotland) Act 1975 or [Article 95 of the Magistrates' Courts (Northern Ireland) Order 1981]³³⁷ provides that payment of a sum shall be enforceable [by a magistrates' court in England and Wales, a magistrates' court [(or a fines officer as the case may be)]³³⁸ acting in the area in which the person subject to the order resides,]³³⁹ and the [designated officer for]³⁴⁰ that court, shall, subject to the provisions of this section, have all the like functions under this Part of this Act [(or under Schedule 5 to the Courts Act 2003 as the case may be)]³⁴¹ in respect of the sum (including power to make an order under section 89 or section 90 above) as if the sum were a sum adjudged to be paid by a conviction of that court and as if any order made under the said Act of 1975 or, as the case may be, [the said Order of 1981]³⁴² in respect of the sum before the making of the transfer of fine order had been made by that court.

(2) For the purpose of determining the period of imprisonment which may be imposed under this Act in default of payment of a fine originally imposed by a court in Scotland, Schedule 4 to this Act shall have effect as if for the Table set out in paragraph 1 there were substituted the Table set out in section 407 of the Criminal Procedure (Scotland) Act 1975.

³³⁴ Words substituted by Collection of Fines (Final Scheme) Order 2006/1737 art.50(b) (July 3, 2006)

³³⁵ Words substituted by Collection of Fines (Final Scheme) Order 2006/1737 art.50(c) (July 3, 2006)

³³⁶ Added by Criminal Justice and Public Order Act 1994 c. 33 Pt III s.47(2) (February 3, 1995)

³³⁷ Words substituted by S.I. 1981/1675 (N.I. 26), art. 170(2), Sch. 6 Pt. I para. 59(a)(i)

³³⁸ Words inserted by Collection of Fines (Final Scheme) Order 2006/1737 art.51(a)(i) (July 3, 2006)

³³⁹ Words substituted by Courts Act 2003 c. 39 Sch.8 para.227(2)(a) (April 1, 2005)

³⁴⁰ Words substituted by Courts Act 2003 c. 39 Sch.8 para.227(2)(b) (April 1, 2005)

³⁴¹ Words inserted by Collection of Fines (Final Scheme) Order 2006/1737 art.51(a)(ii) (July 3, 2006)

³⁴² Words substituted by S.I. 1981/1675 (N.I. 26), art. 170(2), Sch. 6 Pt. I para. 56(a)(ii)

(3) Where a transfer of fine order under section 403 of the Criminal Procedure (Scotland) Act 1975 or [Article 95 of the Magistrates' Court (Northern Ireland) Order 1981]³⁴³ provides for the enforcement [by a magistrates' court]³⁴⁴ in England and Wales of a fine originally imposed by the Crown Court, a magistrates' court [(or a fines officer as the case may be)]³⁴⁵ [acting in the area in which the person subject to the order resides]³⁴⁶ shall have all the like functions under this Part of this Act [(or under Schedule 5 to the Courts Act 2003 as the case may be)]³⁴⁷ , exercisable subject to the like restrictions, as if it were the magistrates' court by which payment of the fine fell to be enforced by virtue of [section 140(1) of the Powers of Criminal Courts (Sentencing) Act 2000]³⁴⁸ [(or as if he were a fines officer acting in the same local justice area as that court as the case may be)]³⁴⁹ , and as if any order made under the said Act of 1975 or, as the case may be, [the said Order of 1981]³⁵⁰ in respect of the fine before the making of the transfer of fine order had been made by that court.

Sums adjudged to be paid by an order

92.— Restriction on power to impose imprisonment for default.

(1) A magistrates' court shall not exercise its power under section 76 above to issue a warrant to commit to prison a person who makes default in paying a sum adjudged to be paid by an order of such a court except where the default is under—

- (a) a magistrates' court maintenance order;
- (b) an order under [section 17(2) of the Access to Justice Act 1999 (payment by individual in respect of]³⁵¹ cost of his defence in a criminal case); or
- (c) an order for the payment of any of the taxes, contributions, premiums or liabilities specified in Schedule 4 to the Administration of Justice Act 1970.

(2) This section does not affect the power of a magistrates' court to issue such a warrant as aforesaid in the case of default in paying a sum adjudged to be paid by a conviction, or treated (by any enactment relating to the collection or enforcement of fines, costs, compensation or forfeited recognizances) as so adjudged to be paid.

(3) [...]³⁵²

³⁴³ Words substituted by S.I. 1981/1675 (N.I. 26), art. 170(2), Sch. 6 para. 59(b)(i)

³⁴⁴ Words substituted by Courts Act 2003 c. 39 Sch.8 para.227(3)(a) (April 1, 2005)

³⁴⁵ Words inserted by Collection of Fines (Final Scheme) Order 2006/1737 art.51(b)(i) (July 3, 2006)

³⁴⁶ Words substituted by Courts Act 2003 c. 39 Sch.8 para.227(3)(b) (April 1, 2005)

³⁴⁷ Words inserted by Collection of Fines (Final Scheme) Order 2006/1737 art.51(b)(ii) (July 3, 2006)

³⁴⁸ Words substituted by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.9 para.69 (August 25, 2000)

³⁴⁹ Words inserted by Collection of Fines (Final Scheme) Order 2006/1737 art.51(b)(iii) (July 3, 2006)

³⁵⁰ Words substituted by S.I. 1981/1675 (N.I. 26), art. 170(2), Sch. 6 Pt. I para. 56(b)(ii)

³⁵¹ Words substituted by Access to Justice Act 1999 c. 22 Sch.4 para.17 (April 2, 2001 subject to transitional provisions specified in SI 2001/916 Sch.2 para.2)

³⁵² Repealed by Family Law Reform Act 1987 (c.42), s. 33(2)(4), Sch. 3 paras. 1, 6, Sch. 4

93.— Complaint for arrears.

(1) Where default is made in paying a sum ordered to be paid by [a magistrates' court maintenance order]³⁵³, the court shall not enforce payment of the sum under section 76 above except by an order made on complaint.

(2) A complaint under this section shall be made not earlier than the fifteenth day after the making of the order for the enforcement of which it is made; but subject to this such a complaint may be made at any time notwithstanding anything in this or any other Act.

(3) In relation to complaints under this section, section 55 above shall not apply and section 56 above shall have effect as if the words “if evidence has been received on a previous occasion” were omitted.

(4) Where at the time and place appointed for the hearing or adjourned hearing of a complaint under this section the complainant appears but the defendant does not, the court may proceed in his absence; but the court shall not begin to hear the complaint in the absence of the defendant unless either it is proved to the satisfaction of the court, on oath or in such other manner as may be prescribed, that the summons was served on him within what appears to the court to be a reasonable time before the hearing or adjourned hearing or the defendant has appeared on a previous occasion to answer the complaint.

(5) If a complaint under this section is substantiated on oath, any justice of the peace acting [in the same local justice]³⁵⁴ area as a court having jurisdiction to hear the complaint may issue a warrant for the defendant's arrest, whether or not a summons has been previously issued.

(6) A magistrates' court shall not impose imprisonment in respect of a default to which a complaint under this section relates unless the court has inquired in the presence of the defendant whether the default was due to the defendant's wilful refusal or culpable neglect, and shall not impose imprisonment as aforesaid if it is of opinion that the default was not so due; and, without prejudice to the preceding provisions of this subsection, a magistrates' court shall not impose imprisonment as aforesaid—

[(a) in the absence of the defendant; or

(b) in a case where the court has power to do so, if it is of the opinion that it is appropriate—

(i) to make an attachment of earnings order; or

(ii) to order that payments under the order be made by any method of payment falling within section 59(6) above; or

(c) where the sum to which the default relates comprises only interest which the defendant has been ordered to pay by virtue of section 94A(1) below.]³⁵⁵

(7) Notwithstanding anything in section 76(3) above, the period for which a defendant may be committed to prison under a warrant of commitment issued in pursuance of a complaint under this section shall not exceed 6 weeks.

(8) The imprisonment or other detention of a defendant under a warrant of commitment issued as aforesaid shall not operate to discharge the defendant from his liability to pay the sum in respect of which the warrant was issued.

³⁵³ Words substituted by Family Law Reform Act 1987 (c.42), s. 33(1)(2), Sch. 2 para. 84, Sch. 3 paras. 1, 6

³⁵⁴ Words substituted by Courts Act 2003 c. 39 Sch.8 para.228 (April 1, 2005)

³⁵⁵ Restricted territory. subsections (a) and (b) substituted for subsections (a), (b) and (c) by Maintenance Enforcement Act 1991 c. 17 Sch.2 para.7 (April 1, 1992)

94. Effect of committal on arrears.

Where a person is committed to custody under this Part of this Act for failure to pay a sum due under [a magistrates' court maintenance order]³⁵⁶, then, unless the court that commits him otherwise directs, no arrears shall accrue under the order while he is in custody.

[94A.— Interest on arrears.

(1) The [Lord Chancellor]³⁵⁷ may by order provide that a magistrates' court, on the hearing of a complaint for the enforcement, revocation, revival, variation or discharge of an English maintenance order, may order that interest of an amount calculated at the prescribed rate shall be paid on so much of the sum due under the order as they may determine.

(2) In subsection (1) above “the prescribed rate” means such rate of interest as the [Lord Chancellor]³⁵⁷ may by order prescribe.

(3) An order under this section may make provision for the manner in which and the periods by reference to which interest is to be calculated.

(4) Where, by virtue of subsection (1) above, a magistrates' court orders the payment of interest on any sum due under a maintenance order—

(a) then if it orders that the whole or any part of the interest be paid by instalments that order shall be regarded as an instalments order for the purposes of section 95 below and that section shall accordingly apply in relation to it; and

(b) the whole of the interest shall be enforceable as a sum adjudged to be paid by the maintenance order.

(5) In this section—

“English maintenance order” means—

(a) a qualifying maintenance order made by a magistrates' court, other than an order made by virtue of Part II of the Maintenance Orders (Reciprocal Enforcement) Act 1972; or

(b) an order made by the High Court or a county court (other than an order deemed to be made by the High Court by virtue of section 1(2) of the Maintenance Orders Act 1958) and registered under Part I of that Act of 1958 in a magistrates' court;

“qualifying maintenance order” has the same meaning as it has in section 59 above.

(6) The power of the [Lord Chancellor]³⁵⁷ to make an order under this section shall be exercisable by statutory instrument made with the concurrence of the Treasury and any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.

]³⁵⁸

³⁵⁶ Words substituted by Family Law Reform Act 1987 (c.42), s. 33(1)(2), Sch. 2 para. 85, Sch. 3 paras. 1, 6

³⁵⁷ Words substituted by Transfer of Functions (Magistrates' Courts and Family Law) Order 1992/709 art.3(2) (April 11, 1994)

³⁵⁸ Added by Maintenance Enforcement Act 1991 c. 17 s.8 (April 1, 1992)

[95.— Remission of arrears and manner in which arrears to be paid.

- (1) On the hearing of a complaint for the enforcement, revocation, revival, variation or discharge of a magistrates' court maintenance order, a magistrates' court may remit the whole or any part of the sum due under the order.
- (2) If, on the hearing of a complaint for the enforcement, revocation, revival, variation or discharge of a magistrates' court maintenance order, a magistrates' court orders that the whole or any part of the sum due under the order be paid by instalments (an "instalments order"), then—
- (a) if the maintenance order is an English maintenance order, the court shall at the same time exercise one of its powers under paragraphs (a) to (d) of section 59(3) above in relation to the instalments order;
 - (b) if the maintenance order is a non-English maintenance order, the court shall at the same time exercise one of its powers under subsection (3) below in relation to the instalments order.
- (3) The powers of the court referred to in subsection (2)(b) above are—
- (a) the power to order that payments under the order be made directly to [the designated officer for the court or for any other magistrates' court]³⁵⁹ ;
 - (b) the power to order that payments under the order be made to [the designated officer for the court or for any other magistrates' court]³⁵⁹ , by such method of payment falling within section 59(6) above as may be specified;
 - (c) the power to make an attachment of earnings order under the Attachment of Earnings Act 1971 to secure payments under the order.
- (4) The court may in the course of any proceedings concerning an instalments order or the magistrates' court maintenance order to which it relates vary the instalments order by exercising—
- (a) in respect of an English maintenance order, one of the powers referred to in subsection (2)(a) above;
 - (b) in respect of a non-English maintenance order, one of its powers under subsection (3) above.
- (5) In respect of an English maintenance order, subsections (4), (5) and (7) of section 59 above shall apply for the purposes of subsections (2)(a) and (4)(a) above as they apply for the purposes of that section.
- (6) In respect of a non-English maintenance order—
- (a) subsection (4) of section 59 above shall apply for the purposes of subsections (2)(b) and (4)(b) above as it applies for the purposes of that section but as if for paragraph (a) there were substituted—

“(a) the court proposes to exercise its power under paragraph (b) of section 95(3) below;”
 - ; and
 - (b) in deciding which of the powers under subsection (3) above it is to exercise the court shall have regard to any representations made by the debtor (within the meaning of section 59 above).
- (7) In this section—

³⁵⁹ Words substituted by Courts Act 2003 c. 39 Sch.8 para.229 (April 1, 2005)

“English maintenance order” has the same meaning as it has in section 94A above;
 “non-English maintenance order” means—

- (a) a maintenance order registered in, or confirmed by, a magistrates' court—
 - (i) under the Maintenance Orders (Facilities for Enforcement) Act 1920;
 - (ii) under Part II of the Maintenance Orders Act 1950;
 - (iii) under Part I of the Maintenance Orders (Reciprocal Enforcement) Act 1972 ; [...] ³⁶⁰
 - (iv) under Part I of the Civil Jurisdiction and Judgments Act 1982; [or] ³⁶¹
 - [(v) under Council Regulation (EC) No. 44/2001 of 22nd December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters [, as amended from time to time and as applied by the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ No. L 299 16.11.2005 at p62)] ³⁶² ;] ³⁶³
- (b) an order deemed to be made by the High Court by virtue of section 1(2) of the Maintenance Orders Act 1958 and registered under Part I of that Act in a magistrates' court; or
- (c) a maintenance order made by a magistrates' court by virtue of Part II of the Maintenance Orders (Reciprocal Enforcement) Act 1972.

] ³⁶⁴

96.— Civil debt; complaint for non-payment.

- (1) A magistrates' court shall not commit any person to prison or other detention in default of payment of a sum enforceable as a civil debt or for want of sufficient distress to satisfy such a sum except by an order made on complaint and on proof to the satisfaction of the court that that person has, or has had since the date on which the sum was adjudged to be paid, the means to pay the sum or any instalment of it on which he has defaulted, and refuses or neglects or, as the case may be, has refused or neglected to pay it.
- (2) A complaint under this section may be made at any time notwithstanding anything in this or any other Act.
- (3) Where on any such complaint the defendant is committed to custody, such costs incurred by the complainant in proceedings for the enforcement of the sum as the court may direct shall be included in the sum on payment of which the defendant may be released from custody.

³⁶⁰ Word repealed by Civil Jurisdiction and Judgments Order 2001/3929 Sch.3 para.12(a) (March 1, 2002)

³⁶¹ Word added by Civil Jurisdiction and Judgments Order 2001/3929 Sch.3 para.12(b) (March 1, 2002)

³⁶² Words inserted by Civil Jurisdiction and Judgments Regulations 2007/1655 Sch.1(1) para.10 (July 1, 2007)

³⁶³ Added by Civil Jurisdiction and Judgments Order 2001/3929 Sch.3 para.12(c) (March 1, 2002)

³⁶⁴ Substituted by Maintenance Enforcement Act 1991 c. 17 Sch.2 para.8 (April 1, 1992)

[96A. Application of Part III to persons aged 17 to 20.

This Part of this Act shall have effect in relation to a person [aged 18]³⁶⁵ or over but less than 21 as if any reference to committing a person to prison, or fixing a term of imprisonment for a default, were a reference to committing the person to, or, as the case may be, to fixing a term of, detention under [section 108 of the Powers of Criminal Courts (Sentencing) Act 2000]³⁶⁶; and any reference to warrants of commitment, or to periods of imprisonment imposed for default, shall be construed accordingly.]³⁶⁷

Amendments Pending

Pt III s. 96A: repealed by Criminal Justice and Court Services Act 2000 c. 43 Sch. 8 para. 1 (date to be appointed)

PART IV**WITNESSES AND EVIDENCE***Procuring attendance of witness***97.— Summons to witness and warrant for his arrest.**

[(1) Where a justice of the peace is satisfied that—

(a) any person in England or Wales is likely to be able to give material evidence, or produce any document or thing likely to be material evidence, at the summary trial of an information or hearing of a complaint [or of an application under the Adoption and Children Act 2002 (c. 38)]³⁶⁸ by a magistrates' court, and

(b) it is in the interests of justice to issue a summons under this subsection to secure the attendance of that person to give evidence or produce the document or thing,

the justice shall issue a summons directed to that person requiring him to attend before the court at the time and place appointed in the summons to give evidence or to produce the document or thing.

] ³⁶⁹

(2) If a justice of the peace is satisfied by evidence on oath of the matters mentioned in subsection (1) above, and also that it is probable that a summons under that subsection would not procure the attendance of the person in question, the justice may instead of issuing a summons issue a warrant to arrest that person and bring him before such a court as aforesaid at a time and place specified in the warrant; but a warrant shall not be issued under this subsection where the attendance is required for the hearing of a complaint [or of an application under the Adoption and Children Act 2002 (c. 38)]³⁶⁸.

³⁶⁵ Words substituted by Criminal Justice Act 1991 c. 53 Sch.8 para.6(3) (October 1, 1992)

³⁶⁶ Words substituted by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.9 para.70 (August 25, 2000)

³⁶⁷ S. 96A inserted by Criminal Justice Act 1982 (c.48), s. 77, Sch. 14 para. 54

³⁶⁸ Words inserted by Family Procedure (Modification of Enactments) Order 2005/3275 art.2 (December 30, 2005)

³⁶⁹ Substituted by Serious Organised Crime and Police Act 2005 c. 15 Pt 5 s.169(2) (July 1, 2005)

[(2A) A summons may also be issued under subsection (1) above if the justice is satisfied that the person in question is outside the British Islands but no warrant shall be issued under subsection (2) above unless the justice is satisfied by evidence on oath that the person in question is in England or Wales.]³⁷⁰

[(2B) A justice may refuse to issue a summons under subsection (1) above in relation to the summary trial of an information if he is not satisfied that an application for the summons was made by a party to the case as soon as reasonably practicable after the accused pleaded not guilty.

(2C) In relation to the summary trial of an information, subsection (2) above shall have effect as if the reference to the matters mentioned in subsection (1) above included a reference to the matter mentioned in subsection (2B) above.]³⁷¹

(3) On the failure of any person to attend before a magistrates' court in answer to a summons under this section, if—

(a) the court is satisfied by evidence on oath that he is likely to be able to give material evidence or produce any document or thing likely to be material evidence in the proceedings; and

(b) it is proved on oath, or in such other manner as may be prescribed, that he has been duly served with the summons, and that a reasonable sum has been paid or tendered to him for costs and expenses; and

(c) it appears to the court that there is no just excuse for the failure,

the court may issue a warrant to arrest him and bring him before the court at a time and place specified in the warrant.

(4) If any person attending or brought before a magistrates' court refuses without just excuse to be sworn or give evidence, or to produce any document or thing, the court may commit him to custody until the expiration of such period not exceeding [one month]³⁷² as may be specified in the warrant or until he sooner gives evidence or produces the document or thing [or impose on him a fine not exceeding [£2,500]³⁷³ or both]³⁷⁴ .

[(5) A fine imposed under subsection (4) above shall be deemed, for the purposes of any enactment, to be a sum adjudged to be paid by a conviction..]³⁷⁵

[97A.— Summons or warrant as to committal proceedings.

(1) Subsection (2) below applies where a justice of the peace [...] ³⁷⁶ is satisfied that—

(a) any person in England or Wales is likely to be able to make on behalf of the prosecutor a written statement containing material evidence, or produce on behalf of the prosecutor a

³⁷⁰ Added by Criminal Justice (International Co-operation) Act 1990 c. 5 Sch.4 para.2 (June 10, 1991)

³⁷¹ Added by Criminal Procedure and Investigations Act 1996 c. 25 Pt VI s.51(1) (July 4, 1996: insertion has effect in relation to any proceedings for the purpose of which no summons has been issued under 1980 c.43 s.97(1) and no warrant has been issued under s.97(2) before April 1, 1997)

³⁷² Words substituted by Contempt of Court Act 1981 (c.49), s. 14(5), Sch. 2 Pt. III para. 7

³⁷³ Word substituted by Criminal Justice Act 1991 c. 53 Sch.4(I) para.1 (October 1, 1992)

³⁷⁴ Words inserted by Contempt of Court Act 1981 (c.49), s. 14(5), Sch. 2 Pt. III para. 7

³⁷⁵ Substituted by Criminal Justice Act 1993 c. 36 Sch.3 para.6(3) (September 20, 1993)

³⁷⁶ Words repealed by Courts Act 2003 c. 39 Sch.10 para.1 (April 1, 2005 as SI 2005/910)

document or other exhibit likely to be material evidence, for the purposes of proceedings before a magistrates' court inquiring into an offence as examining justices,[and]³⁷⁷

[(b) it is in the interests of justice to issue a summons under this section to secure the attendance of that person to give evidence or to produce the document or other exhibit, and]³⁷⁸

(c) [...] ³⁷⁹

(2) In such a case the justice shall issue a summons directed to that person requiring him to attend before a justice at the time and place appointed in the summons to have his evidence taken as a deposition or to produce the document or other exhibit.

(3) If a justice of the peace is satisfied by evidence on oath of the matters mentioned in subsection (1) above, and also that it is probable that a summons under subsection (2) above would not procure the result required by it, the justice may instead of issuing a summons issue a warrant to arrest the person concerned and bring him before a justice at the time and place specified in the warrant.

(4) A summons may also be issued under subsection (2) above if the justice is satisfied that the person concerned is outside the British Islands, but no warrant may be issued under subsection (3) above unless the justice is satisfied by evidence on oath that the person concerned is in England or Wales.

(5) If—

- (a) a person fails to attend before a justice in answer to a summons under this section,
- (b) the justice is satisfied by evidence on oath that he is likely to be able to make a statement or produce a document or other exhibit as mentioned in subsection (1)(a) above,
- (c) it is proved on oath, or in such other manner as may be prescribed, that he has been duly served with the summons and that a reasonable sum has been paid or tendered to him for costs and expenses, and
- (d) it appears to the justice that there is no just excuse for the failure,

the justice may issue a warrant to arrest him and bring him before a justice at a time and place specified in the warrant.

(6) Where—

- (a) a summons is issued under subsection (2) above or a warrant is issued under subsection (3) or (5) above, and
- (b) the summons or warrant is issued with a view to securing that a person has his evidence taken as a deposition,

the time appointed in the summons or specified in the warrant shall be such as to enable the evidence to be taken as a deposition before a magistrates' court begins to inquire into the offence concerned as examining justices.

(7) If any person attending or brought before a justice in pursuance of this section refuses without just excuse to have his evidence taken as a deposition, or to produce the document or other exhibit, the justice may do one or both of the following—

- (a) commit him to custody until the expiration of such period not exceeding one month as may be specified in the summons or warrant or until he sooner has his evidence taken as a deposition or produces the document or other exhibit;

³⁷⁷ Word inserted by Courts Act 2003 c. 39 Sch.8 para.231(2)(b) (April 1, 2005)

³⁷⁸ Substituted by Serious Organised Crime and Police Act 2005 c. 15 Pt 5 s.169(3) (July 1, 2005)

³⁷⁹ Repealed by Courts Act 2003 c. 39 Sch.10 para.1 (April 1, 2005 as SI 2005/910)

(b) impose on him a fine not exceeding £2,500.

(8) A fine imposed under subsection (7) above shall be deemed, for the purposes of any enactment, to be a sum adjudged to be paid by a conviction.

(9) If in pursuance of this section a person has his evidence taken as a deposition, the [designated officer for]³⁸⁰ the justice concerned shall as soon as is reasonably practicable send a copy of the deposition to the prosecutor.

(10) If in pursuance of this section a person produces an exhibit which is a document, the [designated officer for]³⁸⁰ the justice concerned shall as soon as is reasonably practicable send a copy of the document to the prosecutor.

(11) If in pursuance of this section a person produces an exhibit which is not a document, the [designated officer for]³⁸⁰ the justice concerned shall as soon as is reasonably practicable inform the prosecutor of the fact and of the nature of the exhibit.

]³⁸¹

Amendments Pending

Pt IV s. 97A: repealed by Criminal Justice Act 2003 c. 44 Sch. 3(2) para. 51(6)(a) (date to be appointed)

Pt IV s. 97A: repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

Evidence generally

98. Evidence on oath.

Subject to the provisions of any enactment or rule of law authorising the reception of unsworn evidence, evidence given before a magistrates' court shall be given on oath.

99. Proof of non-payment of sum adjudged.

Where a magistrates' court has ordered one person to pay to another any sum of money, and proceedings are taken before that or any other magistrates' court to enforce payment of that sum, then—

(a) if the person to whom the sum is ordered to be paid is [the designated officer for a magistrates' court]³⁸², a certificate purporting to be signed by [the designated officer]³⁸³ that the sum has not been paid to him; and

(b) in any other case a document purporting to be a statutory declaration by the person to whom the sum is ordered to be paid that the sum has not been paid to him,

shall be admissible as evidence that the sum has not been paid to him, unless the court requires [the designated officer]³⁸³ or other person to be called as a witness.

³⁸⁰ Words substituted by Courts Act 2003 c. 39 Sch.8 para.231(3) (April 1, 2005)

³⁸¹ Added by Criminal Procedure and Investigations Act 1996 c. 25 Sch.1(I) para.8 (March 8, 1997 as SI 1997/683; Sch.1 has effect on March 8, 1997 in relation to any alleged offence in relation to which Part I of this Act applies)

³⁸² Words substituted by Courts Act 2003 c. 39 Sch.8 para.232(a) (April 1, 2005)

³⁸³ Words substituted by Courts Act 2003 c. 39 Sch.8 para.232(b) (April 1, 2005)

100. Statement of wages to be evidence.

A statement in writing to the effect that wages of any amount have been paid to a person during any period, purporting to be signed by or on behalf of his employer, shall be evidence of the facts therein stated in any proceedings taken before a magistrates' court—

- (a) for enforcing payment by the person to whom the wages are stated to have been paid of a sum adjudged to be paid by a summary conviction or order; or
- [(b) on any application made by or against that person for the making of a magistrates' court maintenance order, or for the variation, revocation, discharge or revival of such an order]³⁸⁴

101. Onus of proving exceptions, etc.

Where the defendant to an information or complaint relies for his defence on any exception, exemption, proviso, excuse or qualification, whether or not it accompanies the description of the offence or matter of complaint in the enactment creating the offence or on which the complaint is founded, the burden of proving the exception, exemption, proviso, excuse or qualification shall be on him; and this notwithstanding that the information or complaint contains an allegation negating the exception, exemption, proviso, excuse or qualification.

*Evidence in criminal cases***102.— [...] ³⁸⁵****[103.— Evidence of persons under 14 in committal proceedings for assault, sexual offences etc.**

[(1) In any proceedings before a magistrates' court inquiring as examining justices into an offence to which this section applies, a statement made in writing by or taken in writing from a child shall be admissible in evidence of any matter.]³⁸⁶

(2) This section applies—

- (a) to an offence which involves an assault, or injury or a threat of injury to, a person;
- (b) to an offence under section 1 of the Children and Young Persons Act 1933 (cruelty to persons under 16);
- (c) to an offence under the Sexual Offences Act 1956, [...] ³⁸⁷ the Protection of Children Act 1978 [or Part 1 of the Sexual Offences Act 2003]³⁸⁸; and

³⁸⁴ S. 100(b) substituted by Family Law Reform Act 1987 (c.42), s. 33(1)(2), Sch. 2 para. 87, Sch. 3 paras. 1, 6

³⁸⁵ Repealed by Criminal Procedure and Investigations Act 1996 c. 25 Sch.1(I) para.9 (March 8, 1997: as in SI 1997/683; Sch.1 has effect on March 8, 1997 in relation to any alleged offence in relation to which Part I of this Act applies)

³⁸⁶ Substituted by Criminal Procedure and Investigations Act 1996 c. 25 Sch.1(I) para.10(2) (March 8, 1997 as SI 1997/683; Sch.1 has effect on March 8, 1997 in relation to any alleged offence in relation to which Part I of this Act applies)

³⁸⁷ Words repealed by Sexual Offences Act 2003 c. 42 Sch.7 para.1 (May 1, 2004)

³⁸⁸ Words inserted by Sexual Offences Act 2003 c. 42 Sch.6 para.26(2) (May 1, 2004)

(d) to an offence which consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling within paragraph (a), (b) or (c) above.

(3)-(4) [...] ³⁸⁹

[(5) In this section 'child' has the same meaning as in section 53 of the Criminal Justice Act 1991.] ³⁹⁰
] ³⁹¹

Amendments Pending

Pt IV s. 103: repealed by Criminal Justice Act 2003 c. 44 Sch. 3(2) para. 51(6)(b) (date to be appointed)

Pt IV s. 103: repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

104. Proof of previous convictions.

Where a person is convicted of a summary offence by a magistrates' court, other than a [youth court] ³⁹², and—

(a) it is proved to the satisfaction of the court, on oath or in such other manner as may be prescribed, that not less than 7 days previously a notice was served on the accused in the prescribed form and manner specifying any alleged previous conviction of the accused of a summary offence proposed to be brought to the notice of the court in the event of his conviction of the offence charged; and

(b) the accused is not present in person before the court,

the court may take account of any such previous conviction so specified as if the accused had appeared and admitted it.

105.— [...] ³⁹³

³⁸⁹ Repealed by Criminal Procedure and Investigations Act 1996 c. 25 Sch.1(I) para.10(3) (March 8, 1997 as SI 1997/683; Sch.1 has effect on March 8, 1997 in relation to any alleged offence in relation to which Part I of this Act applies)

³⁹⁰ Substituted by Criminal Justice Act 1991 c. 53 Pt III s.55(1) (October 1, 1992)

³⁹¹ S. 103 substituted by Criminal Justice Act 1988 (c.33), ss. 33, 123(6), Sch. 8 para. 16

³⁹² Words substituted by Criminal Justice Act 1991 c. 53 Sch.11 para.40(2)(n) (October 1, 1992)

³⁹³ Repealed by Criminal Procedure and Investigations Act 1996 c. 25 Sch.1(I) para.11 (March 8, 1997 as SI 1997/683; Sch.1 has effect on March 8, 1997 in relation to any alleged offence in relation to which Part I of this Act applies)

Offences

106.— False written statements tendered in evidence.

(1) If any person in a written statement [admitted]³⁹⁴ in evidence in criminal proceedings by virtue of [section 5B]³⁹⁴ above wilfully makes a statement material in those proceedings which he knows to be false or does not believe to be true, he shall be liable on conviction on indictment to imprisonment for a term not exceeding 2 years or a fine or both.

(2) The Perjury Act 1911 shall have effect as if this section were contained in that Act.

Amendments Pending

Pt IV s. 106: repealed by Criminal Justice Act 2003 c. 44 Sch. 3(2) para. 51(6)(c) (date to be appointed)

Pt IV s. 106: repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

107. False statements in declaration proving service, etc.

If, in any solemn declaration, certificate or other writing made or given for the purpose of its being used in pursuance of [rules of court]³⁹⁵ as evidence of the service of any document or the handwriting or seal of any person, a person makes a statement that he knows to be false in a material particular, or recklessly makes any statement that is false in a material particular, he shall be liable on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding [level 3 on the standard scale]³⁹⁶ or both.

PART V

APPEAL AND CASE STATED

Appeal

108.— Right of appeal to the Crown Court.

- (1) A person convicted by a magistrates' court may appeal to the Crown Court—
- (a) if he pleaded guilty, against his sentence;
 - (b) if he did not, against the conviction or sentence.

³⁹⁴ Substituted by Criminal Procedure and Investigations Act 1996 c. 25 Sch.1(I) para.12 (March 8, 1997 as SI 1997/683; Sch.1 has effect on March 8, 1997 in relation to any alleged offence in relation to which Part I of this Act applies)

³⁹⁵ Words substituted subject to saving specified in SI 2004/2066 art.3 by Courts Act 2003 c. 39 Sch.8 para.233 (September 1, 2004: substitution has effect subject to saving specified in SI 2004/2066 art.3)

³⁹⁶ Words substituted by Criminal Justice Act 1982 (c.48), ss. 38, 46

[(1A) [Section 14 of the Powers of Criminal Courts (Sentencing) Act 2000]³⁹⁷ (under which a conviction of an offence for which [...] ³⁹⁸ an order for conditional or absolute discharge is made is deemed not to be a conviction except for certain purposes) shall not prevent an appeal under this Act, whether against conviction or otherwise.]³⁹⁹

(2) A person sentenced by a magistrates' court for an offence in respect of which [...] ⁴⁰⁰ an order for conditional discharge has been previously made may appeal to the Crown Court against the sentence.

(3) In this section “sentence” includes any order made on conviction by a magistrates' court, not being—

- (a) [...] ⁴⁰¹
- (b) an order for the payment of costs;
- (c) an order under [...] ⁴⁰² [section 37(1) of the Animal Welfare Act 2006] ⁴⁰³ (which enables a court to order the destruction of an animal); or
- (d) an order made in pursuance of any enactment under which the court has no discretion as to the making of the order or its terms

[and also includes a [declaration of relevance, within the meaning of section 23 of the Football Spectators Act 1989] ⁴⁰⁴] ⁴⁰⁵ . [...] ⁴⁰⁶

[(4) Subsection (3)(d) above does not prevent an appeal against a surcharge imposed under section 161A of the Criminal Justice Act 2003. [...] ⁴⁰³] ⁴⁰⁶

109.— Abandonment of appeal.

(1) Where notice to abandon an appeal has been duly given by the appellant—

- (a) the court against whose decision the appeal was brought may issue process for enforcing that decision, subject to anything already suffered or done under it by the appellant; and
- (b) the said court may, on the application of the other party to the appeal, order the appellant to pay to that party such costs as appear to the court to be just and reasonable in respect of expenses properly incurred by that party in connection with the appeal before notice of the abandonment was given to that party.

(2) In this section “appeal” means an appeal from a magistrates' court to the Crown Court, and the reference to a notice to abandon an appeal is a reference to a notice shown to the satisfaction of the magistrates' court to have been given in accordance with [rules of court] ⁴⁰⁷ .

³⁹⁷ Words substituted by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.9 para.71 (August 25, 2000)

³⁹⁸ Words repealed by Criminal Justice Act 1991 c. 53 Sch.13 para.1 (October 1, 1992 as SI 1992/333)

³⁹⁹ S. 108(1A) inserted by Criminal Justice Act 1982 (c.48), s. 66(2)

⁴⁰⁰ Words repealed by Crime and Disorder Act 1998 c. 37 Sch.10 para.1 (September 30, 1998 as SI 1998/2327)

⁴⁰¹ Repealed by Criminal Justice Act 1982 (c.48), Sch. 16

⁴⁰² Repealed by Football (Disorder) Act 2000 c. 25 Sch.3 para.1 (July 28, 2000)

⁴⁰³ Words substituted by Animal Welfare Act 2006 c. 45 Sch.3 para.10 (April 6, 2007 as SI 2007/499)

⁴⁰⁴ Words substituted by Violent Crime Reduction Act 2006 c. 38 Sch.3(2) para.14(1) (April 6, 2007)

⁴⁰⁵ Words inserted by Criminal Justice Act 1982 (c.48), Sch. 16

⁴⁰⁶ Added by Domestic Violence, Crime and Victims Act 2004 c. 28 Sch.10 para.10 (April 1, 2007)

⁴⁰⁷ Words substituted subject to saving specified in SI 2004/2066 art.3 by Courts Act 2003 c. 39 Sch.8 para.234 (September 1, 2004: substitution has effect subject to saving specified in SI 2004/2066 art.3)

110. Enforcement of decision of the Crown Court.

After the determination by the Crown Court of an appeal from a magistrates' court the decision appealed against as confirmed or varied by the Crown Court, or any decision of the Crown Court substituted for the decision appealed against, may, without prejudice to the powers of the Crown Court to enforce the decision, be enforced—

- (a) by the issue by the court by which the decision appealed against was given of any process that it could have issued if it had decided the case as the Crown Court decided it;
- (b) so far as the nature of any process already issued to enforce the decision appealed against permits, by that process;

and the decision of the Crown Court shall have effect as if it had been made by the magistrates' court against whose decision the appeal is brought.

*Case stated***111.— Statement of case by magistrates' court.**

(1) Any person who was a party to any proceeding before a magistrates' court or is aggrieved by the conviction, order, determination or other proceeding of the court may question the proceeding on the ground that it is wrong in law or is in excess of jurisdiction by applying to the justices composing the court to state a case for the opinion of the High Court on the question of law or jurisdiction involved; but a person shall not make an application under this section in respect of a decision against which he has a right of appeal to the High Court or which by virtue of any enactment passed after 31st December 1879 is final.

(2) An application under subsection (1) above shall be made within 21 days after the day on which the decision of the magistrates' court was given.

(3) For the purpose of subsection (2) above, the day on which the decision of the magistrates' court is given shall, where the court has adjourned the trial of an information after conviction, be the day on which the court sentences or otherwise deals with the offender.

(4) On the making of an application under this section in respect of a decision any right of the applicant to appeal against the decision to the Crown Court shall cease.

(5) If the justices are of opinion that an application under this section is frivolous, they may refuse to state a case, and, if the applicant so requires, shall give him a certificate stating that the application has been refused; but the justices shall not refuse to state a case if the application is made by or under the direction of the Attorney General.

(6) Where justices refuse to state a case, the High Court may, on the application of the person who applied for the case to be stated, make an order of mandamus requiring the justices to state a case.

[(7) This section does not apply in relation to family proceedings within the meaning of section 111A of this Act]⁴⁰⁸

⁴⁰⁸ Added by Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) Order 2009/871 art.4(2) (April 6, 2009: insertion has effect subject to transitional provisions specified in SI 2009/871 art.14)

[111A Appeals on ground of error of law etc in family proceedings

- (1) This section applies in relation to family proceedings in a magistrates' court.
- (2) Any person who was a party to any proceeding before the court, or is aggrieved by the order, determination or other proceeding of the court, may question the proceeding on the ground that it is wrong in law or is in excess of jurisdiction by appealing to a county court.
- (3) But a person may not appeal under subsection (2) in respect of a decision if—
- (a) the person has a right of appeal to a county court against the decision otherwise than under this section, or
 - (b) the decision is final by virtue of any enactment passed after 31st December 1879.
- (4) A notice of appeal under subsection (2) shall be filed within 21 days after the day on which the decision of the magistrates' court was given.
- (5) In this section “family proceedings” means—
- (a) proceedings which, by virtue of section 65 of this Act, are or may be treated as family proceedings for the purposes of this Act; and
 - (b) proceedings under the Child Support Act 1991.

] ⁴⁰⁹**112. [Effect of decisions made on case stated or on appeal] ⁴¹⁰ .**

[(1) Any conviction, order, determination or other proceeding of a magistrates' court varied by the High Court on an appeal by case stated, and any judgment or order of the High Court on such an appeal, may be enforced as if it were a decision of the magistrates' court from which the appeal was brought.

(2) Any order, determination or other proceeding of a magistrates' court varied by a county court on an appeal under section 111A, and any judgment or order of a county court on such an appeal, may be enforced as if it were a decision of the magistrates' court from which the appeal was brought.

] ⁴¹¹*Supplemental provisions as to appeal and case stated***113.— Bail on appeal or case stated.**

(1) Where a person has given notice of appeal to the Crown Court against the decision of a magistrates' court or has applied to a magistrates' court to state a case for the opinion of the High

⁴⁰⁹ Added by Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) Order 2009/871 art.4(3) (April 6, 2009)

⁴¹⁰ Words substituted by Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) Order 2009/871 art.4(4)(a) (April 6, 2009: substitution has effect subject to transitional provisions specified in SI 2009/871 art.14)

⁴¹¹ Existing s.112 renumbered as s.112(1) and s.112(2) inserted by Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) Order 2009/871 art.4(4) (April 6, 2009: substitution has effect subject to transitional provisions specified in SI 2009/871 art.14)

Court, then, if he is in custody, the magistrates' court may [, subject to section 25 of the Criminal Justice and Public Order Act 1994]⁴¹² grant him bail.

(2) If a person is granted bail under subsection (1) above, the time and place at which he is to appear (except in the event of the determination in respect of which the case is stated being reversed by the High Court) shall be—

- (a) if he has given notice of appeal, the Crown Court at the time appointed for the hearing of the appeal;
- (b) if he has applied for the statement of a case, the magistrates' court at such time within 10 days after the judgment of the High Court has been given as may be specified by the magistrates' court;

and any recognizance that may be taken from him or from any surety for him shall be conditioned accordingly.

(3) Subsection (1) above shall not apply where the accused has been committed to the Crown Court for sentence under [section 37]⁴¹³ [above or section 3 of the Powers of Criminal Courts (Sentencing) Act 2000]⁴¹³ .

(4) Section 37(6) of the Criminal Justice Act 1948 (which relates to the currency of a sentence while a person is released on bail by the High Court) shall apply to a person released on bail by a magistrates' court under this section pending the hearing of a case stated as it applies to a person released on bail by the High Court under section 22 of the Criminal Justice Act 1967.

114. Recognizances and fees on case stated.

Justices to whom application has been made to state a case for the opinion of the High Court on any proceeding of a magistrates' court shall not be required to state the case until the applicant has entered into a recognizance, with or without sureties, before the magistrates' court, conditioned to prosecute the appeal without delay and to submit to the judgment of the High Court and pay such costs as that Court may award; and (except in any criminal matter) [a justices' clerk]⁴¹⁴ shall not be required to deliver the case to the applicant until the applicant has paid [the fees payable for the case and for the recognizances to the [designated officer]⁴¹⁵ for the court]⁴¹⁶ .

⁴¹² Words inserted by Criminal Justice and Public Order Act 1994 c. 33 Sch.10 para.44 (April 10, 1995)

⁴¹³ Words substituted by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.9 para.72 (August 25, 2000)

⁴¹⁴ Words substituted by Courts Act 2003 c. 39 Sch.8 para.235(a) (April 1, 2005)

⁴¹⁵ Words substituted by Courts Act 2003 c. 39 Sch.8 para.235(b) (April 1, 2005)

⁴¹⁶ Words substituted by Access to Justice Act 1999 c. 22 Sch.13 para.113 (April 1, 2001 subject to transitional provisions specified in SI 2001/916 Sch.2 para.2)

PART VI
RECOGNIZANCES

Recognizances to keep the peace or be of good behaviour

115.— Binding over to keep the peace or be of good behaviour.

- (1) The power of a magistrates' court on the complaint of any person to adjudge any other person to enter into a recognizance, with or without sureties, to keep the peace or to be of good behaviour towards the complainant shall be exercised by order on complaint.
- (2) Where a complaint is made under this section, the power of the court to remand the defendant under subsection (5) of section 55 above shall not be subject to the restrictions imposed by subsection (6) of that section.
- (3) If any person ordered by a magistrates' court under subsection (1) above to enter into a recognizance, with or without sureties, to keep the peace or to be of good behaviour fails to comply with the order, the court may commit him to custody for a period not exceeding 6 months or until he sooner complies with the order.

116.— Discharge of recognizance to keep the peace or be of good behaviour on complaint of surety.

- (1) On complaint being made to a justice of the peace [...] ⁴¹⁷ by a surety to a recognizance to keep the peace or to be of good behaviour entered into before a magistrates' court that the person bound by the recognizance as principal has been, or is about to be, guilty of conduct constituting a breach of the conditions of the recognizance, the justice may [...] ⁴¹⁷ issue a warrant to arrest the principal and bring him before a magistrates' court [...] ⁴¹⁷ or a summons requiring the principal to appear before such a court; but the justice shall not issue a warrant unless the complaint is in writing and substantiated on oath.
- (2) The magistrates' court before which the principal appears or is brought in pursuance of such a summons or warrant as aforesaid may, unless it adjudges the recognizance to be forfeited, order the recognizance to be discharged and order the principal to enter into a new recognizance, with or without sureties, to keep the peace or to be of good behaviour.
- (3) [...] ⁴¹⁸

⁴¹⁷ Words repealed by Courts Act 2003 c. 39 Sch.10 para.1 (April 1, 2005 as SI 2005/910)

⁴¹⁸ Repealed by Courts Act 2003 c. 39 Sch.10 para.1 (April 1, 2005 as SI 2005/910)

*Other provisions***117.— Warrant endorsed for bail.**

(1) A justice of the peace on issuing a warrant for the arrest of any person may grant him bail by endorsing the warrant for bail, that is to say, by endorsing the warrant with a direction in accordance with subsection (2) below.

[(1A) Subsection (1) is subject to section 115(1) of the Coroners and Justice Act 2009 (bail decisions in murder cases to be made by Crown Court judge).]⁴¹⁹

(2) A direction for bail endorsed on a warrant under subsection (1) above shall—

(a) in the case of bail in criminal proceedings, state that the person arrested is to be released on bail subject to a duty to appear before such magistrates' court and at such time as may be specified in the endorsement;

(b) in the case of bail otherwise than in criminal proceedings, state that the person arrested is to be released on bail on his entering into such a recognizance (with or without sureties) conditioned for his appearance before a magistrates' court as may be specified in the endorsement;

and the endorsement shall fix the amounts in which any sureties and, in a case falling within paragraph (b) above, that person is or are to be bound.

[(3) Where a warrant has been endorsed for bail under subsection (1) above—

(a) where the person arrested is to be released on bail on his entering into a recognizance without sureties, it shall not be necessary to take him to a police station, but if he is so taken, he shall be released from custody on his entering into the recognizance; and

(b) where he is to be released on his entering into a recognizance with sureties, he shall be taken to a police station on his arrest, and the custody officer there shall (subject to his approving any surety tendered in compliance with the endorsement) release him from custody as directed in the endorsement.

] ⁴²⁰

118.— Varying or dispensing with requirement as to sureties.

(1) Subject to subsection (2) below, where a magistrates' court has committed a person to custody in default of finding sureties, the court may, on application by or on behalf of the person committed, and after hearing fresh evidence, reduce the amount in which it is proposed that any surety should be bound or dispense with any of the sureties or otherwise deal with the case as it thinks just.

(2) Subsection (1) above does not apply in relation to a person granted bail in criminal proceedings.

119.— Postponement of taking recognizance.

(1) Where a magistrates' court has power to take any recognizance, the court may, instead of taking it, fix the amount in which the principal and his sureties, if any, are to be bound; and thereafter the recognizance may be taken by any such person as may be prescribed.

⁴¹⁹ Added by Coroners and Justice Act 2009 c. 25 Sch.21(7) para.75 (February 1, 2010)

⁴²⁰ S. 117(3) substituted by Police and Criminal Evidence Act 1984 (c.60), ss. 47(8)(b), 51, 52

(2) Where, in pursuance of this section, a recognizance is entered into otherwise than before the court that fixed the amount of it, the same consequences shall follow as if it had been entered into before that court; and references in this or any other Act to the court before which a recognizance was entered into shall be construed accordingly.

(3) Nothing in this section shall enable a magistrates' court to alter the amount of a recognizance fixed by the High Court [or the Crown Court]⁴²¹.

120.— Forfeiture of recognizance.

[(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.

]⁴²²

(3) The court which declares the recognizance to be forfeited may, instead of adjudging any person to pay the whole sum in which he is bound, adjudge him to pay part only of the sum or remit the sum.

(4) Payment of any sum adjudged to be paid under this section, including any costs awarded against the defendant, may be enforced, and any such sum shall be applied, as if it were a fine and as if the adjudication were a summary conviction of an offence not punishable with imprisonment and so much of section 85(1) above as empowers a court to remit fines shall not apply to the sum but so much thereof as relates to remission after a term of imprisonment has been imposed shall so apply; but at any time before the issue of a warrant of commitment to enforce payment of the sum, or before the sale of goods under a warrant of distress to satisfy the sum, the court may remit the whole or any part of the sum either absolutely or on such conditions as the court thinks just.

⁴²¹ Words inserted by Criminal Justice Act 1982 (c.48) s. 77, Sch. 14 para. 55

⁴²² Substituted by Crime and Disorder Act 1998 c. 37 Pt III s.55 (September 30, 1998)

(5) A recognizance such as is mentioned in this section shall not be enforced otherwise than in accordance with this section, and accordingly shall not be transmitted to the Crown Court nor shall its forfeiture be certified to that Court.

Amendments Pending

Pt VI s. 120(4): words substituted by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 56 (date to be appointed)

PART VII

MISCELLANEOUS AND SUPPLEMENTARY

Constitution and place of sitting of magistrates' courts

121.— Constitution and place of sitting of court.

(1) A magistrates' court shall not try an information summarily or hear a complaint except when composed of at least 2 justices unless the trial or hearing is one that by virtue of any enactment may take place before a single justice.

(2) A magistrates' court shall not hold an inquiry into the means of an offender for the purposes of section 82 above [or determine under that section at a hearing at which the offender is not present whether to issue a warrant of commitment]⁴²³ except when composed of at least 2 justices.

(3) [...] ⁴²⁴

[(4) Subject to the provisions of any enactment to the contrary, a magistrates' court must sit in open court if it is—

- (a) trying summarily an information for an indictable offence,
- (b) trying an information for a summary offence,
- (c) imposing imprisonment,
- (d) hearing a complaint, or
- (e) holding an inquiry into the means of an offender for the purposes of section 82.

]⁴²⁵

(5) A magistrates' court composed of a single justice [...] ⁴²⁶ shall not impose imprisonment for a period exceeding 14 days or order a person to pay more than £1.

(6) Subject to the provisions of subsection (7) below, the justices composing the court before which any proceedings take place shall be present during the whole of the proceedings; but if during the course of the proceedings any justice absents himself, he shall cease to act further therein and, if

⁴²³ Words inserted by Criminal Justice Act 1988 (c.33), ss. 61(6), 123(6), Sch. 8 para. 16

⁴²⁴ Repealed by Courts Act 2003 c. 39 Sch.10 para.1 (April 1, 2005 as SI 2005/910)

⁴²⁵ Substituted by Courts Act 2003 c. 39 Sch.8 para.237(3) (April 1, 2005)

⁴²⁶ Words repealed by Courts Act 2003 c. 39 Sch.10 para.1 (April 1, 2005 as SI 2005/910)

the remaining justices are enough to satisfy the requirements of the preceding provisions of this section, the proceedings may continue before a court composed of those justices.

(7) Where the trial of an information is adjourned after the accused has been convicted and before he is sentenced or otherwise dealt with, the court which sentences or deals with him need not be composed of the same justices as that which convicted him; but, where among the justices composing the court which sentences or deals with an offender there are any who were not sitting when he was convicted, the court which sentences or deals with the offender shall before doing so make such inquiry into the facts and circumstances of the case as will enable the justices who were not sitting when the offender was convicted to be fully acquainted with those facts and circumstances.

(8) This section shall have effect subject to the provisions of this Act relating to [family proceedings]⁴²⁷ .

Appearance by counsel or solicitor

122.— Appearance by counsel or solicitor.

(1) A party to any proceedings before a magistrates' court may be represented by [a legal representative]⁴²⁸ .

(2) Subject to subsection (3) below, an absent party so represented shall be deemed not to be absent.

(3) Appearance of a party by [a legal representative]⁴²⁸ shall not satisfy any provision of any enactment or any condition of a recognizance expressly requiring his presence.

Process

123.— Defect in process.

(1) No objection shall be allowed to any information or complaint, or to any summons or warrant to procure the presence of the defendant, for any defect in it in substance or in form, or for any variance between it and the evidence adduced on behalf of the prosecutor or complainant at the hearing of the information or complaint.

(2) If it appears to a magistrates' court that any variance between a summons or warrant and the evidence adduced on behalf of the prosecutor or complainant is such that the defendant has been misled by the variance, the court shall, on the application of the defendant, adjourn the hearing.[⁴²⁹]⁴³⁰

⁴²⁷ Words substituted by Children Act 1989 c. 41 Sch.11(II) para.8(c) (October 14, 1991)

⁴²⁸ Words substituted by Courts and Legal Services Act 1990 (c.41), s. 125(3), Sch. 18 para. 25(3)(b)

⁴²⁹ In relation to contempt of court under section 18 of the Criminal Procedure and Investigations Act 1996: [See Westlaw UK].

⁴³⁰ Words omitted in relation to contempt of court under 1996 c.25 s.18 by Magistrates' Courts (Criminal Procedure and Investigations Act 1996) (Confidentiality) Rules 1997/704 rule 5(6) (April 1, 1997)

124. Process valid notwithstanding death, etc., of justice.

A warrant or summons issued by a justice of the peace shall not cease to have effect by reason of his death or his ceasing to be a justice.

125.— Warrants.

(1) A warrant of arrest issued by a justice of the peace shall remain in force until it is executed or withdrawn [or it ceases to have effect in accordance with [rules of court]⁴³¹]⁴³² .

(2) A warrant of arrest, warrant of commitment, [warrant of detention,]⁴³³ warrant of distress or search warrant issued by a justice of the peace may be executed anywhere in England and Wales by any person to whom it is directed or by any constable acting within his police area.

(a)-(c) [...]⁴³⁴

This subsection does not apply to a warrant of commitment or a warrant of distress issued under Part VI of the General Rate Act 1967.

(3)-(4) [...]⁴³⁵

Amendments Pending

Pt VII s. 125(2): words substituted by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 57(2) (date to be appointed)

Pt VII s. 125(2): words repealed by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 57(3) (date to be appointed)

Pt VII s. 125(2): words repealed by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 23(3) para. 1 (date to be appointed)

Pt VII s. 125(4)(c)(iii): word 'and' at the end by Youth Justice and Criminal Evidence Act 1999 c. 23 Sch. 6 para. 1 (date to be appointed: commencement order)

[125A.— Civilian enforcement officers.

(1) A warrant to which this subsection applies may be executed anywhere in England and Wales by a civilian enforcement officer.

(2) In this section “civilian enforcement officer”, in relation to a warrant, means a person who—
(a) is employed by an authority of a prescribed class which performs functions in relation to any area specified in the warrant; and

⁴³¹ Words substituted subject to saving specified in SI 2004/2066 art.3 by Courts Act 2003 c. 39 Sch.8 para.238 (September 1, 2004: substitution has effect subject to saving specified in SI 2004/2066 art.3)

⁴³² Words added by Access to Justice Act 1999 c. 22 Pt V s.97(4) (February 19, 2001: subject to transitional provisions in SI 2001/168 art.3)

⁴³³ Words added by Access to Justice Act 1999 c. 22 Pt V s.95(1) (January 8, 2001)

⁴³⁴ Repealed subject to transitional provisions specified in SI 2000/3280 art.3 by Access to Justice Act 1999 c. 22 Sch.15(V)(8) para.1 (January 8, 2001 as SI 2000/3280; repeal has effect subject to transitional provisions specified in SI 2000/3280 art.3)

⁴³⁵ Repealed subject to transitional provisions specified in SI 2001/168 art.3 by Access to Justice Act 1999 c. 22 Sch.15(V)(8) para.1 (February 19, 2001: repeal has effect subject to transitional provisions specified in SI 2001/168 art.3)

(b) is authorised in the prescribed manner to execute warrants.

(3) The warrants to which subsection (1) above applies are any warrant of arrest, commitment, detention or distress issued by a justice of the peace—

(a) under any provision specified for the purposes of this subsection by an order made by the Lord Chancellor [...] ⁴³⁶ ; or

(b) for the enforcement of a court order of any description so specified.

[(3A) Subsection (1) also applies to any warrant of distress issued under Schedule 5 to the Courts Act 2003 by a court or fines officer.] ⁴³⁷

(4) Where a warrant has been executed by a civilian enforcement officer, a written statement indicating—

(a) the name of the officer;

(b) the authority by which he is employed; and

(c) that he is authorised in the prescribed manner to execute warrants,

shall, on the demand of the person arrested, committed or detained or against whom distress is levied, be shown to him as soon as practicable.

(5) The power to make orders conferred by subsection (3) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

] ⁴³⁸

Amendments Pending

Pt VII s. 125A(3): word substituted by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 58(2) (date to be appointed)

Pt VII s. 125A(3A): words substituted by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 58(3) (date to be appointed)

Pt VII s. 125A(4): words substituted by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 58(4) (date to be appointed)

[125B.— Execution by approved enforcement agency.

(1) A warrant to which section 125A(1) above applies may also be executed anywhere in England and Wales—

(a) by an individual who is an approved enforcement agency;

(b) by a director of a company which is an approved enforcement agency;

(c) by a partner in a partnership which is an approved enforcement agency; or

(d) by an employee of an approved enforcement agency who is authorised in writing by the agency to execute warrants.

⁴³⁶ Words repealed by Secretary of State for Justice Order 2007/2128 Sch.1(1) para.5 (August 22, 2007)

⁴³⁷ Added by Collection of Fines (Final Scheme) Order 2006/1737 art.52 (July 3, 2006)

⁴³⁸ Added by Access to Justice Act 1999 c. 22 Pt V s.92 (January 8, 2001)

(2) In this section “approved enforcement agency”, in relation to a warrant, means a person or body approved [by the Lord Chancellor]⁴³⁹ .

[(2A) The Lord Chancellor must maintain a register containing the names of all persons and bodies approved by him under subsection (2) and must make such arrangements as he considers appropriate for making the register available for inspection.]⁴⁴⁰

(3) [...] ⁴⁴¹

(4) Where a warrant has been executed by a person mentioned in subsection (1) above, a written statement indicating the matters specified in subsection (5) below shall, on the demand of the person arrested, committed or detained or against whom distress is levied, be shown to him as soon as practicable.

(5) The matters referred to in subsection (4) above are—

- (a) the name of the person by whom the warrant was executed;
- (b) if he is a director of, or partner in, an approved enforcement agency, the fact that he is a director of, or partner in, that agency;
- (c) if he is an employee of an approved enforcement agency, the fact that he is an employee authorised in writing by that agency to execute warrants; and
- (d) the fact that his name, or (where paragraph (b) or (c) above applies) that of the agency indicated, is contained in the register maintained [by the Lord Chancellor under subsection (2A)]⁴⁴² .

[(6) A decision by the Lord Chancellor to revoke the approval of a person or body under subsection (2) does not have effect to revoke the approval until the Lord Chancellor has informed the person or body of the decision.]⁴⁴³
] ⁴⁴⁴

Amendments Pending

Pt VII s. 125B(4): words substituted by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 59 (date to be appointed)

[125BA Powers of persons authorised under section 125A or 125B

Schedule 4A to this Act, which confers powers on persons authorised under section 125A or 125B for the purpose of executing warrants for the enforcement of fines and other orders, shall have effect.]⁴⁴⁵

⁴³⁹ Words substituted by Courts Act 2003 c. 39 Sch.8 para.239(2) (April 1, 2005)

⁴⁴⁰ Added by Courts Act 2003 c. 39 Sch.8 para.239(3) (April 1, 2005)

⁴⁴¹ Repealed by Courts Act 2003 c. 39 Sch.10 para.1 (April 1, 2005 as SI 2005/910)

⁴⁴² Words substituted by Courts Act 2003 c. 39 Sch.8 para.239(5) (April 1, 2005)

⁴⁴³ Added by Courts Act 2003 c. 39 Sch.8 para.239(6) (April 1, 2005)

⁴⁴⁴ Added by Access to Justice Act 1999 c. 22 Pt V s.93(2) (January 8, 2001)

⁴⁴⁵ Added by Domestic Violence, Crime and Victims Act 2004 c. 28 Pt 2 s.27(1) (July 18, 2005)

[125C.— Disclosure of information for enforcing warrants.

(1) Basic personal information held by a relevant public authority may, on the application of [the designated officer for a magistrates' court]⁴⁴⁶, be supplied by the authority to him (or to a justices' clerk [...])⁴⁴⁷ who is specified in the application) for the purpose of facilitating the enforcement of a section 125A(1) warrant which is so specified.

(2) In this section—

“basic personal information” means a person's name, date of birth or national insurance number or the address (or any of the addresses) of a person;

“relevant public authority” means a Minister of the Crown, government department, local authority or chief officer of police specified in an order made by the Lord Chancellor; and

“a section 125A(1) warrant” means a warrant to which section 125A(1) above applies [...]⁴⁴⁷.

(3) Information supplied to any person under subsection (1) above, or this subsection, for the purpose of facilitating the enforcement of a section 125A(1) warrant may be supplied by him for that purpose to—

(a) any person entitled to execute the warrant;

(b) any employee of a body or person who, for the purposes of section 125B above, is an approved enforcement agency in relation to the warrant; or

[(c) any justices' clerk or other person appointed under section 2(1) of the Courts Act 2003.]⁴⁴⁸

(4) A person who intentionally or recklessly—

(a) discloses information supplied to him under this section otherwise than as permitted by subsection (3) above; or

(b) uses information so supplied otherwise than for the purpose of facilitating the enforcement of the section 125A(1) warrant concerned,

commits an offence.

(5) But it is not an offence under subsection (4) above—

(a) to disclose any information in accordance with any enactment or order of a court or for the purposes of any proceedings before a court; or

(b) to disclose any information which has previously been lawfully disclosed to the public.

(6) A person guilty of an offence under subsection (4) above is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum; or

(b) on conviction on indictment, to a fine.

(7) The power to make orders conferred by subsection (2) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

] ⁴⁴⁹

⁴⁴⁶ Words substituted by Courts Act 2003 c. 39 Sch.8 para.240(2)(a) (April 1, 2005)

⁴⁴⁷ Words repealed by Courts Act 2003 c. 39 Sch.10 para.1 (April 1, 2005 as SI 2005/910)

⁴⁴⁸ Substituted by Courts Act 2003 c. 39 Sch.8 para.240(4) (April 1, 2005)

⁴⁴⁹ Added by Access to Justice Act 1999 c. 22 Pt V s.94 (January 8, 2001)

[125CA Power to make disclosure order

- (1) A magistrates' court may make a disclosure order if satisfied that it is necessary to do so for the purpose of executing a warrant to which this section applies.
- (2) This section applies to a warrant of arrest, commitment, detention or distress issued by a justice of the peace in connection with the enforcement of a fine or other order imposed or made on conviction.
- (3) A disclosure order is an order requiring the person to whom it is directed to supply the designated officer for the court with any of the following information about the person to whom the warrant relates—
- (a) his name, date of birth or national insurance number;
 - (b) his address (or any of his addresses).
- (4) A disclosure order may be made only on the application of a person entitled to execute the warrant.
- (5) This section applies to the Crown as it applies to other persons.

] ⁴⁵⁰**Amendments Pending**

Pt VII s. 125CA(2): word substituted by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 60 (date to be appointed)

[125CB Use of information supplied under disclosure order

- (1) Information supplied to a person under a disclosure order, or under this subsection, may be supplied by him to—
- (a) the applicant for the order or any other person entitled to execute the warrant concerned;
 - (b) any employee of a body or person who, for the purposes of section 125B above, is an approved enforcement agency in relation to the warrant;
 - (c) any justices' clerk or other person appointed under section 2(1) of the Courts Act 2003.
- (2) A person who intentionally or recklessly—
- (a) discloses information supplied under a disclosure order otherwise than as permitted by subsection (1) above, or
 - (b) uses information so supplied otherwise than for the purpose of facilitating the execution of the warrant concerned,
- commits an offence.
- (3) But it is not an offence under subsection (2) above—
- (a) to disclose any information in accordance with any enactment or order of a court or for the purposes of any proceedings before a court; or
 - (b) to disclose any information which has previously been lawfully disclosed to the public.
- (4) A person guilty of an offence under subsection (2) above is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;

⁴⁵⁰ Added by Domestic Violence, Crime and Victims Act 2004 c. 28 Pt 2 s.28 (March 31, 2005)

(b) on conviction on indictment, to a fine.

(5) In this section “disclosure order” has the meaning given by section 125CA(3) above.
]⁴⁵¹

[125D.— Execution by person not in possession of warrant.

(1) A warrant to which section 125A(1) above applies may be executed by any person entitled to execute it even though it is not in his possession at the time.

(2) A warrant to which this subsection applies (and which is not a warrant to which section 125A(1) above applies) may be executed by a constable even though it is not in his possession at the time.

(3) Subsection (2) above applies to—

(a) a warrant to arrest a person in connection with an offence;

[(b) a warrant under section 313, 314 or 317 of the Armed Forces Act 2006;]⁴⁵²

(c) a warrant under section 102 or 104 of the General Rate Act 1967 (insufficiency of distress);

(d) a warrant under section 47(8) of the Family Law Act 1996 (failure to comply with occupation order or non-molestation order);

(e) a warrant under paragraph 4 of Schedule 3 to the Crime and Disorder Act 1998 (unwilling witnesses);

(f) a warrant under [paragraph 3(2) of Schedule 1 to the Powers of Criminal Courts (Sentencing) Act 2000]⁴⁵³ (offenders referred to court by youth offender panel); and

(g) a warrant under section 55, 76, 93, 97 or 97A above.

(4) Where by virtue of this section a warrant is executed by a person not in possession of it, it shall, on the demand of the person arrested, committed or detained or against whom distress is levied, be shown to him as soon as practicable.

] ⁴⁵⁴

Amendments Pending

Pt VII s. 125D(3)(c): repealed by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 61(2) (date to be appointed)

Pt VII s. 125D(3)(c): repealed by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 23(3) para. 1 (date to be appointed)

⁴⁵¹ Added by Domestic Violence, Crime and Victims Act 2004 c. 28 Pt 2 s.28 (March 31, 2005)

⁴⁵² Substituted by Armed Forces Act 2006 c. 52 Sch.16 para.89 (October 31, 2009)

⁴⁵³ Words substituted by Access to Justice Act 1999 c. 22 Pt V s.96 (February 19, 2001: commenced by an amendment)

⁴⁵⁴ Added by Access to Justice Act 1999 c. 22 Pt V s.96 (February 19, 2001: subject to transitional provisions in SI 2001/168 art.3)

Pt VII s. 125D(4): words substituted by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 61(3) (date to be appointed)

126. Execution of certain warrants outside England and Wales.

[Sections 13(1) and (2) of the Indictable Offences Act 1848]⁴⁵⁵ (which relate, among other things, to the execution in Scotland, Northern Ireland, the Isle of Man and the Channel Islands of warrants of arrest for the offences referred to in those sections) shall, so far as applicable, apply to—

- (a) warrants of arrest issued under section 1 above for offences other than [indictable offences]⁴⁵⁶ ;
- (b) warrants of arrest issued under section 13 above;
- (c) warrants of arrest issued under section 97 above other than warrants issued in bastardy proceedings to arrest a witness; [...] ⁴⁵⁷
- [(cc) warrants of arrest issued under section 97A above;]⁴⁵⁸
- (d) warrants of commitment issued under this Act.

[; and

- (e) warrants of arrest issued under paragraph 4 of Schedule 3 to the Crime and Disorder Act 1998 [; and]⁴⁵⁹]⁴⁶⁰

[(f) warrants of arrest issued under [paragraph 3(2) of Schedule 1 to the Powers of Criminal Courts (Sentencing) Act 2000]⁴⁶¹ (offender referred to court by youth offender panel).”]⁴⁵⁹

Amendments Pending

Pt VII s. 126(d): word 'and' at the end by Youth Justice and Criminal Evidence Act 1999 c. 23 Sch. 6 para. 1 (date to be appointed: commencement order)

Limitation of time

127.— Limitation of time.

(1) Except as otherwise expressly provided by any enactment and subject to subsection (2) below, a magistrates' court shall not try an information or hear a complaint unless the information was

⁴⁵⁵ Words substituted by Courts Act 2003 c. 39 Sch.8 para.241(a) (April 1, 2005)

⁴⁵⁶ Words substituted by Courts Act 2003 c. 39 Sch.8 para.241(b) (April 1, 2005)

⁴⁵⁷ Word repealed by Crime and Disorder Act 1998 c. 37 Sch.8 para.45(a) (January 4, 1999 for purposes specified in SI 1998/2327 art.4(2) and Sch.2; January 15, 2001 subject to savings specified in SI 2000/3283 art.3 otherwise)

⁴⁵⁸ Added by Crime and Disorder Act 1998 c. 37 Sch.8 para.45(b) (January 4, 1999 for purposes specified in SI 1998/2327 art.4(2) and Sch.2; January 15, 2001 subject to savings specified in SI 2000/3283 art.3 otherwise)

⁴⁵⁹ Word added by Youth Justice and Criminal Evidence Act 1999 c. 23 Sch.4 para.9 (June 26, 2000)

⁴⁶⁰ Added by Crime and Disorder Act 1998 c. 37 Sch.8 para.45(c) (January 4, 1999 for purposes specified in SI 1998/2327 art.4(2) and Sch.2; January 15, 2001 subject to savings specified in SI 2000/3283 art.3 otherwise)

⁴⁶¹ Words substituted by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.9 para.74 (August 25, 2000)

laid, or the complaint made, within 6 months from the time when the offence was committed, or the matter of complaint arose.

(2) Nothing in—

(a) subsection (1) above; or

(b) subject to subsection (4) below, any other enactment (however framed or worded) which, as regards any offence to which it applies, would but for this section impose a time-limit on the power of a magistrates' court to try an information summarily or impose a limitation on the time for taking summary proceedings,

shall apply in relation to any indictable offence.

(3) Without prejudice to the generality of paragraph (b) of subsection (2) above, that paragraph includes enactments which impose a time-limit that applies only in certain circumstances (for example, where the proceedings are not instituted by or with the consent of the Director of Public Prosecutions or some other specified authority).

(4) Where, as regards any indictable offence, there is imposed by any enactment (however framed or worked, and whether falling within subsection (2) (b) above or not) a limitation on the time for taking proceedings on indictment for that offence no summary proceedings for that offence shall be taken after the latest time for taking proceedings on indictment.

Remand

128.— Remand in custody or on bail.

(1) Where a magistrates' court has power to remand any person, then, subject to section 4 of the Bail Act 1976 and to any other enactment modifying that power, the court may—

(a) remand him in custody, that is to say, commit him to custody to be brought before the court[, subject to subsection (3A) below,]⁴⁶² at the end of the period of remand or at such earlier time as the court may require; or

(b) where it is inquiring into or trying an offence alleged to have been committed by that person or has convicted him of an offence, remand him on bail in accordance with the Bail Act 1976, that is to say, by directing him to appear as provided in subsection (4) below; or

(c) except in a case falling within paragraph (b) above, remand him on bail by taking from him a recognizance (with or without sureties) conditioned as provided in that subsection;

and may, in a case falling within paragraph (c) above, instead of taking recognizances in accordance with that paragraph, fix the amount of the recognizances with a view to their being taken subsequently in accordance with section 119 above.

[(1A) Where—

(a) on adjourning a case under [section 5, 10(1), 17C or 18(4)]⁴⁶³ above the court proposes to remand or further remand a person in custody; and

(b) he is before the court; and

(c) [...]⁴⁶⁴

⁴⁶² Words inserted by Criminal Justice Act 1982 (c.48), s. 59(1), Sch. 9 para. 2

⁴⁶³ Words added by Criminal Procedure and Investigations Act 1996 c. 25 Pt VI s.49(5)(a) (July 4, 1996)

(d) he is legally represented in that court,
it shall be the duty of the court—

- (i) to explain the effect of subsections (3A) and (3B) below to him in ordinary language; and
- (ii) to inform him in ordinary language that, notwithstanding the procedure for a remand without his being brought before a court, he would be brought before a court for the hearing and determination of at least every fourth application for his remand, and of every application for his remand heard at a time when it appeared to the court that he had no [legal representative]⁴⁶⁵ acting for him in the case.

(1B) For the purposes of subsection (1A) above a person is to be treated as legally represented in a court if, but only if, he has the assistance of [a legal representative]⁴⁶⁶ to represent him in the proceedings in that court.

(1C) After explaining to an accused as provided by subsection (1A) above the court shall ask him whether he consents to hearing and determination of such applications in his absence.]⁴⁶⁷

(2) Where the court fixes the amount of a recognizance under subsection (1) above or section 8(3) of the Bail Act 1976 with a view to its being taken subsequently the court shall in the meantime commit the person so remanded to custody in accordance with paragraph (a) of the said subsection (1).

(3) Where a person is brought before the court after remand, the court may further remand him.

[(3A) Subject to subsection (3B) below, where a person has been remanded in custody [and the remand was not a remand under section 128A below for a period exceeding 8 clear days,]⁴⁶⁸, the court may further remand him [(otherwise than in the exercise of the power conferred by that section)]⁴⁶⁸ on an adjournment under [section 5, 10(1), 17C or 18(4)]⁴⁶³ above without his being brought before it if it is satisfied—

- (a) that he gave his consent, either in response to a question under subsection (1C) above or otherwise, to the hearing and determination in his absence of any application for his remand on an adjournment of the case under any of those provisions; and
- (b) that he has not by virtue of this subsection been remanded without being brought before the court on more than two such applications immediately preceding the application which the court is hearing; and
- (c) [...]⁴⁶⁴
- (d) that he has not withdrawn his consent to their being so heard and determined.

(3B) The court may not exercise the power conferred by subsection (3A) above if it appears to the court, on an application for a further remand being made to it, that the person to whom the application relates has no [legal representative]⁴⁶⁵ acting for him in the case (whether present in court or not).

(3C) Where—

⁴⁶⁴ Repealed by Criminal Procedure and Investigations Act 1996 c. 25 Pt VI s.52(1) (July 4, 1996: repeal has effect where the offence with which the person concerned is charged is alleged to be committed on or after February 1, 1997)

⁴⁶⁵ Words substituted by Courts and Legal Services Act 1990 (c.41), s. 125(3), Sch. 18 para. 25(4)(a)

⁴⁶⁶ Words substituted by Courts and Legal Services Act 1990 (c.41), s. 125(3), Sch. 18 para. 25(3)(a)(b)

⁴⁶⁷ S. 128(1A)-(1C) inserted by Criminal Justice Act 1982 (c.48), s. 59(1), Sch. 9 para. 3

⁴⁶⁸ Words inserted by Criminal Justice Act 1988 (c.33), ss. 123(6), 170(1), Sch. 15 para. 69(1)

- (a) a person has been remanded in custody on an adjournment of a case under [section 5, 10(1), 17C or 18(4)]⁴⁶³ above; and
- (b) an application is subsequently made for his further remand on such an adjournment; and
- (c) he is not brought before the court which hears and determines the application; and
- (d) that court is not satisfied as mentioned in subsection (3A) above,

the court shall adjourn the case and remand him in custody for the period for which it stands adjourned.

(3D) An adjournment under subsection (3C) above shall be for the shortest period that appears to the court to make it possible for the accused to be brought before it.

(3E) Where—

- (a) on an adjournment of a case under section 5, 10(1) [, 17C]⁴⁶³ or 18(4) above a person has been remanded in custody without being brought before the court; and
- (b) it subsequently appears—
 - (i) to the court which remanded him in custody; or
 - (ii) to an alternate magistrates' court to which he is remanded under section 130 below,

that he ought not to have been remanded in custody in his absence, the court shall require him to be brought before it at the earliest time that appears to the court to be possible.

]⁴⁶⁹

(4) Where a person is remanded on bail under subsection (1) above the court may, where it remands him on bail in accordance with the Bail Act 1976 direct him to appear or, in any other case, direct that his recognizance be conditioned for his appearance—

- (a) before that court at the end of the period of remand; or
- (b) at every time and place to which during the course of the proceedings the hearing may be from time to time adjourned;

and, where it remands him on bail conditionally on his providing a surety during an inquiry into an offence alleged to have been committed by him, may direct that the recognizance of the surety be conditioned to secure that the person so bailed appears—

- (c) at every time and place to which during the course of the proceedings the hearing may be from time to time adjourned and also before the Crown Court in the event of the person so bailed being committed for trial there.

(5) Where a person is directed to appear or a recognizance is conditioned for a person's appearance in accordance with paragraph (b) or (c) of subsection (4) above, the fixing at any time of the time for him next to appear shall be deemed to be a remand; but nothing in this subsection or subsection (4) above shall deprive the court of power at any subsequent hearing to remand him afresh.

(6) Subject to the provisions of [sections 128A and]⁴⁷⁰ 129 below, a magistrates' court shall not remand a person for a period exceeding 8 clear days, except that—

- (a) if the court remands him on bail, it may remand him for a longer period if he and the other party consent;

⁴⁶⁹ S. 128(3A)-(3E) inserted by Criminal Justice Act 1982 (c.48), s. 59(1), Sch. 9 para. 4

⁴⁷⁰ Words substituted by Criminal Justice Act 1988 (c.33), ss. 123(6) 170(1), Sch. 15 para. 69(2)

(b) where the court adjourns a trial under [section 10(3) above or section 11 of the Powers of Criminal Courts (Sentencing) Act 2000]⁴⁷¹, the court may remand him for the period of the adjournment;

(c) where a person is charged with an offence triable either way, then, if it falls to the court to try the case summarily but the court is not at the time so constituted, and sitting in such a place, as will enable it to proceed with the trial, the court may remand him until the next occasion on which it will be practicable for the court to be so constituted, and to sit in such a place, as aforesaid, notwithstanding that the remand is for a period exceeding 8 clear days.

(7) A magistrates' court having power to remand a person in custody may, if the remand is for a period not exceeding 3 clear days, commit him to [detention at a police station]⁴⁷².

- [(8) Where a person is committed to detention at a police station under subsection (7) above—
- (a) he shall not be kept in such detention unless there is a need for him to be so detained for the purposes of inquiries into other offences;
 - (b) if kept in such detention, he shall be brought back before the magistrates' court which committed him as soon as that need ceases;
 - (c) he shall be treated as a person in police detention to whom the duties under section 39 of the Police and Criminal Evidence Act 1984 (responsibilities in relation to persons detained) relate;
 - (d) his detention shall be subject to periodic review at the times set out in section 40 of that Act (review of police detention).

]⁴⁷³

Amendments Pending

Pt VII s. 128(1)(b): words repealed by Criminal Justice Act 2003 c. 44 Sch. 3(2) para. 51(7)(a) (date to be appointed)

Pt VII s. 128(1)(b): words repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

Pt VII s. 128(1A)(a): word repealed by Criminal Justice Act 2003 c. 44 Sch. 3(2) para. 51(7)(b)(i) (date to be appointed)

Pt VII s. 128(1A)(a): words substituted by Criminal Justice Act 2003 c. 44 Sch. 3(2) para. 51(7)(b)(ii) (date to be appointed)

Pt VII s. 128(1A)(a): word repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

Pt VII s. 128(3A): word repealed by Criminal Justice Act 2003 c. 44 Sch. 3(2) para. 51(7)(c)(i) (date to be appointed)

Pt VII s. 128(3A): words substituted by Criminal Justice Act 2003 c. 44 Sch. 3(2) para. 51(7)(c)(ii) (date to be appointed)

Pt VII s. 128(3A): word repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

Pt VII s. 128(3C)(a): word repealed by Criminal Justice Act 2003 c. 44 Sch. 3(2) para. 51(7)(d)(i) (date to be appointed)

Pt VII s. 128(3C)(a): words substituted by Criminal Justice Act 2003 c. 44 Sch. 3(2) para. 51(7)(d)(ii) (date to be appointed)

Pt VII s. 128(3E)(a): word repealed by Criminal Justice Act 2003 c. 44 Sch. 3(2) para. 51(7)(e)(i) (date to be appointed)

Pt VII s. 128(3E)(a): words substituted by Criminal Justice Act 2003 c. 44 Sch. 3(2) para. 51(7)(e)(ii) (date to be appointed)

⁴⁷¹ Words substituted by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.9 para.75 (August 25, 2000)

⁴⁷² Words substituted by Police and Criminal Evidence Act 1984 (c.60), ss. 48(a), 51, 52

⁴⁷³ S. 128(8) inserted by Police and Criminal Evidence Act 1984 (c.60), ss. 48(b), 51, 52

Pt VII s. 128(3E)(a): word repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

[128A.— Remands in custody for more than eight days.

(1) The Secretary of State may by order made by statutory instrument provide that this section shall have effect—

- (a) in an area specified in the order; or
 - (b) in proceedings of a description so specified,
- in relation to any accused person (“the accused”) [...] ⁴⁷⁴ .

(2) A magistrates' court may remand the accused in custody for a period exceeding 8 clear days if—

- (a) it has previously remanded him in custody for the same offence; and
- (b) he is before the court,

but only if, after affording the parties an opportunity to make representations, it has set a date on which it expects that it will be possible for the next stage in the proceedings, other than a hearing relating to a further remand in custody or on bail, to take place, and only—

- (i) for a period ending not later than that date; or
- (ii) for a period of 28 clear days,

whichever is the less.

(3) Nothing in this section affects the right of the accused to apply for bail during the period of the remand.

(4) A statutory instrument containing an order under this section shall not be made unless a draft of the instrument has been laid before Parliament and been approved by a resolution of each House.]⁴⁷⁵

129.— Further remand.

(1) If a magistrates' court is satisfied that any person who has been remanded is unable by reason of illness or accident to appear or be brought before the court at the expiration of the period for which he was remanded, the court may, in his absence, remand him for a further time; and section 128(6) above shall not apply.

(2) Notwithstanding anything in section 128(1) above, the power of a court under subsection (1) above to remand a person on bail for a further time—

- (a) where he was granted bail in criminal proceedings, includes power to enlarge the recognizance of any surety for him to a later time;
- (b) where he was granted bail otherwise than in criminal proceedings, may be exercised by enlarging his recognizance and those of any sureties for him to a later time.

(3) Where a person remanded on bail is bound to appear before a magistrates' court at any time and the court has no power to remand him under subsection (1) above, the court may in his absence—

⁴⁷⁴ Words repealed by Criminal Procedure and Investigations Act 1996 c. 25 Pt VI s.52(2) (July 4, 1996)

⁴⁷⁵ S. 128A inserted by Criminal Justice Act 1988 (c.33), ss. 123(6), 155(1), Sch. 8 para. 16

- (a) where he was granted bail in criminal proceedings, appoint a later time as the time at which he is to appear and enlarge the recognizances of any sureties for him to that time;
- (b) where he was granted bail otherwise than in criminal proceedings, enlarge his recognizance and those of any sureties for him to a later time;

and the appointment of the time or the enlargement of his recognizance shall be deemed to be a further remand.

(4) Where a magistrates' court [sends a person to the Crown Court]⁴⁷⁶ for trial on bail and the recognizance of any surety for him has been conditioned in accordance with paragraph (a) of subsection (4) of section 128 above the court may, in the absence of the surety, enlarge his recognizance so that he is bound to secure that the person so [sent]⁴⁷⁷ for trial appears also before the Crown Court.

130.— Transfer of remand hearings.

(1) A magistrates' court adjourning a case under [section 5, 10(1), 17C or 18(4)]⁴⁷⁸ above, and remanding the accused in custody, may, if he has attained the age of 17, order that he be brought up for any subsequent remands before an alternate magistrates' court nearer to the prison where he is to be confined while on remand.

(2) The order shall require the accused to be brought before the alternate court at the end of the period of remand or at such earlier time as the alternate court may require.

(3) While the order is in force, the alternate court shall, to the exclusion of the court which made the order, have all the powers in relation to further remand (whether in custody or on bail) and [the grant of a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service]⁴⁷⁹ which that court would have had but for the order.

(4) The alternate court may, on remanding the accused in custody, require him to be brought before the court which made the order at the end of the period of remand or at such earlier time as that court may require; and, if the alternate court does so, or the accused is released on bail, the order under subsection (1) above shall cease to be in force.

[(4A) Where a magistrates' court is satisfied as mentioned in section 128(3A) above—

- (a) subsection (1) above shall have effect as if for the words “he be brought up for any subsequent remands before” there were substituted the words “applications for any subsequent remands be made to”;
- (b) subsection (2) above shall have effect as if for the words “the accused to be brought before” there were substituted the words “an application for a further remand to be made to” and
- (c) subsection (4) above shall have effect as if for the words “him to be brought before” there were substituted the words “an application for a further remand to be made to”.

⁴⁷⁶ Words substituted by Criminal Justice Act 2003 c. 44 Sch.3(2) para.51(8)(a) (May 9, 2005 in relation to cases sent for trial under 1998 c.37 s.51 or s.51A(3)(d))

⁴⁷⁷ Word substituted by Criminal Justice Act 2003 c. 44 Sch.3(2) para.51(8)(b) (May 9, 2005 in relation to cases sent for trial under 1998 c.37 s.51 or s.51A(3)(d))

⁴⁷⁸ Words added by Criminal Procedure and Investigations Act 1996 c. 25 Pt VI s.49(5)(b) (July 4, 1996)

⁴⁷⁹ Words substituted by Access to Justice Act 1999 c. 22 Sch.4 para. 18 (April 2, 2001 subject to transitional provisions specified in SI 2001/916 Sch.2 para.2)

] ⁴⁸⁰

(5) Schedule 5 to this Act shall have effect to supplement this section.

Amendments Pending

Pt VII s. 130(1): word repealed by Criminal Justice Act 2003 c. 44 Sch. 3(2) para. 51(9)(a) (date to be appointed)

Pt VII s. 130(1): words substituted by Criminal Justice Act 2003 c. 44 Sch. 3(2) para. 51(9)(b) (date to be appointed)

Pt VII s. 130(1): word repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

131.— Remand of accused already in custody.

(1) When a magistrates' court remands an accused person in custody and he is already detained under a custodial sentence, the period for which he is remanded may be up to 28 clear days.

(2) But the court shall inquire as to the expected date of his release from that detention; and if it appears that it will be before 28 clear days have expired, he shall not be remanded in custody for more than 8 clear days or (if longer) a period ending with that date.

[(2A) Where the accused person is serving a sentence of imprisonment to which an intermittent custody order under section 183 of the Criminal Justice Act 2003 relates, the reference in subsection (2) to the expected date of his release is to be read as a reference to the expected date of his next release on licence.] ⁴⁸¹

(3) [...] ⁴⁸²

Restrictions on imprisonment

132. Minimum term.

A magistrates' court shall not impose imprisonment for less than 5 days.

133.— Consecutive terms of imprisonment.

(1) [Subject to section 265 of the Criminal Justice Act 2003,] ⁴⁸³ [a] ⁴⁸⁴ magistrates' court imposing imprisonment [or youth custody] ⁴⁸⁵ on any person may order that the term of imprisonment [or youth custody] ⁴⁸⁵ shall commence on the expiration of any other term of imprisonment [or youth custody] ⁴⁸⁵ imposed by that or any other court; but where a magistrates' court imposes two or more

⁴⁸⁰ S. 130(4A) inserted by Criminal Justice Act 1982 (c.48), s. 59(1), Sch. 9 para. 5

⁴⁸¹ Added by Criminal Justice Act 2003 c. 44 Sch.32(1) para.29 (January 26, 2004 as SI 2003/3282)

⁴⁸² Repealed by Criminal Justice Act 1982 (c.48), s. 59(1), Sch. 9 para. 6, Sch. 16

⁴⁸³ Words substituted subject to savings provision specified in SI 2005/950 Sch.2 para.14 by Criminal Justice Act 2003 c. 44 Sch.32(1) para.30 (April 4, 2005: substitution has effect subject to savings provision specified in SI 2005/950 Sch.2 para.14)

⁴⁸⁴ Words inserted by Crime and Disorder Act 1998 c. 37 Sch.8 para.46 (September 30, 1998)

⁴⁸⁵ Words inserted by Criminal Justice Act 1982 (c.48), s. 77, Sch. 14 para. 56

terms of imprisonment [or youth custody]⁴⁸⁵ to run consecutively the aggregate of such terms shall not, subject to the provisions of this section, exceed 6 months.

(2) If two or more of the terms imposed by the court are imposed in respect of an offence triable either way which was tried summarily otherwise than in pursuance of section 22(2) above, the aggregate of the terms so imposed and any other terms imposed by the court may exceed 6 months but shall not, subject to the following provisions of this section, exceed 12 months.

[(2A) In relation to the imposition of terms of detention in a young offender institution subsection (2) above shall have effect as if the reference to an offence triable either way were a reference to such an offence or an offence triable only on indictment.]⁴⁸⁶

(3) The limitations imposed by the preceding subsections shall not operate to reduce the aggregate of the terms that the court may impose in respect of any offences below the term which the court has power to impose in respect of any one of those offences.

(4) Where a person has been sentenced by a magistrates' court to imprisonment and a fine for the same offence, a period of imprisonment imposed for non-payment of the fine, or for want of sufficient distress to satisfy the fine, shall not be subject to the limitations imposed by the preceding subsections.

(5) For the purposes of this section a term of imprisonment shall be deemed to be imposed in respect of an offence if it is imposed as a sentence or in default of payment of a sum adjudged to be paid by the conviction or for want of sufficient distress to satisfy such a sum.

Amendments Pending

Pt VII s. 133(1): words substituted by Criminal Justice Act 2003 c. 44 Pt 12 c. 1 s. 155(2) (date to be appointed)

Pt VII s. 133(1): words repealed by Criminal Justice and Court Services Act 2000 c. 43 Sch. 7(II) para. 66(a) (date to be appointed)

Pt VII s. 133(1): words repealed by Criminal Justice and Court Services Act 2000 c. 43 Sch. 8 para. 1 (date to be appointed)

Pt VII s. 133(2): repealed by Criminal Justice Act 2003 c. 44 Pt 12 c. 1 s. 155(3) (date to be appointed)

Pt VII s. 133(2): repealed by Criminal Justice Act 2003 c. 44 Sch. 37(7) para. 1 (date to be appointed)

Pt VII s. 133(2A): repealed by Criminal Justice and Court Services Act 2000 c. 43 Sch. 7(II) para. 66(b) (date to be appointed)

Pt VII s. 133(2A): repealed by Criminal Justice and Court Services Act 2000 c. 43 Sch. 8 para. 1 (date to be appointed)

Pt VII s. 133(3): words substituted by Criminal Justice Act 2003 c. 44 Pt 12 c. 1 s. 155(4) (date to be appointed)

Pt VII s. 133(4): word substituted by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 62 (date to be appointed)

⁴⁸⁶ S. 133(2A) inserted by Criminal Justice Act 1988 (c.33), ss. 123(6), 170(1), Sch. 15 para. 70

Pt VII s. 133(5): word substituted by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 62 (date to be appointed)

Detention for short periods

134.— [...] ⁴⁸⁷

135.— Detention of offender for one day in court-house or police station.

(1) A magistrates' court that has power to commit to prison a person convicted of an offence, or would have that power but for section 82 or 88 above, may order him to be detained within the precincts of the court-house or at any police station until such hour, not later than 8 o'clock in the evening of the day on which the order is made, as the court may direct, and, if it does so, shall not, where it has power to commit him to prison, exercise that power.

(2) A court shall not make such an order under this section as will deprive the offender of a reasonable opportunity of returning to his abode on the day of the order.

[(3) This section shall have effect in relation to a person [aged 18] ⁴⁸⁸ or over but less than 21 as if references in it to prison were references to detention under [section 108 of the Powers of Criminal Courts (Sentencing) Act 2000] ⁴⁸⁹ (detention of persons aged 17 to 20 for default).] ⁴⁹⁰

Amendments Pending

Pt VII s. 135(3): repealed by Criminal Justice and Court Services Act 2000 c. 43 Sch. 8 para. 1 (date to be appointed)

136.— Committal to custody overnight at police station for non-payment of sum adjudged by conviction.

(1) A magistrates' court that has power to commit to prison a person in default of payment of a sum adjudged to be paid by a summary conviction, or would have that power but for section 82 or 88 above, may issue a warrant for his detention in a police station, and, if it does so, shall not, where it has power to commit him to prison, exercise that power.

[(2) A warrant under this section—

(a) shall authorise the person executing it,

to arrest the defaulter and take him to a police station, and

(b) shall require the officer in charge of the station to detain him there until 8 o'clock in the morning of the day following that on which he is arrested, or, if he is arrested between midnight and 8 o'clock in the morning, until 8 o'clock in the morning of the day on which he is arrested.

⁴⁸⁷ Repealed by Criminal Justices Act 1988 (c.33), ss. 49, 123, 170(2), Sch. 8 para. 16, Sch. 16

⁴⁸⁸ Words substituted by Criminal Justice Act 1991 c. 53 Sch.8 para.6(3) (October 1, 1992)

⁴⁸⁹ Words substituted by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.9 para.77 (August 25, 2000)

⁴⁹⁰ S. 135(3) inserted by Criminal Justice Act 1982 (c.48), s. 77, Sch. 14 para. 58

]⁴⁹¹

(3) Notwithstanding subsection (2)(b) above, the officer may release the defaulter at any time within 4 hours before 8 o'clock in the morning if the officer thinks it expedient to do so in order to enable him to go to his work or for any other reason appearing to the officer to be sufficient.

[(4) This section shall have effect in relation to a person [aged 18]⁴⁹² or over but less than 21 as if references in it to prison were references to detention under [section 108 of the Powers of Criminal Courts (Sentencing) Act 2000]⁴⁹³ (detention of persons [aged 18]⁴⁹² to 20 for default).]⁴⁹⁴

Amendments Pending

Pt VII s. 136(4): repealed by Criminal Justice and Court Services Act 2000 c. 43 Sch. 8 para. 1 (date to be appointed)

Fees, fines, forfeitures, etc.

137.— [...] ⁴⁹⁵

138. [...] ⁴⁹⁶

139. Disposal of sums adjudged to be paid by conviction.

[The designated officer for a magistrates' court]⁴⁹⁷ shall apply moneys received by him on account of a sum adjudged to be paid by a summary conviction as follows—

- (a) in the first place in payment of any compensation adjudged by the conviction to be paid to any person;
- [(aa) in the second place in payment to the fund mentioned in paragraph (c) below of surcharges imposed under section 161A of the Criminal Justice Act 2003;]⁴⁹⁸
- (b) in the [third]⁴⁹⁹ place in payment of any costs so adjudged to be paid to the prosecutor; and
- (c) the balance to the fund to which, or the person to whom, he is required to pay the sum by [section 38 of the Courts Act 2003]⁵⁰⁰ or any other enactment relating to the sum.

⁴⁹¹ Words substituted by Access to Justice Act 1999 c. 22 Pt V s.95(2) (January 8, 2001)

⁴⁹² Words substituted by Criminal Justice Act 1991 c. 53 Sch.8 para.6(3) (October 1, 1992)

⁴⁹³ Words substituted by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.9 para.78 (August 25, 2000)

⁴⁹⁴ S. 136(4) inserted by Criminal Justice Act 1982 (c.48), s. 77, Sch. 14 para. 58

⁴⁹⁵ Repealed subject to transitional provisions specified in SI 2005/3518 art.4 by Courts Act 2003 c. 39 Sch.10 para.1 (January 10, 2006: repeal has effect subject to transitional provisions specified in SI 2005/3518 art.4)

⁴⁹⁶ Repealed subject to transitional provisions specified in SI 2005/3518 art.4 by Courts Act 2003 c. 39 Sch.10 para.1 (January 10, 2006: repeal has effect subject to transitional provisions specified in SI 2005/3518 art.4)

⁴⁹⁷ Words substituted by Courts Act 2003 c. 39 Sch.8 para.243(a) (April 1, 2005)

⁴⁹⁸ Added by Domestic Violence, Crime and Victims Act 2004 c. 28 Sch.10 para.11(a) (April 1, 2007)

⁴⁹⁹ Word substituted by Domestic Violence, Crime and Victims Act 2004 c. 28 Sch.10 para.11(b) (April 1, 2007)

⁵⁰⁰ Words substituted by Courts Act 2003 c. 39 Sch.8 para.243(b) (April 1, 2005)

140. Disposal of non-pecuniary forfeitures.

Subject to any enactment relating to customs or excise, anything other than money forfeited on a conviction by a magistrates' court or the forfeiture of which may be enforced by a magistrates' court shall be sold or otherwise disposed of in such manner as the court may direct; and the proceeds shall be applied as if they were a fine imposed under the enactment on which the proceedings for the forfeiture are founded.

*Clerks to justices***141.— [...]⁵⁰¹***Power to rectify mistakes etc.***142.— Power of magistrates' court to re-open cases to rectify mistakes etc.**

(1) [A magistrates' court may vary or rescind a sentence or other order imposed or made by it when dealing with an offender if it appears to the court to be in the interests of justice to do so,]⁵⁰² and it is hereby declared that this power extends to replacing a sentence or order which for any reason appears to be invalid by another which the court has power to impose or make.

[(1A) The power conferred on a magistrates' court by subsection (1) above shall not be exercisable in relation to any sentence or order imposed or made by it when dealing with an offender if—

(a) the Crown Court has determined an appeal against—

(i) that sentence or order;

(ii) the conviction in respect of which that sentence or order was imposed or made; or

(iii) any other sentence or order imposed or made by the magistrates' court when dealing with the offender in respect of that conviction (including a sentence or order replaced by that sentence or order); or

(b) the High Court has determined a case stated for the opinion of that court on any question arising in any proceeding leading to or resulting from the imposition or making of the sentence or order.

]⁵⁰³

(2) Where a person is [convicted by a magistrates' court]⁵⁰⁴ and it subsequently appears to the court that it would be in the interests of justice that the case should be heard again by different justices, the court may [...]⁵⁰⁵ so direct.

⁵⁰¹ Repealed by Courts Act 2003 c. 39 Sch.10 para.1 (April 1, 2005 as SI 2005/910)

⁵⁰² Words substituted by Criminal Appeal Act 1995 c. 35 Pt III s.26(2) (January 1, 1996 subject to savings specified in SI 1995/3061 art.4)

⁵⁰³ Added by Criminal Appeal Act 1995 c. 35 Pt III s.26(3) (January 1, 1996 subject to savings specified in SI 1995/3061 art.4)

⁵⁰⁴ Words substituted by Criminal Appeal Act 1995 c. 35 Pt III s.26(4)(a) (January 1, 1996 subject to savings specified in SI 1995/3061 art.4)

⁵⁰⁵ Words repealed by Criminal Appeal Act 1995 c. 35 Sch.3 para.1 (January 1, 1996 as SI 1995/3061 subject to transitional provisions)

[(2A) The power conferred on a magistrates' court by subsection (2) above shall not be exercisable in relation to a conviction if—

- (a) the Crown Court has determined an appeal against—
 - (i) the conviction; or
 - (ii) any sentence or order imposed or made by the magistrates' court when dealing with the offender in respect of the conviction; or
- (b) the High Court has determined a case stated for the opinion of that court on any question arising in any proceeding leading to or resulting from the conviction.

] ⁵⁰⁶

(3) Where a court gives a direction under subsection (2) above—

- (a) the [conviction] ⁵⁰⁷ and any sentence or other order imposed or made in consequence thereof shall be of no effect; and
- (b) section 10(4) above shall apply as if the trial of the person in question had been adjourned.

(4) [...] ⁵⁰⁸

(5) Where a sentence or order is varied under subsection (1) above, the sentence or other order, as so varied, shall take effect from the beginning of the day on which it was originally imposed or made, unless the court otherwise directs.

Power to alter sums specified in certain provisions

143.— Power to alter sums specified in certain provisions.

[(1) If it appears to the Secretary of State that there has been a change in the value of money since the relevant date, he may by order substitute for the sum or sums for the time being specified in any provision mentioned in subsection (2) below such other sum or sums as appear to him justified by the change.] ⁵⁰⁹

(2) The said provisions are—

- (a) section 22(1) above;
- [(aa) section 24(3) and (4) above;] ⁵¹⁰
- (b) the definition of “the prescribed sum” in section 32(9) above;
- (c) paragraph (a) of section 33(1) above;
- [(ca) section 34(3)(b) above;] ⁵¹¹
- [(cb) section 131(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (limit on compensation order of magistrates' court);

⁵⁰⁶ Added by Criminal Appeal Act 1995 c. 35 Pt III s.26(5) (January 1, 1996 subject to savings specified in SI 1995/3061 art.4)

⁵⁰⁷ Words substituted by Criminal Appeal Act 1995 c. 35 Pt III s.26(6) (January 1, 1996 subject to savings specified in SI 1995/3061 art.4)

⁵⁰⁸ Repealed by Criminal Appeal Act 1995 c. 35 Sch.3 para.1 (January 1, 1996 as SI 1995/3061 subject to transitional provisions)

⁵⁰⁹ S. 143(1) substituted by Criminal Justice Act 1982 (c.48), s. 48(1)(a)

⁵¹⁰ S. 143(2)(aa) inserted by Criminal Justice Act 1982 (c.48), s. 48(1)(b)(i)

⁵¹¹ S. 143(2)(ca)(cb) inserted by Criminal Justice Act 1982 (c.48) s. 48(1)(b)(ii)

- (d) section 135 of that Act; (limit on fine imposed on young offender by magistrates' court);]⁵¹²
- [(da) section 1AB(3) of the Crime and Disorder Act 1998 (failure to comply with individual support order);]⁵¹³
- [(dd) section 59B(3) above;]⁵¹⁴
- (e) the Table in paragraph 1 of Schedule 4 to this Act.
- [(f) any provision mentioned in Schedule 6A to this Act;
- (g)-(h) [...] ⁵¹⁵
- (i) [...] ⁵¹⁶
- (j) the Table in [section 139(4) of the Powers of Criminal Courts (Sentencing) Act 2000] ⁵¹⁷ ;
- (k) [...] ⁵¹⁵
- (l) [...] ⁵¹⁸
- (m) [...] ⁵¹⁸
- (n) [...] ⁵¹⁸
- (o) section 37(2) of the Criminal Justice Act 1982.]⁵¹⁹
- [(p) [section 150(2) and (3) of the Powers of Criminal Courts (Sentencing) Act 2000] ⁵²⁰ (recognisance from parents or guardians);]⁵²¹
- [(q) column 5 or 6 of Schedule 4 to the Misuse of Drugs Act 1971 so far as the column in question relates to the offences under provisions of that Act specified in column 1 of that Schedule in respect of which the maximum fines were increased by Part II of Schedule 8 to the Criminal Justice and Public Order Act 1994.]⁵²²
- [(3) In subsection (1) above the 'relevant date' means —
- (a) the date of the coming into force of section 17 of the Criminal Justice Act 1991 (increase of certain maxima); or
- (b) where the sums specified in a provision mentioned in subsection (2) above have been substituted by an order under subsection (1) above, the date of that order.
-] ⁵²³
- (4) [...] ⁵¹⁸
- (5) [...] ⁵¹⁸
- (6) An order under subsection (1) [...] ⁵²⁴ above—

⁵¹² Substituted by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.9 para.79(a) (August 25, 2000)

⁵¹³ Added by Criminal Justice Act 2003 c. 44 Pt 13 s.323(6) (May 1, 2004)

⁵¹⁴ Added by Maintenance Enforcement Act 1991 c. 17 Sch.2 para.9 (April 1, 1992)

⁵¹⁵ Repealed by Armed Forces Act 2006 c. 52 Sch.17 para.1 (October 31, 2009 as SI 2009/1167)

⁵¹⁶ Repealed by Children Act 1989 c. 41 Sch.15 para.1 (October 14, 1991)

⁵¹⁷ Words substituted by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.9 para.79(b) (August 25, 2000)

⁵¹⁸ Repealed by Criminal Justice Act 1988 (c.33), ss. 123, 170(2), Sch. 8 para. 16, Sch. 16

⁵¹⁹ S. 143(2)(f)-(o) inserted by Criminal Justice Act 1982 (c.48), s. 48(1)(b)(iii)

⁵²⁰ Words substituted by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.9 para.79(c) (August 25, 2000)

⁵²¹ Added by Criminal Justice Act 1991 c. 53 Sch.11 para.27(1) (October 1, 1992)

⁵²² Added by Criminal Justice and Public Order Act 1994 c. 33 Pt XII s.157(6) (February 3, 1995)

⁵²³ Substituted by Criminal Justice Act 1991 c. 53 Sch.11 para.27(2) (October 1, 1992)

⁵²⁴ Words repealed by Criminal Justice Act 1988 (c.33) ss. 123, 170(2), Sch. 8 para. 16, Sch. 16

- (a) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament and may be revoked by a subsequent order thereunder; and
 (b) shall not affect the punishment for an offence committed before that order comes into force.

Rules

144.— Rule committee and rules of procedure.

[(A1) The Lord Chancellor may appoint a rule committee for magistrates' courts.]⁵²⁵

[(1) [The Lord Chief Justice may on]⁵²⁶ the advice of or after consultation with the rule committee [, and with the concurrence of the Lord Chancellor,]⁵²⁷ make rules for regulating and prescribing except in relation to—

(a) any criminal cause or matter, [or]⁵²⁸

[(b) family proceedings,]⁵²⁸

the procedure and practice to be followed in magistrates' courts and by justices' clerks [and designated officers for magistrates' courts]⁵²⁹ .

] ⁵³⁰

[(1A) If the Lord Chancellor does not agree rules made by the Lord Chief Justice, the Lord Chancellor must give the Lord Chief Justice and the rules committee written reasons for doing so.]⁵³¹

(2) The rule committee shall consist of the Lord Chief Justice, the President of the Family Division of the High Court [...]⁵³² and such number of other persons appointed by the Lord Chancellor as [he may, after consulting the Lord Chief Justice, determine]⁵³³ .

(3) Among the members of the committee appointed by the Lord Chancellor there shall be at least

[(za) one District Judge (Magistrates' Courts);]⁵³⁴

[(a) one justices' clerk;

(b) one person who has a [Senior Courts]⁵³⁵ qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990); and

⁵²⁵ Added by Constitutional Reform Act 2005 c. 4 Sch.4(1) para.102(2) (April 3, 2006)

⁵²⁶ Words substituted by Constitutional Reform Act 2005 c. 4 Sch.4(1) para.102(3)(a) (April 3, 2006)

⁵²⁷ Words inserted by Constitutional Reform Act 2005 c. 4 Sch.4(1) para.102(3)(b) (April 3, 2006)

⁵²⁸ Words inserted by Courts Act 2003 c. 39 Sch.8 para.245(2) (October 7, 2005 as SI 2005/2744)

⁵²⁹ Words substituted by Courts Act 2003 c. 39 Sch.8 para.245(2) (April 1, 2005 as SI 2005/910)

⁵³⁰ Words inserted subject to savings specified in SI 2004/2066 art.3 by Courts Act 2003 c. 39 Sch.8 para.245(2) (September 1, 2004: insertion has effect on September 1, 2004 as specified in SI 2004/2066 art.2(c)(xi) subject to savings specified in art.3)

⁵³¹ Added by Constitutional Reform Act 2005 c. 4 Sch.4(1) para.102(4) (April 3, 2006)

⁵³² Words repealed by Courts Act 2003 c. 39 Sch.10 para.1 (April 1, 2005 as SI 2005/910)

⁵³³ Words substituted by Constitutional Reform Act 2005 c. 4 Sch.4(1) para.102(5) (April 3, 2006)

⁵³⁴ Added by Courts Act 2003 c. 39 Sch.8 para.245(4) (April 1, 2005)

⁵³⁵ Words substituted by Constitutional Reform Act 2005 c. 4 Sch.11(2) para.4(1) (October 1, 2009)

(c) one person who has been [authorised by a relevant approved regulator]⁵³⁶ to conduct litigation in relation to all proceedings in the [Senior Courts]⁵³⁵ .]⁵³⁷

[(3A) In this section “relevant approved regulator” is to be construed in accordance with section 20(3) of the Legal Services Act 2007.]⁵³⁸

(4) The power to make rules conferred by this section shall be exercisable by statutory instrument which shall be subject to annulment by resolution of either House of Parliament.

[(4A) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.]⁵³⁹

(5) [...] ⁵⁴⁰

Amendments Pending

Pt VII s. 144(2): words repealed by Courts Act 2003 c. 39 Sch. 8 para. 245(3) (date to be appointed: commencement order)

Pt VII s. 144(2): words repealed by Courts Act 2003 c. 39 Sch. 10 para. 1 (date to be appointed: commencement order)

[144A Rules to be made if required by Lord Chancellor

(1) This section applies if the Lord Chancellor gives the Lord Chief Justice written notice that he thinks it is expedient for rules made under section 144 to include provision that would achieve a purpose specified in the notice.

(2) The Lord Chief Justice must make such rules as he considers necessary to achieve the specified purpose.

(3) Those rules must be—

(a) made within a reasonable period after the Lord Chancellor gives notice to the Lord Chief Justice;

(b) made in accordance with section 144.

(4) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.
] ⁵⁴¹

145.— Rules: supplementary provisions.

(1) The power to make rules conferred by section 144 above shall, without prejudice to the generality of subsection (1) of that section, include power to make provision—

⁵³⁶ Words substituted by Legal Services Act 2007 c. 29 Sch.21 para.43(a) (January 1, 2010)

⁵³⁷ S. 144(3)(a)(b)(b) inserted by Courts and Legal Services Act 1990 (c.41), s. 125(3), Sch. 18 para. 25(7)(a)

⁵³⁸ Added by Legal Services Act 2007 c. 29 Sch.21 para.43(b) (January 1, 2010)

⁵³⁹ Added by Constitutional Reform Act 2005 c. 4 Sch.4(1) para.102(6) (April 3, 2006)

⁵⁴⁰ Repealed by Courts Act 2003 c. 39 Sch.10 para.1 (April 1, 2005 as SI 2005/910)

⁵⁴¹ Added by Constitutional Reform Act 2005 c. 4 Sch.4(1) para.103 (April 3, 2006)

- (a) as to the practice and procedure of justices in exercising functions preliminary or incidental to proceedings before a magistrates' court;
- (b) as to the service and execution of process issued by or for the purposes of a magistrates' court, including the service and execution in England and Wales of process issued in other parts of the United Kingdom;
- (c) as to the keeping of records of proceedings before magistrates' courts and the manner in which things done in the course of, or as preliminary or incidental to, any such proceedings, or any proceedings on appeal from a magistrates' court to the Crown Court, may be proved in any legal proceedings;
- (d) [...] ⁵⁴²
- (e) [...] ⁵⁴³
- (f) [...] ⁵⁴⁴
- (g) as to what magistrates' court shall have jurisdiction to hear any complaint;
- [(ga) authorising, for the purposes of the law relating to contempt of court, the publication in such circumstances as may be specified of information relating to proceedings referred to in section 12(1)(a) of the Administration of Justice Act 1960 which are held in private;] ⁵⁴⁵
- (h) as to the matters additional to those specified in section 53 above on complaint for which a magistrates' court shall have power to make an order with the consent of the defendant without hearing evidence;
- (i) [...] ⁵⁴⁴

(2) Where any Act expressly confers jurisdiction on any magistrates' court to hear a complaint, rules made under sub-section (1)(g) above shall not take away that jurisdiction, but may extend it to any other magistrates' court.

(3) Any Act passed before 16th December 1949, in so far as that Act relates to matters about which rules may be made under section 144 above, shall have effect subject to any rules so made and may be amended or repealed by the rules accordingly; but nothing in the said section shall authorise the rules to reduce the number of justices required for any purpose by any Act.

(4) [...] ⁵⁴⁴

(5) Any rules, directions, forms or other instrument having effect immediately before this subsection comes into force as if contained in rules made under section 15 of the Justices of the Peace Act 1949 by virtue of section 15(8) of that Act (rules etc. which previously had effect under the enactments repealed by Part II of Schedule 7 to that Act) shall have effect as if contained in rules made under section 144 above.

Amendments Pending

Pt VII s. 145(1)(aa): added by Access to Justice Act 1999 c. 22 Pt V s. 80(2) (date to be appointed: commencement order)

⁵⁴² Repealed by Police and Magistrates' Courts Act 1994 c. 29 Sch.9(II) para.1 (April 1, 1995 as SI 1995/685)

⁵⁴³ Repealed by Criminal Procedure and Investigations Act 1996 c. 25 Pt VII s.65(3) (March 8, 1997: as in SI 1997/683 s.65 has effect on March 8, 1997 in relation to any alleged offence in relation to which Part I of this Act applies)

⁵⁴⁴ Repealed subject to saving specified in SI 2004/2066 art.3 by Courts Act 2003 c. 39 Sch.10 para.1 (September 1, 2004: repeal has effect subject to saving specified in SI 2004/2066 art.3)

⁵⁴⁵ Added by Children Act 2004 c. 31 Pt 5 s.62(4) (April 12, 2005)

Pt VII s. 145(1)(aa): repealed subject to saving specified in SI 2004/2066 art.3 by Courts Act 2003 c. 39 Sch. 10 para. 1 (date to be appointed: repeal came into force on September 1, 2004 but cannot take effect until the commencement of 1980 c.43 s.145(1)(aa))

Pt VII s. 145(1)(f): repealed by Criminal Justice Act 2003 c. 44 Sch. 3(2) para. 51(10) (date to be appointed)

Pt VII s. 145(1)(f): repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

Pt VII s. 145(1)(ga): words substituted by Children, Schools and Families Act 2010 c. 26 Sch. 3(2) para. 8(2) (date to be appointed)

Pt VII s. 145(1)(ga): repealed by Children, Schools and Families Act 2010 c. 26 Sch. 4(2) para. 1 (date to be appointed)

Pt VII s. 145(1A): added by Children, Schools and Families Act 2010 c. 26 Sch. 3(2) para. 8(3) (date to be appointed)

Pt VII s. 145(1A): repealed by Children, Schools and Families Act 2010 c. 26 Sch. 4(2) para. 1 (date to be appointed)

[145A.— Rules: costs order against legal representative.

(1) In any civil proceedings, a magistrates' court may disallow or (as the case may be) order the legal or other representative concerned to meet the whole of any wasted costs or such part of them as may be determined in accordance with rules.

(2) In subsection (1), “wasted costs” means any costs incurred by a party—

(a) as a result of any improper, unreasonable or negligent act or omission on the part of any legal or other representative or any employee of such a representative; or

(b) which, in the light of any such act or omission occurring after they were incurred, the court considers it is unreasonable to expect that party to pay.

(3) In this section “legal or other representative”, in relation to any proceedings, means any person who is exercising a right of audience, or a right to conduct litigation, on behalf of any party to the proceedings.

(4) Rules made by virtue of this section may, in particular, make provision as to the destination of any payment required to be made under the rules (including provision for the reimbursement of sums paid by the [Legal Services Commission]⁵⁴⁶).

(5) Rules made by virtue of this section—

(a) shall require a magistrates' court which proposes to act under the rules against a legal or other representative to allow him a reasonable opportunity to appear before it and show cause why it should not do so;

(b) shall provide that action may be taken under the rules either on the application of any party to the proceedings or on the motion of the court;

(c) shall provide that no such action shall be taken after the end of the period of six months beginning with the date on which the proceedings are disposed of by the court; and

(d) shall provide that a legal or other representative against whom action is taken under the rules may appeal to the Crown Court.

]⁵⁴⁷

⁵⁴⁶ Words substituted by Access to Justice Act 1999 c. 22 Sch.4 para.19 (April 1, 2000 subject to savings specified in SI 2000/774 art.5)

⁵⁴⁷ Added by Courts and Legal Services Act 1990 c. 41 Pt VI s.112 (October 1, 1991)

*Rules about juvenile courts***146.—** [...] ⁵⁴⁸*Occasional court-houses***147.—** [...] ⁵⁴⁹*Interpretation***148.— “Magistrates' court”.**

(1) In this Act the expression “magistrates' court” means any justice or justices of the peace acting under any enactment or by virtue of his or their commission or under the common law.

(2) Except where the contrary is expressed, anything authorised or required by this Act to be done by, to or before the magistrates' court by, to or before which any other thing was done, or is to be done, may be done by, to or before any magistrates' court acting [in the same local justice] ⁵⁵⁰ area as that court.

149. [...] ⁵⁵¹**150.— Interpretation of other terms.**

(1) In this Act, unless the context otherwise requires, the following expressions have the meaning hereby assigned to them, that is to say—

“Act” includes local Act;

[...] ⁵⁵²

“bail in criminal proceedings” has the same meaning as in the Bail Act 1976;

[“collection order” means an order made under Part 4 of Schedule 5 to the Courts Act 2003;] ⁵⁵³

[...] ⁵⁵⁴

“commit to custody” means commit to prison or, where any enactment authorises or requires committal to some other place of detention instead of committal to prison, to that other place;

“committal proceedings” means proceedings before a magistrates' court acting as examining justices;

⁵⁴⁸ Repealed by Courts Act 2003 c. 39 Sch.10 para.1 (April 1, 2005 as SI 2005/910)

⁵⁴⁹ Repealed by Courts Act 2003 c. 39 Sch.10 para.1 (April 1, 2005 as SI 2005/910)

⁵⁵⁰ Words substituted by Courts Act 2003 c. 39 Sch.8 para.248 (April 1, 2005)

⁵⁵¹ Repealed by Courts Act 2003 c. 39 Sch.10 para.1 (April 1, 2005 as SI 2005/910)

⁵⁵² Definition of \u201caffiliation order\u201d repealed by Family Law Reform Act 1987 (c.42), ss. 33(1)(2)(4), Sch. 2 para. 88(a), Sch. 3 paras. 1, 6, Sch. 4

⁵⁵³ Definition inserted by Collection of Fines (Final Scheme) Order 2006/1737 art.53(a) (July 3, 2006)

⁵⁵⁴ Definition repealed by Access to Justice Act 1999 c. 22 Sch.15(V)(1) para.1 (September 27, 1999 except for repeals specified in 1999 c.22 s.108(4); not yet in force otherwise)

[“family proceedings” has the meaning assigned to it by section 65 above;]⁵⁵⁵
“enactment” includes an enactment contained in a local Act or in any order, regulation or other instrument having effect by virtue of an Act;
“fine”, except for the purposes of any enactment imposing a limit on the amount of any fine, includes any pecuniary penalty or pecuniary forfeiture or pecuniary compensation payable under a conviction;
[“the fines officer”, in relation to a person subject to a collection order, means any fines officer working at the fines office specified in that order;]⁵⁵⁶
“impose imprisonment” means pass a sentence of imprisonment or fix a term of imprisonment for failure to pay any sum of money, or for want of sufficient distress to satisfy any sum of money, or for failure to do or abstain from doing anything required to be done or left undone;
[“legal representative” means [a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act);]⁵⁵⁷]⁵⁵⁸
[...]⁵⁵⁴
[‘magistrates’ court maintenance order’ means a maintenance order enforceable by a magistrates’ court;]⁵⁵⁹
[‘maintenance order’ means any order specified in Schedule 8 to the Administration of Justice Act 1970 and includes such an order which has been discharged, if any arrears are recoverable thereunder;]⁵⁵⁹
(a)-(b) [...]⁵⁶⁰
[...]⁵⁵⁴
“prescribed” means prescribed by [rules of court]⁵⁶¹ ;
[...]⁵⁶² [...]⁵⁶⁰ [...]⁵⁶³
“sentence” does not include a committal in default of payment of any sum of money, or for want of sufficient distress to satisfy any sum of money, or for failure to do or abstain from doing anything required to be done or left undone;
“sum enforceable as a civil debt” means —
(a) any sum recoverable summarily as a civil debt which is adjudged to be paid by the order of a magistrates’ court;
(b) any other sum expressed by this or any other Act to be so enforceable;
“transfer of fine order” has the meaning assigned to it by section 89 above.

⁵⁵⁵ Words substituted by Children Act 1989 c. 41 Sch.11(II) para.8(c) (October 14, 1991)

⁵⁵⁶ Definition inserted by Collection of Fines (Final Scheme) Order 2006/1737 art.53(b) (July 3, 2006)

⁵⁵⁷ Words substituted by Legal Services Act 2007 c. 29 Sch.21 para.44 (January 1, 2010)

⁵⁵⁸ Definition inserted by Courts and Legal Services Act 1990 (c.41), s. 125(3), Sch. 18 para. 25(2)

⁵⁵⁹ Definition inserted by Family Law Reform Act 1987 (c.42), s. 33(1)(2), Sch. 2 para. 88(b), Sch. 3 paras 1, 6

⁵⁶⁰ Definition repealed by Courts Act 2003 c. 39 Sch.10 para.1 (April 1, 2005 as SI 2005/910)

⁵⁶¹ Words substituted subject to saving specified in SI 2004/2066 art.3 by Courts Act 2003 c. 39 Sch.8 para.250(3) (September 1, 2004: repeal has effect subject to saving specified in SI 2004/2066 art.3)

⁵⁶² Words repealed by Magistrates' Courts (Wales) (Consequences of Local Government Changes) Order 1996/675 Sch.1(I) para.2(7) (April 1, 1996: brought into force immediately after the coming into force of S.I. 1996/674 on April 1, 1996)

⁵⁶³ Definition repealed subject to saving specified in SI 2004/2066 art.3 by Courts Act 2003 c. 39 Sch.10 para.1 (September 1, 2004: repeal has effect subject to saving specified in SI 2004/2066 art.3)

(2) Except where the contrary is expressed or implied, anything required or authorised by this Act to be done by justices may, where two or more justices are present, be done by one of them on behalf of the others.

(3) Any reference in this Act to a sum adjudged to be paid by a conviction or order of a magistrates' court shall be construed as including a reference to any costs, damages or compensation adjudged to be paid by the conviction or order of which the amount is ascertained by the conviction or order; but this subsection does not prejudice the definition of "sum adjudged to be paid by a conviction" contained in subsection (8) of section 81 above for the purposes of that section.

(4) Where the age of any person at any time is material for the purposes of any provision of this Act regulating the powers of a magistrates' court, his age at the material time shall be deemed to be or to have been that which appears to the court after considering any available evidence to be or to have been his age at that time.

(5) Except where the context otherwise requires, any reference in this Act to an offence shall be construed as including a reference to an alleged offence; and any reference in this Act to an offence committed, completed or begun anywhere shall be construed as including a reference to an offence alleged to have been committed, completed or begun there.

(6) References in this Act to an offence punishable with imprisonment or punishable on summary conviction with imprisonment shall be construed without regard to any prohibition or restriction imposed by or under this or any other Act on imprisonment of young offenders.

(7) The provisions of this Act authorising a magistrates' court on conviction of an offender to pass a sentence or make an order instead of dealing with him in any other way shall not be construed as taking away any power to order him to pay costs, damages or compensation.

Amendments Pending

Pt VII s. 150(1) definition of "committal proceedings": definition repealed by Criminal Justice Act 2003 c. 44 Sch. 3(2) para. 51(11) (date to be appointed)

Pt VII s. 150(1) definition of "committal proceedings": definition repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

Pt VII s. 150(1) definition of "impose imprisonment": word substituted by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 63(2) (date to be appointed)

Pt VII s. 150(1) definition of "petty sessional court house": definition repealed by Courts Act 2003 c. 39 Sch. 8 para. 250(2) (date to be appointed)

Pt VII s. 150(1) definition of "public prosecutor": definition inserted by Criminal Justice Act 2003 c. 44 Sch. 36(2) para. 9 (date to be appointed)

Pt VII s. 150(1) definition of "the register": definition repealed by Courts Act 2003 c. 39 Sch. 8 para. 250(2) (date to be appointed)

Pt VII s. 150(1) definition of "sentence": word substituted by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 63(2) (date to be appointed)

Pt VII s. 150(3A): added by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 63(3) (date to be appointed)

Miscellaneous

151.— Application of Act to distress for rates.

(1) Justices may state a case under this Act when called upon to issue a warrant of distress for any rate other than a rate within the meaning of the General Rate Act 1967.

(2) Sections 79(2) and 100 above shall apply to proceedings for the non-payment of any rate to which subsection (1) above applies as they apply to proceedings for the non-payment of a sum adjudged to be paid by a magistrates' court.

(3) Except as provided in the preceding provisions of this section, the power of justices to issue a warrant of distress for a rate, the form and execution of such a warrant and the committal of persons for want of sufficient distress to satisfy a rate shall not be subject to the provisions of this Act.

Amendments Pending

Pt VII s. 151: repealed by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 64 (date to be appointed)

Pt VII s. 151: repealed by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 23(3) para. 1 (date to be appointed)

152. Saving for juvenile courts.

The provisions of this Act relating to the constitution, place of sitting and procedure of magistrates' courts shall, in their application to juvenile courts, have effect subject to any provision contained in [rules of court]⁵⁶⁴ or any enactment regulating the constitution, place of sitting or procedure of juvenile courts.

153. [...]⁵⁶⁵

Repeals, short title, etc.

154.— Consequential amendments, transitional provisions, repeals, etc.

(1) Subject to subsection (2) below, the enactments mentioned in Schedule 7 to this Act shall have effect subject to the amendments specified in that Schedule, being amendments consequential on the provisions of this Act.

(2) The transitional provisions and savings in Schedule 8 to this Act shall have effect.

⁵⁶⁴ Words substituted subject to saving specified in SI 2004/2066 art.3 by Courts Act 2003 c. 39 Sch.8 para.251 (September 1, 2004: substitution has effect subject to saving specified in SI 2004/2066 art.3)

⁵⁶⁵ Repealed by Courts Act 2003 c. 39 Sch.10 para.1 (April 1, 2005 as SI 2005/910)

(3) Subject to subsection (2) above, the enactments specified in Schedule 9 to this Act (which include enactments which were spent before the passing of this Act) are hereby repealed to the extent specified in the third column of that Schedule.

(4) Nothing in this Act shall be taken as prejudicing the operation of sections 16 and 17 of the Interpretation Act 1978 (which relate to the effect of repeals).

155.— Short title, extent and commencement.

(1) This Act may be cited as the Magistrates' Courts Act 1980.

(2) The following provisions of this Act extend to Scotland—

- (a) [sections 8 (except subsection (9)), 12(13), 83(3), 90 and 91]⁵⁶⁶ and this section; and
- (b) section 154 and Schedules 7, 8 and 9 so far as they relate to any enactment extending to Scotland.

(3) The following provisions of this Act extend to Northern Ireland—

- (a) section 83(3), 90 and 91 and this section; and
- (b) section 154 and Schedules 7, 8 and 9 so far as they relate to an enactment extending to Northern Ireland.

(4) The provisions of section 126 above have the same extent as the [section]⁵⁶⁷ of the Indictable Offences Act 1848 to which they refer.

(5) [...]⁵⁶⁸

(6) Except as stated in subsections (2) to (5) above, and except so far as relates to the interpretation or commencement of the provisions mentioned in those subsections, this Act extends to England and Wales only.

(7) This Act shall come into force on such date as the Secretary of State may appoint by order made by statutory instrument.

Amendments Pending

Pt VII s. 155(2)(a): words repealed by Criminal Justice Act 2003 c. 44 Sch. 3(2) para. 51(12) (date to be appointed)

Pt VII s. 155(2)(a): words repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

SCHEDULE 1

OFFENCES TRIABLE EITHER WAY BY VIRTUE OF SECTION 17

Section 17

1.

Offences at common law of public nuisance.

⁵⁶⁶ Word substituted by Criminal Justice and Public Order Act 1994 c. 33 Sch.5 para.3(4) (September 4, 1995)

⁵⁶⁷ Word substituted by Courts Act 2003 c. 39 Sch.8 para.253 (April 1, 2005)

⁵⁶⁸ Repealed by Statute Law (Repeals) Act 1993 c. 50 Sch.1(XIV) para.1 (November 5, 1993)

[1A

An offence at common law of outraging public decency.

] ⁵⁶⁹

2. [...] ⁵⁷⁰**3.**

Offences consisting in contravention of section 13 of the Statutory Declarations Act 1835 (administration by a person of an oath etc. touching matters in which he has no jurisdiction).

4.

Offences under section 36 of the Malicious Damage Act 1861 (obstructing engines or carriages on railways).

5.

Offences under the following provisions of the Offences against the Person Act 1861—

- (a) section 16 (threats to kill);
- (b) section 20 (inflicting bodily injury, with or without a weapon);
- (c) section 26 (not providing apprentices or servants with food etc.);
- (d) section 27 (abandoning or exposing child);
- (e) section 34 (doing or omitting to do anything so as to endanger railway passengers);
- (f) section 36 (assaulting a clergyman at a place of worship etc);
- (g) section 38 (assault with intent to resist apprehension);
- (h) section 47 (assault occasioning bodily harm [...] ⁵⁷¹);
- (i) section 57 (bigamy);
- (j) section 60 (concealing the birth of a child).

6.

Offences under section 20 of the Telegraph Act 1868 (disclosing or intercepting messages).

7.

Offences under section 13 of the Debtors Act 1869 (transactions intended to defraud creditors).

8.

Offences under section 5 of the Public Stores Act 1875 (obliteration of marks with intent to conceal).

9.

Offences under section 12 of the Corn Returns Act 1882 (false returns).

10. [...] ⁵⁷²**11.**

Offences under section 3 of the Submarine Telegraph Act 1885 (damaging submarine cables).

⁵⁶⁹ Added by Criminal Justice Act 2003 c. 44 Pt 13 s.320(1) (January 20, 2004)

⁵⁷⁰ Repealed by Statute Law (Repeals) Act 2008 c. 12 Sch.1(3) para.1 (July 21, 2008)

⁵⁷¹ Words repealed by Criminal Justice Act 1988 (c.33), ss. 123(6), 170(2), Sch. 8 para. 16, Sch. 16

⁵⁷² Repealed by Electricity Act 1989 (c.29), s. 112(4), Sch. 17 para. 35(1), Sch. 18

12.

Offences under section 13 of the Stamp Duties Management Act 1891 (offences in relation to dies and stamps).

13.

Offences under section 8(2) of the Cremation Act 1902 (making false representations etc. with a view to procuring the burning of any human remains).

14.

All offences under the Perjury Act 1911 except offences under—

- (a) section 1 (perjury in judicial proceedings);
- (b) section 3 (false statements etc. with reference to marriage);
- (c) section 4 (false statements etc. as to births or deaths).

15. [...]⁵⁷³**16.**

Offences under section 17 of the Deeds of Arrangement Act 1914 (trustee making preferential payments).

17. [...]⁵⁷⁴**18.**

Offences under section 8(2) of the Census Act 1920 (disclosing census information).

19.

Offences under section 36 of the Criminal Justice Act 1925 (forgery of passports etc.).

20.

Offences under section 11 of the Agricultural Credits Act 1928 (frauds by farmers).

21. [...]⁵⁷⁵**22. [...]⁵⁷⁶****23. [...]⁵⁷⁷****24. [...]⁵⁷⁸****25. [...]⁵⁷⁹**

⁵⁷³ Repealed by Statute Law (Repeals) Act 1989 (c.43), s. 1(1), Sch. 1 Pt. I

⁵⁷⁴ Repealed by Wages Act 1986 (c.48), s. 32(2), Sch. 5 Pt. III

⁵⁷⁵ Repealed by Statute Law (Repeals) Act 1989 (c.43), s. 1(1), Sch. 1 Pt. I

⁵⁷⁶ Repealed by Postal Services Act 2000 (Consequential Modifications No. 1) Order 2001/1149 Sch.2 para.1 (March 26, 2001)

⁵⁷⁷ Repealed by Sexual Offences Act 2003 c. 42 Sch.7 para.1 (May 1, 2004)

⁵⁷⁸ Repealed by Statute Law (Repeals) Act 1989 (c.43), s. 1(1), Sch. 1 Pt. I

⁵⁷⁹ Repealed by Housing (Consequential Provisions) Act 1985 (c.71), ss. 3, 5(2), Sch. 1 Pt. I, Sch. 4

26.

The following offences under the Criminal Law Act 1967—

- (a) offences under section 4(1) (assisting offenders); and
 - (b) offences under section 5(1) (concealing arrestable offences and giving false information),
- where the offence to which they relate is triable either way.

27. [...]⁵⁸⁰**28.**

All indictable offences under the Theft Act 1968 except:—

- (a) robbery, aggravated burglary, blackmail and assault with intent to rob;
- (b) burglary comprising the commission of, or an intention to commit, an offence which is triable only on indictment;
- (c) burglary in a dwelling if any person in the dwelling was subjected to violence or the threat of violence.

29.

Offences under the following provisions of the Criminal Damage Act 1971—

- section 1(1) (destroying or damaging property);
- section 1(1) and (3) (arson);
- section 2 (threats to destroy or damage property);
- section 3 (possessing anything with intent to destroy or damage property).

30.

Offences in relation to stamps issued for the purpose of national insurance under the provisions of any enactments as applied to those stamps.

31.

Uttering any forged document the forgery of which is an offence listed in this Schedule.

32. [...]⁵⁸¹**33.**

Aiding, abetting, counselling or procuring the commission of any offence listed in the preceding paragraphs of this Schedule except paragraph 26.

34. [...]⁵⁸²**35. [...]⁵⁸³**

⁵⁸⁰ Repealed by Sexual Offences Act 2003 c. 42 Sch.7 para.1 (May 1, 2004)

⁵⁸¹ Repealed by Sexual Offences Act 2003 c. 42 Sch.7 para.1 (May 1, 2004)

⁵⁸² Repealed by Criminal Attempts Act 1981 (c.47), s. 10, Sch. Pt. I

⁵⁸³ Repealed by Serious Crime Act 2007 c. 27 Sch.14 para.1 (October 1, 2008 as SI 2008/2504)

SCHEDULE 2

OFFENCES FOR WHICH THE VALUE INVOLVED IS RELEVANT TO THE MODE OF TRIAL

Section 22

<i>Offence</i>	<i>Value involved</i>	<i>How measured</i>
<p>1. Offences under section 1 of the Criminal Damage Act 1971 (destroying or damaging property), excluding any offence committed by destroying or damaging property by fire.</p>	<p>As regards property alleged to have been destroyed, its value. As regards property alleged to have been damaged, the value of the alleged damage.</p>	<p>What the property would probably have cost to buy in the open market at the material time. (a) If immediately after the material time the damage was capable of repair— (i) what would probably then have been the market price for the repair of the damage, or (ii) what the property alleged to have been damaged would probably have cost to buy in the open market at the material time, whichever is the less; or (b) if immediately after the material time the damage was beyond repair, what the said property would probably have cost to buy in the open market at the material time.</p>
<p>2. The following offences, namely— (a) aiding, abetting, counselling or procuring the commission of any offence mentioned in paragraph 1 above; (b) attempting to commit any offence so mentioned; and (c) inciting another to commit any offence so mentioned.</p>	<p>The value indicated in paragraph 1 above for the offence alleged to have been aided, abetted, counselled or procured, or attempted or incited.</p>	<p>As for the corresponding entry in paragraph 1 above.</p>
<p>[3. Offences under section 12A of the Theft Act 1968 (aggravated vehicle-taking) where no allegation is made under subsection (1)(b) other than of damage, whether to the vehicle or other property or both.</p>	<p>The total value of the damage alleged to have been caused.</p>	<p>(1) In the case of damage to any property other than the vehicle involved in the offence, as for the corresponding entry in paragraph 1 above, substituting a reference to the time of the accident concerned for any reference to the material time. (2) In the case of damage to the vehicle involved in the offence— (a) if immediately after the vehicle was recovered the damage was capable of repair— (i) what would probably then have been the market price for the repair of the damage, or (ii) what the vehicle would probably have cost to buy in the open market immediately before it was unlawfully taken,</p>

⁵⁸⁴ Added by Aggravated Vehicle-Taking Act 1992 c. 11 s.2(1) (April 1, 1992)

Offence

Value involved

How measured

whichever is the less; or

(b) if immediately after the vehicle was recovered the damage was beyond repair, what the vehicle would probably have cost to buy in the open market immediately before it was unlawfully taken.]⁵⁸⁴

SCHEDULE 3
CORPORATIONS

Sections 46

1.—

(1) A magistrates' court may commit a corporation for trial by an order in writing empowering the prosecutor to prefer a bill of indictment in respect of the offence named in the order.

(2) An order under this paragraph shall not prohibit the inclusion in the bill of indictment of counts that under section 2 of the Administration of Justice (Miscellaneous Provisions) Act 1933 may be included in the bill in substitution for, or in addition to, counts charging the offence named in the order.

2.

A representative may on behalf of a corporation—

- [(a) make before examining justices such representations as could be made by an accused who is not a corporation;]⁵⁸⁵
- (b) consent to the corporation being tried summarily;
- (c) enter a plea of guilty or not guilty on the trial by a magistrates' court of an information.

Amendments Pending

Sch. 3 para. 2(a): repealed by Criminal Justice Act 2003 c. 44 Sch. 3(2) para. 51(13)(a) (date to be appointed)

Sch. 3 para. 2(a): repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

3.—

(1) Where a representative appears, any requirement of this Act that anything shall be done in the presence of the accused, or shall be read or said to the accused, shall be construed as a requirement that that thing shall be done in the presence of the representative or read or said to the representative.

(2) Where a representative does not appear, any such requirement, and any requirement that the consent of the accused shall be obtained for summary trial, shall not apply.

4.—

(1) Notification or intimation for the purposes of subsections (2) and (3) of section 12 above may be given on behalf of a corporation by a director or the secretary of the corporation; and those subsections shall apply in relation to a notification or intimation purporting to be so given as they apply to a notification or intimation purporting to be given by an individual accused.

(2) In this paragraph “director”, in relation to a corporation which is established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an

⁵⁸⁵ Substituted by Criminal Procedure and Investigations Act 1996 c. 25 Sch.1(I) para.13 (March 8, 1997 as SI 1997/683; Sch.1 has effect on March 8, 1997 in relation to any alleged offence in relation to which Part I of this Act applies)

industry or undertaking and whose affairs are managed by the members thereof, means a member of that corporation.

5. [...] ⁵⁸⁶

6.

Subject to the preceding provisions of this Schedule, the provisions of this Act relating to the inquiry into, and trial of, indictable offences shall apply to a corporation as they apply to an adult.

Amendments Pending

Sch. 3 para. 6: words substituted by Criminal Justice Act 2003 c. 44 Sch. 3(2) para. 51(13)(b) (date to be appointed)

7.

Where a corporation and an individual who has attained the age of 17 are jointly charged before a magistrates' court with an offence triable either way, the court shall not try either of the accused summarily unless each of them consents to be so tried.

8.

Subsection (6) of section 33 of the Criminal Justice Act 1925 shall apply to a representative for the purposes of this Schedule as it applies to a representative for the purposes of that section.

SCHEDULE 4

MAXIMUM PERIODS OF IMPRISONMENT IN DEFAULT OF PAYMENT

Section 76

1.

Subject to the following provisions of this Schedule, the periods set out in the second column of the following Table shall be the maximum periods applicable respectively to the amounts set out opposite thereto, being amounts due at the time the imprisonment [or detention] ⁵⁸⁷ is imposed.

Table

[An amount not exceeding £200	7 days
An amount exceeding £200 but not exceeding £500	14 days
An amount exceeding £500 but not exceeding £1,000	28 days
An amount exceeding £1,000 but not exceeding £2,500	45 days
An amount exceeding £2,500 but not exceeding £5,000	3 months.] ⁵⁸⁸

⁵⁸⁶ Repealed by Criminal Justice Act 1991 c. 53 Sch.13 para.1 (October 1, 1992 as SI 1992/333)

⁵⁸⁷ Words inserted by Criminal Justice Act 1982 (c.48), s. 77, Sch. 14 para. 59

⁵⁸⁸ Entries substituted by Criminal Justice Act 1991 c. 53 Pt I s.23(1) (October 1, 1992)

2.—

(1) Where the amount due at the time imprisonment [or detention]⁵⁸⁹ is imposed is so much of a sum adjudged to be paid by a summary conviction as remains due after part payment, then, subject to sub-paragraph (2) below, the maximum period applicable to the amount shall be the period applicable to the whole sum reduced by such number of days as bears to the total number of days therein the same proportion as the part paid bears to the whole sum.

(2) In calculating the reduction required under sub-paragraph (1) above any fraction of a day shall be left out of account and the maximum period shall not be reduced to less than [seven days]⁵⁹⁰ .

3.

The maximum period applicable to a sum of any amount enforceable as a civil debt shall be 6 weeks.

[SCHEDULE 4A**POWERS OF AUTHORISED OFFICERS EXECUTING WARRANTS****Section 125BA**] ⁵⁹¹

[Meaning of “authorised officer” etc]⁵⁹²

[1

In this Schedule—

“authorised officer”, in relation to a warrant, means a person who is entitled to execute the warrant by virtue of—

- (a) section 125A of this Act (civilian enforcement officers); or
- (b) section 125B of this Act (approved enforcement agencies);

“premises” includes any place and, in particular, includes—

- (a) any vehicle, vessel, aircraft or hovercraft;
- (b) any offshore installation within the meaning of the Mineral Workings (Offshore Installations) Act 1971; and
- (c) any tent or movable structure.

] ⁵⁹³

⁵⁸⁹ Words inserted by Criminal Justice Act 1982 (c.48), s. 77, Sch. 14 para. 59

⁵⁹⁰ Words substituted by Criminal Justice Act 1991 c. 53 Sch.11 para.28 (October 1, 1992)

⁵⁹¹ Added by Domestic Violence, Crime and Victims Act 2004 c. 28 Sch.4 para.1 (July 18, 2005)

⁵⁹² Added by Domestic Violence, Crime and Victims Act 2004 c. 28 Sch.4 para.1 (July 18, 2005)

⁵⁹³ Added by Domestic Violence, Crime and Victims Act 2004 c. 28 Sch.4 para.1 (July 18, 2005)

*[Entry to execute warrant of arrest etc]*⁵⁹⁴**[2**

- (1) An authorised officer may enter and search any premises for the purpose of executing a warrant of arrest, commitment or detention issued in proceedings for or in connection with any criminal offence.
- (2) The power may be exercised—
- (a) only to the extent that it is reasonably required for that purpose; and
 - (b) only if the officer has reasonable grounds for believing that the person whom he is seeking is on the premises.
- (3) In relation to premises consisting of two or more separate dwellings, the power is limited to entering and searching—
- (a) any parts of the premises which the occupiers of any dwelling comprised in the premises use in common with the occupiers of any other such dwelling; and
 - (b) any such dwelling in which the officer has reasonable grounds for believing that the person whom he is seeking may be.

] ⁵⁹⁵*[Entry to levy distress]*⁵⁹⁶**[3**

- (1) An authorised officer may enter and search any premises for the purpose of executing a warrant of distress issued under section 76 of this Act for default in paying a sum adjudged to be paid by a conviction.
- (2) The power may be exercised only to the extent that it is reasonably required for that purpose.

] ⁵⁹⁷**Amendments Pending**

Sch. 4A para. 3: repealed by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 13 para. 65 (date to be appointed)

⁵⁹⁴ Added by Domestic Violence, Crime and Victims Act 2004 c. 28 Sch.4 para.1 (July 18, 2005)

⁵⁹⁵ Added by Domestic Violence, Crime and Victims Act 2004 c. 28 Sch.4 para.1 (July 18, 2005)

⁵⁹⁶ Added by Domestic Violence, Crime and Victims Act 2004 c. 28 Sch.4 para.1 (July 18, 2005)

⁵⁹⁷ Added by Domestic Violence, Crime and Victims Act 2004 c. 28 Sch.4 para.1 (July 18, 2005)

Sch. 4A para. 3: repealed by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 23(3) para. 1 (date to be appointed)

*[Searching arrested persons]*⁵⁹⁸

[4

- (1) This paragraph applies where a person is arrested in pursuance of a warrant of arrest, commitment or detention issued in proceedings for or in connection with any criminal offence.
- (2) An authorised officer may search the arrested person, if he has reasonable grounds for believing that the arrested person may present a danger to himself or others.
- (3) An authorised officer may also search the arrested person for anything which he might use to assist him to escape from lawful custody.
- (4) The power conferred by sub-paragraph (3) above may be exercised—
 - (a) only if the officer has reasonable grounds for believing that the arrested person may have concealed on him anything of a kind mentioned in that sub-paragraph; and
 - (b) only to the extent that it is reasonably required for the purpose of discovering any such thing.
- (5) The powers conferred by this paragraph to search a person are not to be read as authorising the officer to require a person to remove any of his clothing in public other than an outer coat, a jacket or gloves; but they do authorise the search of a person's mouth.
- (6) An officer searching a person under sub-paragraph (2) above may seize and retain anything he finds, if the officer has reasonable grounds for believing that the person searched might use it to cause physical injury to himself or to any other person.
- (7) An officer searching a person under sub-paragraph (3) above may seize and retain anything he finds, if he has reasonable grounds for believing that the person might use it to assist him to escape from lawful custody.

]

*[Use of force]*⁶⁰⁰

[5

An authorised officer may use reasonable force, if necessary, in the exercise of a power conferred on him by this Schedule.

]

⁵⁹⁸ Added by Domestic Violence, Crime and Victims Act 2004 c. 28 Sch.4 para.1 (July 18, 2005)

⁵⁹⁹ Added by Domestic Violence, Crime and Victims Act 2004 c. 28 Sch.4 para.1 (July 18, 2005)

⁶⁰⁰ Added by Domestic Violence, Crime and Victims Act 2004 c. 28 Sch.4 para.1 (July 18, 2005)

⁶⁰¹ Added by Domestic Violence, Crime and Victims Act 2004 c. 28 Sch.4 para.1 (July 18, 2005)

SCHEDULE 5**TRANSFER OF REMAND HEARINGS****Section 130****1.**

A court which, on adjourning a case, makes an order under section 130(1) of this Act is not required at that time to fix the time and place at which the case is to be resumed but shall do so as soon as practicable after the order ceases to be in force.

2.

Where an order under subsection (1) of section 130 of this Act is made in the course of proceedings which, for the purposes of section 8 of this Act, are committal proceedings, proceedings relating to the accused before the alternate court are also committal proceedings for those purposes.

Amendments Pending

Sch. 5 para. 2: repealed by Criminal Justice Act 2003 c. 44 Sch. 3(2) para. 51(14)(a) (date to be appointed)

Sch. 5 para. 2: repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

3.

A court making an order under subsection (1) of section 130 of this Act or remanding the accused under subsection (4) shall at once notify [the terms of the order or remand to the court before which the accused is to be brought for the hearing on any application for a subsequent remand or, as the case may be, before which any such application is to be made without his being brought before it]⁶⁰².

4.

A person to whom an order under section 130(1) of this Act applies shall, if released on bail, be bailed to appear before the court which made the order.

5.

Section 130 of this Act and this Schedule have effect notwithstanding anything in sections 5, 10 or 18(4) of this Act.

⁶⁰² Words inserted by Criminal Justice Act 1982 (c.48), s. 59(1) Sch. 9 para. 7

Amendments Pending

Sch. 5 para. 5: words substituted by Criminal Justice Act 2003 c. 44 Sch. 3(2) para. 51(14)(b) (date to be appointed)

SCHEDULE 6**FEES****Section 137****PART I****[JUSTICES' CHIEF EXECUTIVES]⁶⁰³**

[...]⁶⁰⁴

PART II**MATTERS IN RESPECT OF WHICH NO FEES ARE CHARGEABLE**

1. [...]⁶⁰⁵

2. [...]⁶⁰⁶

PART III**MATTERS TO WHICH PART I DOES NOT APPLY**

1. [...]⁶⁰⁷

2. [...]⁶⁰⁸

3. [...]⁶⁰⁹

⁶⁰³ Words substituted by Access to Justice Act 1999 c. 22 Sch.13 para.117 (April 1, 2001 subject to transitional provisions specified in SI 2001/916 Sch.2 para.2)

⁶⁰⁴ Repealed subject to transitional provisions specified in SI 2005/3518 art.4 by Courts Act 2003 c. 39 Sch.10 para.1 (January 10, 2006: repeal has effect subject to transitional provisions specified in SI 2005/3518 art.4)

⁶⁰⁵ Repealed subject to transitional provisions specified in SI 2005/3518 art.4 by Courts Act 2003 c. 39 Sch.10 para.1 (January 10, 2006: repeal has effect subject to transitional provisions specified in SI 2005/3518 art.4)

⁶⁰⁶ Repealed subject to transitional provisions specified in SI 2005/3518 art.4 by Courts Act 2003 c. 39 Sch.10 para.1 (January 10, 2006: repeal has effect subject to transitional provisions specified in SI 2005/3518 art.4)

⁶⁰⁷ Repealed by Billiards (Abolition of Restrictions) Act 1987 (c.19), s. 1, Sch.

⁶⁰⁸ Repealed by Local Government (Miscellaneous Provisions) Act 1982 (c.30), s. 47(3), Sch. 7 Pt. I

⁶⁰⁹ Repealed by Licensing Act 2003 c. 17 Sch.7 para.1 (November 24, 2005 as SI 2005/3056)

4. [...] ⁶¹⁰5. [...] ⁶¹¹**[SCHEDULE 6A****FINES THAT MAY BE ALTERED UNDER SECTION 143**] ⁶¹²

[

Enactment	Maximum fine
[...]	...
...	...
...	...] ⁶¹³
ATTACHMENT OF EARNINGS ACT 1971 (c.32)	
Section 23(3) (judge's fine)	£250
POWERS OF CRIMINAL COURTS ACT 1973 (c.62)	
Section 27(3) (failure to comply with suspended sentence supervision order)	£1,000
MAGISTRATES' COURTS ACT 1980 (c.43)	
Section 63(3)(a) (disobedience of orders other than payment of money)	£5,000
Section 97(4) (refusal to give evidence etc.)	£2,500
CONTEMPT OF COURT ACT 1981 (c.49)	
Section 12(2) (contempt in face of magistrates' court)	£2,500
Section 14(2) (contempt in an inferior court)	£2,500
CRIMINAL JUSTICE ACT 1982 (c.48)	
Section 19(3) (failure to comply with attendance centre order or attendance centre rules)	£1,000
COUNTY COURTS ACT 1984 (c.28)	
Section 55(2) (neglect or refusal to give evidence)	£1,000
Section 118(1) (contempt in face of court)	£2,500
CORONERS ACT 1988 (c.13)	
Sections 10(1) and (2) and 21(5) (refusal to give evidence etc.)	£1,000
CRIMINAL JUSTICE ACT 1991 (c.53)	
In Schedule 2, paragraphs 3(1) and 4(1) (failure to comply with probation, community service, curfew or combination order)	£1,000
[POWERS OF CRIMINAL COURTS (SENTENCING) ACT 2000	

⁶¹⁰ Repealed by Pilotage Act 1987 (c.21), s. 32(5), Sch. 3

⁶¹¹ Repealed by Licensing Act 2003 c. 17 Sch.7 para.1 (November 24, 2005 as SI 2005/3056)

⁶¹² Substituted by Criminal Justice Act 1991 c. 53 Sch.4(IV) para.1 (October 1, 1992)

⁶¹³ Entry repealed by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.12(I) para.1 (August 25, 2000)

⁶¹⁸ Entry inserted by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.9 para.80(2) (August 25, 2000)

Enactment	Maximum fine
[In Schedule 8, paragraph 2(2)(a)(i) (failure to comply with reparation order)	£1,000] ⁶¹⁴
[...]	...] ⁶¹⁵
[...]	...] ⁶¹⁶
[...]	...] ⁶¹⁷
[...]	...] ⁶¹⁶] ⁶¹⁸
<hr/>	
] ⁶¹⁹	

Amendments Pending

Sch. 6A para. 1: entry repealed by Coroners and Justice Act 2009 c. 25 Sch. 21(1) para. 28(a) (date to be appointed)

Sch. 6A para. 1: entry inserted by Coroners and Justice Act 2009 c. 25 Sch. 21(1) para. 28(b) (date to be appointed)

Sch. 6A para. 1: entry repealed by Coroners and Justice Act 2009 c. 25 Sch. 23(1) para. 1 (date to be appointed)

Sch. 6A para. 1: entry repealed by Criminal Justice and Court Services Act 2000 c. 43 Sch. 8 para. 1 (date to be appointed)

Sch. 6A para. 1: repealed by Criminal Justice and Immigration Act 2008 c. 4 Sch. 4(1) para. 24 (date to be appointed)

Sch. 6A para. 1: repealed by Criminal Justice and Immigration Act 2008 c. 4 Sch. 28(1) para. 1 (date to be appointed: repeal has effect subject to transitory, transitional and savings provisions as specified in 2008 c.4 Sch.27 para.1(1) and 5)

Sch. 6A para. 1: entries inserted by Tribunals, Courts and Enforcement Act 2007 c. 15 Pt 5 c. 2 s. 107(2) (date to be appointed)

⁶¹⁴ Entry inserted by Criminal Justice and Immigration Act 2008 c. 4 Sch.4(2) para.103 (November 30, 2009: insertion has effect on November 30, 2009 as specified in SI 2009/3074 subject to transitory, transitional and savings provisions as specified in 2008 c.4 Sch.27 para.1(2) & 5)

⁶¹⁵ Entry repealed by Criminal Justice Act 2003 c. 44 Sch.37(7) para.1 (April 4, 2005 as SI 2005/950)

⁶¹⁶ Repealed by Criminal Justice and Immigration Act 2008 c. 4 Sch.28(1) para.1 (November 30, 2009: repeal has effect as SI 2009/3074 subject to transitory, transitional and savings provisions specified in 2008 c.4 Sch.27 para.1(1) and 5)

⁶¹⁷ Repealed by Criminal Justice and Immigration Act 2008 c. 4 Sch.4(1) para.24 (November 30, 2009: repeal has effect on November 30, 2009 as specified in SI 2009/3074 subject to transitory, transitional and savings provisions as specified in 2008 c.4 Sch.27 paras 1(1) and 5; as SI 2009/3074)

⁶¹⁹ Substituted by Criminal Justice Act 1991 c. 53 Sch.4(IV) para.1 (October 1, 1992)

Sch. 6A para. 1: entry inserted by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch. 16 para. 2(2) (date to be appointed)

SCHEDULE 7

CONSEQUENTIAL AMENDMENTS

Section 154

Summary Jurisdiction Act 1857 (20 & 21 Vict. c. 43)

1. [...] ⁶²⁰

Criminal Law Amendment Act 1867 (30 & 31 Vict. c. 35)

2. [...] ⁶²¹

Gun Barrel Proof Act 1868 (c. cxiii)

3. [...] ⁶²²

Criminal Justice Act 1925 (15 & 16 Geo. 5 c. 86)

4. [...] ⁶²³

5. [...] ⁶²⁴

Children and Young Persons Act 1933 (23 & 24 Geo. 5 c. 12)

6.

In section 46(1A) of the Children and Young Persons Act 1933 for “section 1 of the Magistrates' Courts Act 1957” substitute “section 12 of the Magistrates' Courts Act 1980”.

⁶²⁰ Repealed by Statute Law (Repeals) Act 1993 c. 50 Sch.1(I) para.1 (November 5, 1993)

⁶²¹ Repealed by Criminal Procedure and Investigations Act 1996 c. 25 Sch.5 para.2 (March 8, 1997: as in SI 1997/683; this repeal, together with Sch.1, has effect on March 8, 1997 in relation to any alleged offence in relation to which Part I of this Act applies)

⁶²² Repealed by Statute Law (Repeals) Act 1993 c. 50 Sch.1(XIV) para.1 (November 5, 1993)

⁶²³ Repealed by Police and Criminal Evidence Act 1984 (c.60), s. 119(2), Sch. 7 Pt. V

⁶²⁴ Repealed subject to saving specified in SI 2004/2066 art.3 by Courts Act 2003 c. 39 Sch.10 para.1 (September 1, 2004: repeal has effect subject to saving specified in SI 2004/2066 art.3)

Criminal Justice Act 1948 (11 & 12 Geo. 6 c. 58)

7.

In section 27(3) of the Criminal Justice Act 1948 for “section 105(5) of the Magistrates' Courts Act 1952” substitute “section 128(7) of the Magistrates' Courts Act 1980”.

Maintenance Orders Act 1950 (14 Geo. 6 c. 37)

8.

In section 25(1) of the Maintenance Orders Act 1950 for “section fifteen of the Justices of the Peace Act 1949” substitute “section 144 of the Magistrates' Courts Act 1980”.

Amendments Pending

Sch. 7 para. 8: repealed by Courts Act 2003 c. 39 Sch. 10 para. 1 (date to be appointed: commencement order)

Rag Flock and Other Filling Materials Act 1951 (14 & 15 Geo. 6 c. 63)

9. [...]⁶²⁵

Pharmacy Act 1954 (2 & 3 Eliz. 2 c. 61)

10.

In section 21 of the Pharmacy Act 1954 for “the Magistrates' Courts Act 1952” substitute “the Magistrates' Courts Act 1980”.

Mines and Quarries Act 1954 (2 & 3 Eliz. 2 c. 70)

11.

In section 153(a) of the Mines and Quarries Act 1954 for “section thirty-five of the Magistrates' Courts Act 1952” substitute “section 44 of the Magistrates' Courts Act 1980”.

Army Act 1955 (3 & 4 Eliz. 2 c. 18)

12.

In sections 187(4) and 215(9) of the Army Act 1955 for “the Magistrates' Courts Act 1952” substitute, in each case, “the Magistrates' Courts Act 1980”.

⁶²⁵ Repealed by Deregulation (Rag Flock and Other Filling Materials Act 1951) (Repeal) Order 1996/3097 art.3(1)(c) (January 6, 1997)

*Air Force Act 1955 (3 & 4 Eliz. 2 c. 19)***13.**

In sections 187(4) and 215(9) of the Air Force Act 1955 for “the Magistrates' Courts Act 1952” substitute, in each case, “the Magistrates' Courts Act 1980”.

*Food and Drugs Act 1955 (4 & 5 Eliz. 2 c. 16)***14. [...]**⁶²⁶**15. [...]**⁶²⁷*Magistrates' Courts (Appeals from Binding Over Orders) Act 1956 (4 & 5 Eliz. 2 c. 44)***16.**

In section 1(1) of the Magistrates' Courts (Appeals from Binding Over Orders) Act 1956 for “the Magistrates' Courts Act 1952” substitute “the Magistrates' Courts Act 1980”.

*Sexual Offences Act 1956 (4 & 5 Eliz. 2 c.69)***17.**

In section 37(7) of the Sexual Offences Act 1956—

- (a) in paragraph (a) for “section 6 of the Children and Young Persons Act 1969” substitute “section 24 of the Magistrates' Courts Act 1980”;
- (b) in paragraph (b) for “subsection (5) of section ninety-eight of the Magistrates' Courts Act 1952” substitute “subsection (5) of section 121 of the Magistrates' Courts Act 1980”.

18. [...]⁶²⁸*Dentists Act 1957 (5 & 6 Eliz. 2 c.28)***19. [...]**⁶²⁹*Affiliation Proceedings Act 1957 (5 & 6 Eliz. 2 c.55)***20.**

In section 5(5) of the Affiliation Proceedings Act 1957 for “section fifty-two of the Magistrates' Courts Act 1952” substitute “section 59 of the Magistrates' Courts Act 1980”.

⁶²⁶ Repealed by Food Act 1984 (c.30), s. 134, Sch. 11

⁶²⁷ Repealed by Food Act 1984 (c.30), s. 134, Sch. 11

⁶²⁸ Repealed by Sexual Offences Act 2003 c. 42 Sch.7 para.1 (May 1, 2004)

⁶²⁹ Repealed by Dentists Act 1983 (c.38), s. 33(2), Sch. 3 Pt. I

21.

In section 6A of the Affiliation Proceedings Act 1957—

- (a) in subsection (1) for “section 53 of the Magistrates' Courts Act 1952” substitute “section 60 of the Magistrates' Courts Act 1980”;
- (b) in subsection (2) for “the said section 53” substitute “the said section 60”;
- (c) in subsection (5) for “section 63 of the Magistrates' Courts Act 1952” substitute “section 75 of the Magistrates' Courts Act 1980”

Housing Act 1957 (5 & 6 Eliz. 2 c. 56)

22. [...]⁶³⁰

Maintenance Orders Act 1958 (6 & 7 Eliz. 2 c.39)

23.

In section 18 of the Maintenance Orders Act 1958—

- (a) in subsection (1) for “subsection (2) of section sixty-five of the Magistrates' Courts Act 1952” substitute “subsection (2) of section 77 of the Magistrates' Courts Act 1980”;
- (b) in subsection (6) for “section sixty-seven of the Magistrates' Courts Act 1952” substitute “section 79 of the Magistrates' Courts Act 1980”.

24.

In section 21(1) of the Maintenance Orders Act 1958 for “the Magistrates' Courts Act 1952” substitute “the Magistrates' Courts Act 1980” and for “subsection (2) of section one hundred and twenty-four thereof” substitute “subsection (2) of section 148 thereof”.

Adoption Act 1958 (7 Eliz. 2 c. 5)

25.

In section 9(2) and (4) of the Adoption Act 1958 for “section fifteen of the Justices of the Peace Act 1949” substitute “section 144 of the Magistrates' Courts Act 1980”.

26.

In section 48 of the Adoption Act 1958 for “the Magistrates' Courts Act 1952” substitute “the Magistrates' Courts Act 1980”.

Manoeuvres Act 1958 (7 & 8 Eliz. 2 c.7)

27. [...]⁶³¹

⁶³⁰ Repealed by Housing (Consequential Provisions) Act 1985 (c.71), ss. 3, 5(2), Sch. 1 Pt. I, Sch. 4

⁶³¹ Repealed by Access to Justice Act 1999 c. 22 Sch.15(V)(1) para.1 (September 27, 1999 except for repeals specified in 1999 c.22 s.108(4); not yet in force otherwise)

*County Courts Act 1959 (7 & 8 Eliz. 2 c. 22)*28. [...] ⁶³²*Highways Act 1959 (7 & 8 Eliz.2 c.25)*29. [...] ⁶³³*Street Offences Act 1959 (7 & 8 Eliz.2 c.57)*30. [...] ⁶³⁴*Mental Health Act 1959 (7 & 8 Eliz. 2 c. 72)*31. [...] ⁶³⁵32. [...] ⁶³⁶33. [...] ⁶³⁷34. [...] ⁶³⁸*Road Traffic Act 1960 (8 & 9 Eliz. 2 c.16)*35. [...] ⁶³⁹*Administration of Justice Act 1960 (8 & 9 Eliz.2 c.65)***36.**

In section 13(5) of the Administration of Justice Act 1960, in paragraph (c) for “subsection (3) of section fifty-four of the Magistrates' Courts Act 1952” substitute “subsection (3) of section 63 of the Magistrates' Courts Act 1980”, and in the words following paragraph (c) for “the Magistrates' Courts Act 1952” substitute “the Magistrates' Courts Act 1980”.

⁶³² Repealed by County Courts Act 1984 (c.28), s. 148(3), Sch. 4

⁶³³ Repealed by Highways Act 1980 (c.66), s. 343(3), Sch. 25

⁶³⁴ Repealed by Policing and Crime Act 2009 c. 26 Sch.8(2) para.1 (April 1, 2010)

⁶³⁵ Repealed by Mental Health Act 1983 (c.20), s. 148(3), Sch. 6

⁶³⁶ Repealed by Mental Health Act 1983 (c.20), s. 148(3), Sch. 6

⁶³⁷ Repealed by Mental Health (Amendment) Act 1982 (c.51), s. 65(2), Sch. 4 Pt. I

⁶³⁸ Repealed by Mental Health (Amendment) Act 1982 (c.51), s. 65(2), Sch. 4 Pt. I

⁶³⁹ Repealed by Statute Law (Repeals) Act 1993 c. 50 Sch.1(XV) para.1 (November 5, 1993)

*Factories Act 1961 (9 & 10 Eliz.2 c.34)*37. [...] ⁶⁴⁰*Criminal Justice Act 1961 (9 & 10 Eliz. 2 c. 39)*38. [...] ⁶⁴¹39. [...] ⁶⁴²40. [...] ⁶⁴³41. [...] ⁶⁴⁴42. [...] ⁶⁴⁵*Plant Varieties and Seeds Act 1964 (c.14)*

43.

In section 23(2) of the Plant Varieties and Seeds Act 1964 for “section 104 of the Magistrates' Courts Act 1952” substitute “section 127(1) of the Magistrates' Courts Act 1980”.

44.

In section 28 of the Plant Varieties and Seeds Act 1964—

- (a) in subsection (1) for “section 104 of the Magistrates' Courts Act 1952” substitute “section 127(1) of the Magistrates' Courts Act 1980”;
- (b) in subsection (2) for “the said section 104” substitute “the said section 127(1)”.

*Licensing Act 1964 (c.26)*45. [...] ⁶⁴⁶46. [...] ⁶⁴⁷47. [...] ⁶⁴⁸48. [...] ⁶⁴⁹

⁶⁴⁰ Repealed by Statute Law (Repeals) Act 1993 c. 50 Sch.1(XIV) para.1 (November 5, 1993)

⁶⁴¹ Repealed by Criminal Justice Act 1982 (c.48), s. 78, Sch. 16

⁶⁴² Repealed by Criminal Justice Act 1982 (c.48), s. 78, Sch. 16

⁶⁴³ Repealed by Criminal Justice Act 1982 (c.48), s. 78, Sch. 16

⁶⁴⁴ Repealed by Criminal Justice Act 1982 (c.48), s. 78, Sch. 16

⁶⁴⁵ Repealed by Criminal Justice Act 1982 (c.48), s. 78, Sch. 16

⁶⁴⁶ Repealed by Licensing Act 2003 c. 17 Sch.7 para.1 (November 24, 2005 as SI 2005/3056)

⁶⁴⁷ Repealed by Licensing Act 2003 c. 17 Sch.7 para.1 (November 24, 2005 as SI 2005/3056)

⁶⁴⁸ Repealed by Licensing Act 2003 c. 17 Sch.7 para.1 (November 24, 2005 as SI 2005/3056)

49. [...] ⁶⁵⁰

50. [...] ⁶⁵¹

Administration of Justice Act 1964 (c.42)

51.

In section 38(1) of the Administration of Justice Act 1964 for “section 28 or 29 of the Magistrates' Courts Act 1952” substitute “section 37 or 38 of the Magistrates' Courts Act 1980”.

Magistrates' Courts Act (Northern Ireland) 1964 (c.21 (N.I.))

52. [...] ⁶⁵²

Finance Act 1965 (c.25)

53.

In section 92(7) of the Finance Act 1965 for “Section 104 of the Magistrates' Courts Act 1952” substitute “Section 127(1) of the Magistrates' Courts Act 1980”.⁶⁵³ ⁶⁵⁴ ⁶⁵⁵ ⁶⁵⁶

Amendments Pending

Sch. 7 para. 53: repealed by Transport Act 2000 c. 38 Sch. 31(II) para. 1 (date to be appointed)

Gas Act 1965 (c.36)

54.

In section 21(4) of the Gas Act 1965 for “section 35 of the Magistrates' Courts Act 1952” substitute “section 44 of the Magistrates' Courts Act 1980”.

Backing of Warrants (Republic of Ireland) Act 1965 (c.45)

55. [...] ⁶⁵⁷

⁶⁴⁹ Repealed by Licensing Act 2003 c. 17 Sch.7 para.1 (November 24, 2005 as SI 2005/3056)

⁶⁵⁰ Repealed by Licensing Act 1988 (c.17), s. 19(2), Sch. 4

⁶⁵¹ Repealed by Licensing Act 2003 c. 17 Sch.7 para.1 (November 24, 2005 as SI 2005/3056)

⁶⁵² Repealed by S.I. 1981/1675, (N.I. 26), art. 170(3), Sch. 7

⁶⁵³ In relation to Wales: para.53 is repealed.

⁶⁵⁴ Repealed by Transport Act 2000 c. 38 Sch.31(II) para.1 (August 14, 2002 as SI 2002/2024)

⁶⁵⁵ In relation to England: para.53 is repealed.

⁶⁵⁶ Repealed by Transport Act 2000 c. 38 Sch.31(II) para.1 (May 1, 2002 as SI 2002/1014)

⁶⁵⁷ Repealed by Justices of the Peace Act 1997 c. 25 Sch.6(I) para.1 (June 19, 1997 subject to 1997 c.25 s.74(2)-(4))

*Criminal Procedure (Attendance of Witnesses) Act 1965 (c.69)***56.**

In section 8 of the Criminal Procedure (Attendance of Witnesses) Act 1965 for “section 77 of the Magistrates' Courts Act 1952” substitute “section 97 of the Magistrates' Courts Act 1980”.

General Rate Act 1967 (c. 9)

57. [...]⁶⁵⁸

58. [...]⁶⁵⁹

59. [...]⁶⁶⁰

60. [...]⁶⁶¹

*Criminal Law Act 1967 (c.58)***61.**

In section 2(1) of the Criminal Law Act 1967 for “section 29 of the Criminal Law Act 1977” substitute “section 33 of the Magistrates' Courts Act 1980”, for “subsection (2) of section 23 of the said Act of 1977” substitute “subsection (2) of section 22 of the said Act of 1980” and for “the said section 23” substitute “the said section 22”.

*Wireless Telegraphy Act 1967 (c.72)***62.**

In section 11(4) of the Wireless Telegraphy Act 1967 for “section 115 of the Magistrates' Courts Act 1952” substitute “section 140 of the Magistrates' Courts Act 1980”.

Criminal Justice Act 1967 (c.80)

63. [...]⁶⁶²

64. [...]⁶⁶³

⁶⁵⁸ Repealed for financial years beginning in or after 1990 by Local Government Finance Act 1988 (c.41) s. 149, Sch 13 Pt. 1(subject to any saving in s. 117(8) of that 1988 Act

⁶⁵⁹ Repealed for financial years beginning in or after 1990 by Local Government Finance Act 1988 (c.41) s. 149, Sch 13 Pt. 1(subject to any saving in s. 117(8) of that 1988 Act

⁶⁶⁰ Repealed for financial years beginning in or after 1990 by Local Government Finance Act 1988 (c.41) s. 149, Sch 13 Pt. 1(subject to any saving in s. 117(8) of that 1988 Act

⁶⁶¹ Repealed for financial years beginning in or after 1990 by Local Government Finance Act 1988 (c.41) s. 149, Sch 13 Pt. 1(subject to any saving in s. 117(8) of that 1988 Act

⁶⁶² Repealed by Criminal Procedure and Investigations Act 1996 c. 25 Sch.5 para.2 (March 8, 1997: as in SI 1997/683; this repeal, together with Sch.2, has effect on March 8, 1997 in relation to any alleged offence in relation to which Part I of this Act applies)

65. [...]⁶⁶⁴**66.**

In section 36(2) of the Criminal Justice Act 1967 for “the Magistrates' Courts Act 1952” substitute “the Magistrates' Courts Act 1980”.

67. [...]⁶⁶⁵**68.**

In section 62(7) of the Criminal Justice Act 1967 for “section 29 of the Magistrates' Courts Act 1952” substitute “section 38 of the Magistrates' Courts Act 1980”.

69.

In section 90(2) and (4) of the Criminal Justice Act 1967 for “section 104 of the Magistrates' Courts Act 1952” substitute, in each case, “section 127(1) of the Magistrates' Courts Act 1980”.

Companies Act 1967 (c.81)

70.

In section 49(3) of the Companies Act 1967 for “section 104 of the Magistrates' Courts Act 1952” substitute “section 127(1) of the Magistrates' Courts Act 1980”.

Criminal Appeal Act 1968 (c.19)

71.

In section 1 of the Criminal Appeal Act 1968—

- (a) in subsection (1) insert at the beginning “Subject to subsection (3) below”;
- (b) insert after subsection (2)—

“

(3) Where a person is convicted before the Crown Court of a scheduled offence it shall not be open to him to appeal to the Court of Appeal against the conviction on the ground that the decision of the court which committed him for trial as to the value involved was mistaken.

(4) In subsection (3) above “scheduled offence” and “the value involved” have the same meanings as they have in section 22 of the Magistrates' Courts Act 1980 (certain offences against property to be tried summarily if value of property or damage is small).

”

⁶⁶³ Repealed by Criminal Procedure and Investigations Act 1996 c. 25 Sch.5 para.2 (July 4, 1996)

⁶⁶⁴ Repealed by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.12(I) para.1 (August 25, 2000)

⁶⁶⁵ Repealed by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.12(I) para.1 (August 25, 2000)

*Firearms Act 1968 (c.27)***72.**

In section 51(4) of the Firearms Act 1968 for “section 104 of the Magistrates' Courts Act 1952” substitute “section 127(1) of the Magistrates' Courts Act 1980”.

73.

In Part II of Schedule 6 to the Firearms Act 1968, in paragraph 3—

- (a) in sub-paragraph (1) for “Schedule 3 to the Criminal Law Act 1977” substitute “Schedule 1 to the Magistrates' Courts Act 1980”;
- (b) in sub-paragraph (2) for “sections 19 to 24 of the said Act of 1977” substitute “sections 18 to 23 of the said Act of 1980”;
- (c) in sub-paragraph (3) for “the said sections 19 to 24” substitute “the said sections 18 to 23” and for “section 25(3) and (4) of the said Act of 1977” substitute “sections 25(3) and (4) of the said Act of 1980”.

Amendments Pending

Sch. 7 para. 73: repealed by Criminal Justice Act 2003 c. 44 Sch. 37(4) para. 1 (date to be appointed)

*Trade Descriptions Act 1968 (c.29)***74.**

In sections 19(2) and 40(1)(a) of the Trade Descriptions Act 1968 for “section 104 of the Magistrates' Courts Act 1952” substitute “section 127(1) of the Magistrates' Courts Act 1980”.

*Civil Evidence Act 1968 (c.64)***75. [...] ⁶⁶⁶***Medicines Act 1968 (c.67)***76.**

In section 125(1) of the Medicines Act 1968 for “section 104 of the Magistrates' Courts Act 1952” substitute “section 127(1) of the Magistrates' Courts Act 1980”.

*Sea Fisheries Act 1968 (c.77)***77.**

In section 12(3) of the Sea Fisheries Act 1968 for “Sections 65(1) and 66 of the Magistrates' Courts Act 1952” substitute “sections 77(1) and 78 of the Magistrates' Courts Act 1980”.

⁶⁶⁶ Repealed by Civil Evidence Act 1995 c. 38 Sch.2 para.1 (January 31, 1997)

*Children and Young Persons Act 1969 (c. 54)***78.** [...] ⁶⁶⁷**79.** [...] ⁶⁶⁸**80.**

In section 8(3) of the Children and Young Persons Act 1969 for “Subsections (2) and (4) of section 40 of the Magistrates' Courts Act 1952” substitute “Subsections (2) and (4) of section 49 of the Magistrates' Courts Act 1980”.

81. [...] ⁶⁶⁹**82.** [...] ⁶⁷⁰**83.** [...] ⁶⁷¹**84.** [...] ⁶⁷²**85.** [...] ⁶⁷³**86.**

In Schedule 4 to the Children and Young Persons Act 1969, in paragraph 5(1), for “section 28(1) of the Magistrates' Courts Act 1952” substitute “section 37(1) of the Magistrates' Courts Act 1980”.

87.

In Schedule 5 to the Children and Young Persons Act 1969, in paragraph 55, for “sections 2 and 9 of the Criminal Justice Act 1967” substitute “section 9 of the Criminal Justice Act 1967 and section 102 of the Magistrates' Courts Act 1980”.

*Administration of Justice Act 1970 (c. 31)***88.**

In section 41(8) of the Administration of Justice Act 1970 for “section 64 of the Magistrates' Courts Act 1952” substitute “section 76 of the Magistrates' Courts Act 1980” and for “paragraph 2 of Schedule 3 to that Act” substitute “paragraph 2 of Schedule 4 to that Act”.

⁶⁶⁷ Repealed by Children Act 1989 c. 41 Sch.15 para.1 (October 14, 1991)

⁶⁶⁸ Repealed by Criminal Justice Act 1982 (c.48), s. 78, Sch. 16

⁶⁶⁹ Repealed by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.12(I) para.1 (August 25, 2000)

⁶⁷⁰ Repealed by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.12(I) para.1 (August 25, 2000)

⁶⁷¹ Repealed by Children Act 1989 c. 41 Sch.15 para.1 (October 14, 1991)

⁶⁷² Repealed by Criminal Justice Act 1982 (c.48), s. 78, Sch. 16

⁶⁷³ Repealed by Access to Justice Act 1999 c. 22 Sch.15(V)(1) para.1 (September 27, 1999 except for repeals specified in 1999 c.22 s.108(4); not yet in force otherwise)

89.

In Schedule 1 to the Administration of Justice Act 1970 for “section 54(3) of the Magistrates' Courts Act 1952” substitute “section 63(3) of the Magistrates' Courts Act 1980”.

Merchant Shipping Act 1970 (c. 36)

90.

In section 56(2) and (7) of the Merchant Shipping Act 1970 for “subsections (1), (3) and (4) of section 77 of the Magistrates' Courts Act 1952” substitute, in each place, “subsections (1), (3) and (4) of section 97 of the Magistrates' Courts Act 1980”.

Guardianship of Minors Act 1971 (c. 3)

91. [...]⁶⁷⁴

92. [...]⁶⁷⁵

Vehicles (Excise) Act 1971 (c.10)

93. [...]⁶⁷⁶

Courts Act 1971 (c.23)

94.

In section 7(2) of the Courts Act 1971 for “subsection (1) above” substitute “section 7 of the Magistrates' Courts Act 1980”.

95.

In section 13 of the Courts Act 1971—

- (a) in subsection (5)(e) for “sections 94 and 95 of the Magistrates' Courts Act 1952” substitute “sections 118 and 119 of the Magistrates' Courts Act 1980”;
- (b) in subsection (8) for “the Magistrates' Courts Act 1952” substitute “the Magistrates' Courts Act 1980”.

96.

In section 52(5) of the Courts Act 1971 for “section 55 of the Magistrates' Courts Act 1952” substitute “section 64 of the Magistrates' Courts Act 1980”.

⁶⁷⁴ Repealed by Children Act 1989 c. 41 Sch.15 para.1 (October 14, 1991)

⁶⁷⁵ Repealed by Children Act 1989 c. 41 Sch.15 para.1 (October 14, 1991)

⁶⁷⁶ Repealed by Vehicle Excise and Registration Act 1994 c. 22 Sch.5(I) para.1 (September 1, 1994)

*Attachment of Earnings Act 1971 (c.32)***97.**

In section 3 of the Attachment of Earnings Act 1971—

(a) in subsection (1)(c) for “section 52(1) of the Magistrates' Courts Act 1952” substitute “section 59(1) of the Magistrates' Courts Act 1980”;

(b) [...] ⁶⁷⁷

98.

In section 8(3) of the Attachment of Earnings Act 1971 for “section 65(2) of the Magistrates' Courts Act 1952” substitute “section 77(2) of the Magistrates' Courts Act 1980”.

99.

In section 17(3)(e) of the Attachment of Earnings Act 1971 for “Part III of the Magistrates' Courts Act 1952” substitute “Part III of the Magistrates' Courts Act 1980”.

100.

In section 19 of the Attachment of Earnings Act 1971—

(a) in subsection (4) for “section 43 of the Magistrates' Courts Act 1952” substitute “section 51 of the Magistrates' Courts Act 1980”;

(b) in subsection (5) for “section 104 of the Magistrates' Courts Act 1952” substitute “section 127(1) of the Magistrates' Courts Act 1980”.

101.

In section 25 of the Attachment of Earnings Act 1971—

(a) [...] ⁶⁷⁸

(b) in subsection (6) for “Part III of the Magistrates' Courts Act 1952” substitute “Part III of the Magistrates' Courts Act 1980”.

*Misuse of Drugs Act 1971 (c.38)***102.**

In section 25(4) of the Misuse of Drugs Act 1971 for “section 104 of the Magistrates' Courts Act 1952” substitute “section 127(1) of the Magistrates' Courts Act 1980”.

*Fire Precautions Act 1971 (c.40)***103.**

In section 26(1) of the Fire Precautions Act 1971 for “the Magistrates' Courts Act 1952” substitute “the Magistrates' Courts Act 1980”.

⁶⁷⁷ Repealed by Maintenance Enforcement Act 1991 c. 17 Sch.3 para.1 (April 1, 1992)

⁶⁷⁸ Repealed subject to saving specified in SI 2004/2066 art.3 by Courts Act 2003 c. 39 Sch.10 para.1 (September 1, 2004: repeal has effect subject to saving specified in SI 2004/2066 art.3)

*Immigration Act 1971 (c.77)***104.**

In section 6(2) of the Immigration Act 1971 for “section 14(3) of the Magistrates' Courts Act 1952” substitute “section 10(3) of the Magistrates' Courts Act 1980”.

*Maintenance Orders (Reciprocal Enforcement) Act 1972 (c.18)***105.**

In section 14(3) and (6) of the Maintenance Orders (Reciprocal Enforcement) Act 1972 for “section 77(1), (3) and (4) of the Magistrates' Courts Act 1952” substitute, in each case, “section 97(1), (3) and (4) of the Magistrates' Courts Act 1980”.

106. [...]⁶⁷⁹

107. [...]⁶⁸⁰

108. [...]⁶⁸¹

109.

In section 38(4) and (6) of the Maintenance Orders (Reciprocal Enforcement) Act 1972 for “section 77(1), (3) and (4) of the Magistrates' Courts Act 1952” substitute, in each case, “section 97(1), (3) and (4) of the Magistrates' Courts Act 1980”.

110. [...]⁶⁸²

Road Traffic Act 1972 (c.20)

111. [...]⁶⁸³

112. [...]⁶⁸⁴

Civil Evidence Act 1972 (c.30)

113. [...]⁶⁸⁵

⁶⁷⁹ Repealed by Courts Act 2003 c. 39 Sch.10 para.1 (April 1, 2005 as SI 2005/910)

⁶⁸⁰ Repealed by Courts Act 2003 c. 39 Sch.10 para.1 (April 1, 2005 as SI 2005/910)

⁶⁸¹ Repealed by Maintenance Orders (Reciprocal Enforcement) Act 1992 c. 56 Sch.3 para.1 (April 5, 1993)

⁶⁸² Repealed by Children Act 1989 c. 41 Sch.15 para.1 (October 14, 1991)

⁶⁸³ Repealed by Road Traffic (Consequential Provisions) Act 1988 (c.54), ss. 3, 5, Sch. 1 Pt. I, Sch. 4 paras. 1, 2

⁶⁸⁴ Repealed by Road Traffic (Consequential Provisions) Act 1988 (c.54), ss. 3, 5, Sch. 1 Pt. I, Sch. 4 paras. 1, 2

⁶⁸⁵ Repealed by Courts Act 2003 c. 39 Sch.10 para.1 (April 1, 2005 as SI 2005/910)

*Criminal Justice Act 1972 (c.71)***114.**

In section 46 of the Criminal Justice Act 1972—

- (a) in subsection (1) for the words from “Sections 2” to “those sections)” substitute “Section 102 of the Magistrates' Courts Act 1980 and section 9 of the Criminal Justice Act 1967 (which respectively allow written statements to be used as evidence in committal proceedings and in other criminal proceedings) and section 106 of the said Act of 1980 and section 89 of the said Act of 1967 (which punish the making of false statements which are tendered in evidence under the said section 102 or 9, as the case may be)”;
- (b) in subsection (2) for “The said section 2” substitute “The said section 102”.

115.

In section 49(1) of the Criminal Justice Act 1972 for “Part III of the Magistrates' Courts Act 1952” substitute “Part III of the Magistrates' Courts Act 1980”.

Guardianship Act 1973 (c.29)

116. [...]⁶⁸⁶

117. [...]⁶⁸⁷

*Fair Trading Act 1973 (c.41)***118.**

In section 129(2) and (4) of the Fair Trading Act 1973 for “section 104 of the Magistrates' Courts Act 1952” substitute “section 127(1) of the Magistrates' Courts Act 1980”.

Powers of Criminal Courts Act 1973 (c.62)

119. [...]⁶⁸⁸

120. [...]⁶⁸⁹

121. [...]⁶⁹⁰

122. [...]⁶⁹¹

123. [...]⁶⁹²

⁶⁸⁶ Repealed by Children Act 1989 c. 41 Sch.15 para.1 (October 14, 1991)

⁶⁸⁷ Repealed by Children Act 1989 c. 41 Sch.15 para.1 (October 14, 1991)

⁶⁸⁸ Repealed by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.12(I) para.1 (August 25, 2000)

⁶⁸⁹ Repealed by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.12(I) para.1 (August 25, 2000)

⁶⁹⁰ Repealed by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.12(I) para.1 (August 25, 2000)

⁶⁹¹ Repealed by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.12(I) para.1 (August 25, 2000)

⁶⁹² Repealed by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.12(I) para.1 (August 25, 2000)

*Slaughterhouses Act 1974 (c.3)***124.**

In section 6(2) of the Slaughterhouses Act 1974 for “the Magistrates' Courts Act 1952” substitute “the Magistrates' Courts Act 1980”.

125.

In sections 38(6) and 43(3) of the Slaughterhouses Act 1974 for “section 35 of the Magistrates' Courts Act 1952” substitute, in each case, “section 44 of the Magistrates' Courts Act 1980”.

Legal Aid Act 1974 (c.4)

126. [...]⁶⁹³

127. [...]⁶⁹⁴

128. [...]⁶⁹⁵

129. [...]⁶⁹⁶

*Control of Pollution Act 1974 (c.40)***130.**

In section 87(3) of the Control of Pollution Act 1974 for “section 104 of the Magistrates' Courts Act 1952” substitute “section 127(1) of the Magistrates' Courts Act 1980”.

Friendly Societies Act 1974 (c.46)

131. [...]⁶⁹⁷

*Solicitors Act 1974 (c.47)***132.**

In sections 26, 42(2) and 44(4) of the Solicitors Act 1974 for “the Magistrates' Courts Act 1952” substitute, in each case, “the Magistrates' Courts Act 1980”.

Insurance Companies Act 1974 (c.49)

133. [...]⁶⁹⁸

⁶⁹³ Repealed by Legal Aid Act 1988 (c.34), s. 45(2), Sch. 6

⁶⁹⁴ Repealed by Legal Aid Act 1988 (c.34), s. 45(2), Sch. 6

⁶⁹⁵ Repealed by Legal Aid Act 1988 (c.34), s. 45(2), Sch. 6

⁶⁹⁶ Repealed by Legal Aid Act 1988 (c.34), s. 45(2), Sch. 6

⁶⁹⁷ Repealed by Courts Act 2003 c. 39 Sch.10 para.1 (April 1, 2005 as SI 2005/910)

*Rehabilitation of Offenders Act 1974 (c.53)***134.**

In section 6(6)(a) of the Rehabilitation of Offenders Act 1974 for “section 23 of the Criminal Law Act 1977” substitute “section 22 of the Magistrates' Courts Act 1980”.

*Social Security Act 1975 (c.14)***135. [...]**⁶⁹⁹*Criminal Procedure (Scotland) Act 1975 (c.21)***136.**

In section 397(1) of the Criminal Procedure (Scotland) Act 1975 for “section 72A of the Magistrates' Courts Act 1952” substitute “section 90 of the Magistrates' Courts Act 1980”.

137.

In section 403 of the Criminal Procedure (Scotland) Act 1975—

(a) in subsection (4) for “section 72A of the Magistrates' Courts Act 1952” substitute “section 90 of the Magistrates' Courts Act 1980”, for “the said Act of 1952” (in the first place where the words occur) substitute “the said Act of 1980” and for “the Table set out in paragraph 1 of Schedule 3 to the said Act of 1952” substitute “the Table set out in paragraph 1 of Schedule 4 to the said Act of 1980”;

(b) in subsection (6) for “section 72A of the Magistrates' Courts Act 1952” substitute “section 90 of the Magistrates' Courts Act 1980”.

*Children Act 1975 (c.72)***138. [...]**⁷⁰⁰*Prevention of Terrorism (Temporary Provisions) Act 1976 (c.8)***139.**

In section 12(3) of the Prevention of Terrorism (Temporary Provisions) Act 1976 for “Section 38 of the Magistrates' Courts Act 1952” substitute “Section 43 of the Magistrates' Courts Act 1980”.

⁶⁹⁸ Repealed by Insurance Companies Act 1982 (c.50), s. 99(3), Sch. 6

⁶⁹⁹ Repealed by Social Security (Consequential Provisions) Act 1992 c. 6 Sch.1 para.1 (July 1, 1992)

⁷⁰⁰ Repealed by Children Act 1989 c. 41 Sch.15 para.1 (October 14, 1991)

*Restrictive Trade Practices Act 1976 (c.34)***140.**

In sections 39(2) and 41(5) and (7) of the Restrictive Trade Practices Act 1976 for “section 104 of the Magistrates' Courts Act 1952” substitute in each case, “section 127(1) of the Magistrates' Courts Act 1980”.

*Adoption Act 1976 (c.36)***141. [...]**⁷⁰¹**142. [...]**⁷⁰²*Bail Act 1976 (c.63)***143. [...]**⁷⁰³**144. [...]**⁷⁰⁴**145.**

In section 4(7) of the Bail Act 1976 for “section 8 of the Magistrates' Courts Act 1952” substitute “section 41 of the Magistrates' Courts Act 1980”.

146. [...]⁷⁰⁵*Land Drainage Act 1976 (c.70)***147. [...]**⁷⁰⁶*Sexual Offences (Amendment) Act 1976 (c.82)***148. [...]**⁷⁰⁷

⁷⁰¹ Repealed subject to transitional provisions specified in SI 2004/2035 art.2 by Courts Act 2003 (Consequential Amendments) Order 2004/2035 Sch.1 para.10 (September 1, 2004: repeal has effect subject to transitional provisions specified in SI 2004/2035 art.2)

⁷⁰² Repealed subject to transitional provisions specified in SI 2004/2035 art.2 by Courts Act 2003 (Consequential Amendments) Order 2004/2035 Sch.1 para.10 (September 1, 2004: repeal has effect subject to transitional provisions specified in SI 2004/2035 art.2)

⁷⁰³ Repealed by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.12(I) para.1 (August 25, 2000)

⁷⁰⁴ Repealed by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.12(I) para.1 (August 25, 2000)

⁷⁰⁵ Repealed by Powers of Criminal Courts (Sentencing) Act 2000 c. 6 Sch.12(I) para.1 (August 25, 2000)

⁷⁰⁶ Repealed by Water Consolidation (Consequential Provisions) Act 1991 c. 60 Sch.3(I) para.1 (December 1, 1991)

⁷⁰⁷ Repealed by Youth Justice and Criminal Evidence Act 1999 c. 23 Sch.6 para.1 (December 4, 2000 as SI 2000/3075)

*Criminal Law Act 1977 (c.45)***149.**

In section 28(8) of the Criminal Law Act 1977 for “Schedule 3 to this Act” substitute “Schedule 1 to the Magistrates' Courts Act 1980”.

150.

In section 38(1) of the Criminal Law Act 1977 for “subsection (4) of section 102 of the Magistrates' Courts Act 1952” substitute “subsection (3) of section 125 of the Magistrates' Courts Act 1980”.

151. [...]⁷⁰⁸**152.**

In section 64(2) of the Criminal Law Act 1977 for “section 23 above” substitute “section 22 of the Magistrates' Courts Act 1980 (cases where value involved is small)”.

153.

In section 65(2) of the Criminal Law Act 1977 for “14” substitute “15” and for “Magistrates' Courts Act 1952” substitute “Magistrates' Courts Act 1980”.

154.

In paragraph 1 of Schedule 5 to the Criminal Law Act 1977—

- (a) in subparagraph (1)(b), for “subparagraph (2)(b) below” substitute “subparagraph (1A) below”;
- (b) after subparagraph (1) insert—

“

(1A) The offences mentioned in subparagraph (1)(b) above are offences under the following provisions of the Misuse of Drugs Act 1971, where the controlled drug in relation to which the offence was committed was a Class C drug, namely—

- (i) section 4(2) (production, or being concerned in the production, of a controlled drug);
- (ii) section 4(3) (supplying or offering a controlled drug or being concerned in the doing of either activity by another);
- (iii) section 5(3) (having possession of a controlled drug with intent to supply it to another);
- (iv) section 8 (being the occupier, or concerned in the management, of premises and permitting or suffering certain activities to take place there);
- (v) section 12(6) (contravention of direction prohibiting practitioner etc. from possessing, supplying etc. controlled drugs); or
- (vi) section 13(3) (contravention of direction prohibiting practitioner etc. from prescribing, supplying etc. controlled drugs).

”.

⁷⁰⁸ Repealed subject to saving specified in SI 2004/2066 art.3 by Courts Act 2003 c. 39 Sch.10 para.1 (September 1, 2004: repeal has effect subject to saving specified in SI 2004/2066 art.3)

155.

In paragraph 1 of Schedule 14 to the Criminal Law Act 1977 for “14 to 26, 34 and 35” substitute “15 and 17”.

*Civil Aviation Act 1978 (c.8)***156. [...]**⁷⁰⁹*Domestic Proceedings and Magistrates' Courts Act 1978 (c.22)***157. [...]**⁷¹⁰**158. [...]**⁷¹¹**159.**

In section 16(8) of the Domestic Proceedings and Magistrates' Courts Act 1978 for “Part II of the Magistrates' Courts Act 1952” substitute “Part II of the Magistrates' Courts Act 1980”.

Amendments Pending

Sch. 7 para. 159: repealed by Family Law Act 1996 c. 27 Sch. 10 para. 1 (date to be appointed: commencement order)

160.

In section 22 of the Domestic Proceedings and Magistrates' Courts Act 1978 for “section 63 of the Magistrates' Courts Act 1952” substitute “section 75 of the Magistrates' Courts Act 1980”.

161.

In section 23 of the Domestic Proceedings and Magistrates' Courts Act 1978—

- (a) in subsection (1) for “section 55(1) of the Magistrates' Courts Act 1952” substitute “section 64(1) of the Magistrates' Courts Act 1980”;
- (b) in subsection (2) for “section 53 of the Magistrates' Courts Act 1952” substitute “section 60 of the Magistrates' Courts Act 1980” and for “section 54(2) of that Act” substitute “section 63(2) of that Act”.

162.

In section 24(3) of the Domestic Proceedings and Magistrates' Courts Act 1978 for “section 47(3) of the Magistrates' Courts Act 1952” substitute “section 55(3) of the Magistrates' Courts Act 1980”.

163.

In section 30(1) of the Domestic Proceedings and Magistrates' Courts Act 1978 for “section 11 of the Administration of Justice Act 1964” substitute “section 70 of the Magistrates' Courts Act 1980”.

⁷⁰⁹ Repealed by Aviation Security Act 1982 (c.36), s. 40(3), Sch. 3

⁷¹⁰ Repealed by Children Act 1989 c. 41 Sch.15 para.1 (October 14, 1991)

⁷¹¹ Repealed by Children Act 1989 c. 41 Sch.15 para.1 (October 14, 1991)

164.

In section 32(2) of the Domestic Proceedings and Magistrates' Courts Act 1978 for “section 52 of the Magistrates' Courts Act 1952” substitute “section 59 of the Magistrates' Courts Act 1980” and for “the said section 52” substitute “the said section 59”.

165. [...]⁷¹²**167.**

In section 88(1) of the Domestic Proceedings and Magistrates' Courts Act 1978 for “section 56 of the Magistrates' Courts Act 1952” substitute “section 65 of the Magistrates' Courts Act 1980” and for “section 15 of the Justices of the Peace Act 1949” substitute “section 144 of the Magistrates' Courts Act 1980”.

Nuclear Safeguards and Electricity (Finance) Act 1978 (c. 25)

168. [...]⁷¹³

Interpretation Act 1978 (c. 30)

169.

In Schedule 1 to the Interpretation Act 1978—

- (a) in paragraph (a) of the definition of “committed for trial” for “section 7 of the Magistrates' Courts Act 1952” substitute “section 6 of the Magistrates' Courts Act 1980”;
- (b) in paragraph (a) of the definition of “magistrates' court” for “section 124 of the Magistrates' Courts Act 1952” substitute “section 148 of the Magistrates' Courts Act 1980”;
- (c) in the entry about expressions relating to offences for “section 23 of the Criminal Law Act 1977” substitute “section 22 of the Magistrates' Courts Act 1980”.

Theft Act 1978 (c.31)

170.

In section 4(3)(b) of the Theft Act 1978 for “section 28 of the Criminal Law Act 1977” substitute “section 32 of the Magistrates' Courts Act 1980”.

Protection of Children Act 1978 (c.37)

171.

In section 6(3)(b) of the Protection of Children Act 1978 for “section 28 of the Criminal Law Act 1977” substitute “section 32 of the Magistrates' Courts Act 1980”.

⁷¹² Repealed by Children Act 1989 c. 41 Sch.15 para.1 (October 14, 1991)

⁷¹³ Repealed by Statute Law (Repeals) Act 1993 c. 50 Sch.1(XIV) para.1 (November 5, 1993)

*Consumer Safety Act 1978 (c.38)***172.** [...] ⁷¹⁴**173.** [...] ⁷¹⁵*Employment Protection (Consolidation) Act 1978 (c.44)***174.** [...] ⁷¹⁶**175.** [...] ⁷¹⁷*Customs and Excise Management Act 1979 (c.2)***176.**

In section 147(2) of the Customs and Excise Management Act 1979 for “section 25(3) of the Criminal Law Act 1977” substitute “section 25(3) of the Magistrates' Courts Act 1980”

177.

In section 151 of the Customs and Excise Management Act 1979 for “section 114 of the Magistrates' Courts Act 1952” substitute “section 139 of the Magistrates' Courts Act 1980”.

178.

In section 171(2)(a) of the Customs and Excise Management Act 1979 for “section 28 of the Criminal Law Act 1977 (£1,000 or other sum substituted by order under section 61(1) of that Act)” substitute “section 32 of the Magistrates' Courts Act 1980 (£1,000 or other sum substituted by order under section 143(1) of that Act)”.

*Customs and Excise Duties (General Reliefs) Act 1979 (c.3)***179.**

In section 15(3)(a) of the Customs and Excise Duties (General Reliefs) Act 1979 for “section 28 of the Criminal Law Act 1977 (£1,000 or other sum substituted by order under section 61(1) of that Act)” substitute “section 32 of the Magistrates' Courts Act 1980 (£1,000 or other sum substituted by order under section 143(1) of that Act)”.

*Alcoholic Liquor Duties Act 1979 (c. 4)***180.**

In section 4(1) of the Alcoholic Liquor Duties Act 1979, in the definition of “the prescribed sum”, for “section 28 of the Criminal Law Act 1977 (£1,000 or other sum substituted by order under

⁷¹⁴ Repealed by Consumer Protection Act 1987 (c.43), ss. 41(2), 47(1)(2), 48(3), Sch. 5

⁷¹⁵ Repealed by Consumer Protection Act 1987 (c.43), ss. 41(2), 47(1), 48(3), Sch. 5

⁷¹⁶ Repealed by Employment Act 1989 (c.38), s. 29(4), Sch. 7 Pt. II

⁷¹⁷ Repealed by Employment Rights Act 1996 c. 18 Sch.3(I) para.1 (August 22, 1996)

section 61(1) of that Act)” substitute “section 32 of the Magistrates' Courts Act 1980 (£1,000 or other sum substituted by order under section 143(1) of that Act)”.

Hydrocarbon Oil Duties Act 1979 (c.5)

181.

In section 27(1) of the Hydrocarbon Oil Duties Act 1979, in the definition of “the prescribed sum”, for “section 28 of the Criminal Law Act 1977 (£1,000 or other sum substituted by order under section 61(1) of that Act)” substitute “section 32 of the Magistrates' Courts Act 1980 (£1,000 or other sum substituted by order under section 143(1) of that Act)”.

Agricultural Statistics Act 1979 (c.13)

182.

In section 6(1) of the Agricultural Statistics Act 1979, in the definition of “the prescribed sum”, for “section 28 of the Criminal Law Act 1977 (£1,000 or other sum substituted by order under section 61(1) of that Act)” substitute “section 32 of the Magistrates' Courts Act 1980 (£1,000 or other sum substituted by order under section 143(1) of that Act)”.

Credit Unions Act 1979 (c. 34)

183. [...]⁷¹⁸

Banking Act 1979 (c.37)

184. [...]⁷¹⁹

Estate Agents Act 1979 (c.38)

185. [...]⁷²⁰

Merchant Shipping Act 1979 (c.30)

186.

In section 42(4) of the Merchant Shipping Act 1979 for “Section 18 of the Criminal Law Act 1977” substitute “Section 127(2) to (4) of the Magistrates' Courts Act 1980”.

⁷¹⁸ Repealed by Statute Law (Repeals) Act 1993 c. 50 Sch.1(XIV) para.1 (November 5, 1993)

⁷¹⁹ Repealed by Banking Act 1987 (c.22), s. 108(2), Sch. 7 Pt. I

⁷²⁰ Repealed by Statute Law (Repeals) Act 1993 c. 50 Sch.1(XIV) para.1 (November 5, 1993)

187.

In section 43(5) of the Merchant Shipping Act 1979 for “sub-section (1) of section 61 of the Criminal Law Act 1977” substitute “subsection (1) of section 143 of the Magistrates' Courts Act 1980” and for “section 28 of that Act” substitute “section 32 of that Act”.

*Weights and Measures Act 1979 (c. 45)***188. [...]**⁷²¹**189. [...]**⁷²²*Ancient Monuments and Archaeological Areas Act 1979 (c.46)***190. [...]**⁷²³*Justices of the Peace Act 1979 (c.55)***191. [...]**⁷²⁴**192. [...]**⁷²⁵**193. [...]**⁷²⁶**194. [...]**⁷²⁷**195. [...]**⁷²⁸**196. [...]**⁷²⁹**197. [...]**⁷³⁰*Isle of Man Act 1979 (c.58)***198.**

In section 5 of the Isle of Man Act 1979—

⁷²¹ Repealed by Weights and Measures Act 1985 (c.72), ss. 96(1), 98(1), Sch. 11 para. 21(2), Sch. 13 Pt. I

⁷²² Repealed by Weights and Measures Act 1985 (c.72), ss. 96(1), 98(1), Sch. 11 para. 21(2), Sch. 13 Pt. 1

⁷²³ Repealed by Statute Law (Repeals) Act 1993 c. 50 Sch.1(XIV) para.1 (November 5, 1993)

⁷²⁴ Repealed by Justices of the Peace Act 1997 c. 25 Sch.6(I) para.1 (June 19, 1997 subject to 1997 c.25 s.74(2)-(4))

⁷²⁵ Repealed by Justices of the Peace Act 1997 c. 25 Sch.6(I) para.1 (June 19, 1997 subject to 1997 c.25 s.74(2)-(4))

⁷²⁶ Repealed by Justices of the Peace Act 1997 c. 25 Sch.6(I) para.1 (June 19, 1997 subject to 1997 c.25 s.74(2)-(4))

⁷²⁷ Repealed by Justices of the Peace Act 1997 c. 25 Sch.6(I) para.1 (June 19, 1997 subject to 1997 c.25 s.74(2)-(4))

⁷²⁸ Repealed by Justices of the Peace Act 1997 c. 25 Sch.6(I) para.1 (June 19, 1997 subject to 1997 c.25 s.74(2)-(4))

⁷²⁹ Repealed by Justices of the Peace Act 1997 c. 25 Sch.6(I) para.1 (June 19, 1997 subject to 1997 c.25 s.74(2)-(4))

⁷³⁰ Repealed by Justices of the Peace Act 1997 c. 25 Sch.6(I) para.1 (June 19, 1997 subject to 1997 c.25 s.74(2)-(4))

- (a) in subsection (2)(a) for “section 77 of the Magistrates' Courts Act 1952” substitute “section 97 of the Magistrates' Courts Act 1980”;
- (b) in subsection (3)(a) for “sections 2 and 9 of the Criminal Justice Act 1967” substitute “section 9 of the Criminal Justice Act 1967 and section 102 of the Magistrates' Courts Act 1980” and for “section 2” substitute “section 102”.

Child Care Act 1980 (c.5)

199. [...]⁷³¹

200. [...]⁷³²

Foster Children Act 1980 (c.6)

201. [...]⁷³³

Residential Homes Act 1980 (c. 7)

202.

In section 4(2) of the Residential Homes Act 1980 for “the Magistrates' Courts Act 1952” substitute “the Magistrates' Courts Act 1980”.

Reserve Forces Act 1980 (c.9)

203. [...]⁷³⁴

204.

In paragraph 2(4) of Schedule 5 to the Reserve Forces Act 1980 for “the Magistrates' Courts Act 1952” substitute “the Magistrates' Courts Act 1980”.

Protection of Trading Interests Act 1980 (c. 11)

205. [...]⁷³⁵

Competition Act 1980 (c. 21)

206. [...]⁷³⁶

⁷³¹ Repealed by Children Act 1989 c. 41 Sch.15 para.1 (October 14, 1991)

⁷³² Repealed by Children Act 1989 c. 41 Sch.15 para.1 (October 14, 1991)

⁷³³ Repealed by Children Act 1989 c. 41 Sch.15 para.1 (October 14, 1991)

⁷³⁴ Repealed by Statute Law (Repeals) Act 1993 c. 50 Sch.1(XIV) para.1 (November 5, 1993)

⁷³⁵ Repealed by Statute Law (Repeals) Act 1993 c. 50 Sch.1(XIV) para.1 (November 5, 1993)

⁷³⁶ Repealed by Statute Law (Repeals) Act 1993 c. 50 Sch.1(XIV) para.1 (November 5, 1993)

*Companies Act 1980 (c. 22)***207.**

In section 87(1) of the Companies Act 1980, in the definition of “the statutory maximum”, for “section 28 of the Criminal Law Act 1977” substitute “section 32 of the Magistrates' Courts Act 1980” and for “section 61 of that Act” substitute “section 143 of that Act.”.

SCHEDULE 8**TRANSITIONAL PROVISIONS AND SAVINGS****Section 154***Interpretation***1.**

In this Schedule references to the old enactments are to enactments repealed or amended by this Act and references to the appointed day are to the day on which this Act comes into force.

*Proceedings commenced before appointed day***2.—**

(1) Where proceedings were commenced before the appointed day, the old enactments relating to the proceedings continue to apply and nothing in this Act affects those enactments.

(2) Without prejudice to the generality of sub-paragraph (1) above, the old enactments relating to proceedings which continue in force by virtue of it include any provision of those enactments which creates an offence, which relates to civil or criminal procedure, which relates to the punishment for an offence, or which relates to enforcing, appealing against, questioning, varying or rescinding anything ordered or done in the proceedings.

*Offences committed before appointed day***3.—**

(1) This paragraph applies where proceedings are commenced under this Act in relation to an offence committed before the appointed day.

(2) Nothing in this Act renders a person liable to punishment by way of fine or imprisonment for the offence which differs from the punishment to which he would have been liable if this Act had not been passed and proceedings for the offence had been commenced under the old enactments.

(3) Nothing in this Act renders a person liable to pay compensation under a compensation order in respect of the offence which differs from the compensation he would have been liable to pay if this Act had not been passed and proceedings for the offence had been commenced under the old enactments.

(4) The provisions of this Act corresponding to the old enactments relating to punishment and compensation are to be construed accordingly.

Other matters: general

4.

Paragraphs 5 and 6 below have effect subject to paragraphs 2 and 3 above.

5.

Without prejudice to any express amendment made by this Act, a reference in an enactment or other document, whether express or implied, to an enactment repealed by this Act shall, unless the context otherwise requires, be construed as, or as including, a reference to this Act or to the corresponding provision of this Act.

6.

Where a period of time specified in an enactment repealed by this Act is current at the commencement of this Act, this Act shall have effect as if the corresponding provision of it had been in force when that period began to run.

Saving for transitionals in orders

7.—

(1) This paragraph applies where any provision of an old enactment—

- (a) was brought into force by order which made transitional provision in connection with the provision brought into force, or
- (b) fell to be brought into force by order which could have made transitional provision in connection with the provision brought into force, if this Act had not been passed.

(2) In that case, an order under section 155(7) of this Act may make corresponding transitional provision in connection with any provision of this Act corresponding to that of the old enactment.

Savings of amendments

8.

Notwithstanding the repeal by this Act of the Magistrates' Courts Act 1952, the amendments made in other enactments ("the amended enactments") by that Act shall, to the extent that they had effect immediately before the coming into force of this Act, continue to have effect subject to any amendment of any of the amended enactments by this Act.

Savings for Local Government Act 1972

9.

The provisions of this Act shall have effect without prejudice to the exercise of any power conferred by section 67 of the Local Government Act 1972 (consequential and transitional arrangements relating to Part IV), section 252 of that Act (general power to adapt Acts and instruments) or section 254 of that Act (consequential and supplementary provision); and any such power which, if this

Act had not been passed, would have been exercisable in relation to an enactment repealed by this Act shall be exercisable in the like manner and to the like extent in relation to the corresponding provision (if any) of this Act.

Scottish saving

10.—

(1) This paragraph applies to Schedule 7B to the Criminal Procedure (Scotland) Act 1975, which was inserted by paragraph 12 of Schedule 11 to the Criminal Law Act 1977 and takes the same form as Schedule 5 to that Act (subject to certain modifications specified in that paragraph).

(2) Schedule 7B is not affected by—

- (a) the repeal by Schedule 9 to this Act of paragraph 1(2)(a) and (b) of Schedule 5;
- (b) the amendments made to paragraph 1 of Schedule 5 by Schedule 7 to this Act.

SCHEDULE 9

REPEALS

Section 154

Chapter	Short title	Extent of repeal
12, 13 & 14 Geo. 6. c. 101.	Justices of the Peace Act 1949.	Section 15(1), (2), (3), (7), (8) and (9).
15 & 16 Geo. 6 & 1 Eliz. 2. c. 55.	Magistrates' Courts Act 1952.	The whole Act.
5 & 6 Eliz. 2. c. 29.	Magistrates' Courts Act 1957.	The whole Act.
6 & 7 Eliz. 2. c. 39.	Maintenance Orders Act 1958.	Section 16. Section 20(6).
7 & 8 Eliz. 2. c. 72.	Mental Health Act 1959.	In Schedule 7, in Part I, the entry relating to the Magistrates' Courts Act 1952.
7 & 8 Eliz. 2. c. 73.	Legitimacy Act 1959.	Section 5(2).
9 & 10 Eliz. 2. c. 39.	Criminal Justice Act 1961.	In section 1(5) the words "and subsections (2) and (3) of section twenty-eight of the Magistrates' Courts Act 1952". Section 8(3). In section 41(4), the words "section twenty-eight of the Magistrates' Courts Act 1952". In Schedule 4, the entries relating to sections 28 and 126 of the Magistrates' Courts Act 1952. In Schedule 6, the text of the Magistrates' Courts Act 1952, section 28.
1963 c. 37.	Children and Young Persons Act 1963.	Section 27.
1964 c. 42.	Administration of Justice Act 1964.	Section 11. In Schedule 3, paragraphs 20(2) and 22(3) and (5).

Chapter	Short title	Extent of repeal
1965 c. 69.	Criminal Procedure (Attendance of Witnesses) Act 1965.	In Schedule 2, in Part I, the entry relating to the Magistrates' Courts Act 1952.
1967 c. 80.	Criminal Justice Act 1967.	Sections 1 to 6. Section 19. In section 20, the words "or section 28 or 29 of the Magistrates' Courts Act 1952 (committal for sentence)". Section 24. Section 26. Sections 28 to 30. In section 33, the words from the beginning to "that section and". In section 36(1), the definitions of "broadcast" and "publish". Sections 44, 44A and 45. In section 50, the words from the beginning to "Part of that Act". Section 56(4). In section 89(1), the words "2 or". In section 90(1) the words "an order under section 44(8) or". Section 94. In section 106(2)(b), the figure "3". In Schedule 6, paragraphs 9 to 13 and 17 to 20.
1968 c. 69.	Justices of the Peace Act 1968.	In Schedule 3, paragraph 8.
1969 c. 54.	Children and Young Persons Act 1969.	Section 6. Section 10(3). Section 61. In Schedule 4, paragraph 4.
1970 c. 31.	Administration of Justice Act 1970.	Section 12. In section 28(1), the definitions of "the Act of 1952" and "magistrates' court maintenance order". Section 30(1) and (2) as respects section 12. Section 41(6). Section 42. Section 50. In section 51, subsection (1), and in subsection (3) the definition of "the Act of 1952".
1971 c. 23.	Courts Act 1971.	Section 7(1). In Schedule 8, paragraph 34, in paragraph 48(b) in the words "56(4)(6)" the word "(4)", and paragraph 52. In Schedule 9, in Part I, the entry relating to the Magistrates' Courts Act 1952.
1972 c. 18.	Maintenance Orders (Reciprocal Enforcement) Act 1972.	Section 22(2)(b).
1972 c. 70.	Local Government Act 1972.	In Schedule 27, paragraph 16.
1972 c. 71.	Criminal Justice Act 1972.	Section 41. Sections 44 and 45. Section 50.

Chapter	Short title	Extent of repeal
		In Schedule 5, the entries relating to the Magistrates' Courts Act 1952 and the entry relating to section 6(1) of the Children and Young Persons Act 1969.
1973 c. 14.	Costs in Criminal Cases Act 1973.	In Schedule 1, paragraph 1.
1973 c. 29.	Guardianship Act 1973.	Section 9(2)(b).
1973 c. 38.	Social Security Act 1973.	In Schedule 27, in paragraph 85, the words "and 12(2)(b)" and "(in each place)".
1973 c. 62.	Powers of Criminal Courts Act 1973.	Section 35(5). In Schedule 5, paragraphs 4, 5, 7, 16 and 34.
1974 c. 4.	Legal Aid Act 1974.	In Schedule 4, paragraph 3.
1975 c. 21.	Criminal Procedure (Scotland) Act 1975.	Section 326(2). In section 463(1)(b), the words "326(2)".
1976 c. 63.	Bail Act 1976.	In Schedule 2, paragraphs 14 to 29 and 35.
1977 c. 45.	Criminal Law Act 1977.	Section 14. In section 15, in subsection (1), paragraph (b) and the word "and" immediately preceding it, and, in subsection (3), paragraph (a). Section 16. Sections 18 to 27. In section 28, subsections (1) to (7) and in subsection (8) the words from "and subsection (2) above" to the end. Section 29. Section 30(4). Section 32(2). Sections 34 and 35. In section 36, subsections (2) to (8) and in subsection (9) the definitions of "guardian" and "the statutory restrictions upon the imprisonment of young offenders". Sections 41 and 42. Section 45. In section 58, subsections (1), (4) and (6). Sections 59 to 61. In section 63(2), in the entry relating to section 65(4) and Schedule 12 so far as they relate to the Criminal Justice Act 1967, the words "3 and". In section 65(10)(e) the words from "and the provisions" to "all such places (except Scotland)". Schedule 2. Schedule 3. Schedule 4. In Schedule 5, paragraph 1(2)(a) and (b). In Schedule 7, paragraph 1. Schedule 8. In Schedule 12, the entries relating to the Magistrates' Courts Act 1952, the entries relating to sections 3, 24, 44(5) and 44A of the Criminal Justice Act 1967, and paragraphs 2

Chapter	Short title	Extent of repeal
1978 c. 22.	Domestic Proceedings and Magistrates' Courts Act 1978.	and 3 of the entries relating to the Criminal Justice Act 1972. In Schedule 14, paragraph 2, in paragraph 3(1) the words "or 2", paragraph 4, and in paragraph 5 the words "(other than section 29 or any provision mentioned in paragraph 4 above)". Sections 75 to 85. In Schedule 1, in paragraph 5 the words "or in any of sections 79 to 82", paragraph 6 and paragraph 7. In Schedule 2, paragraphs 15 and 21.
1978 c. 37.	Protection of Children Act 1978.	Section 2(2).
1979 c. 55.	Justices of the Peace Act 1979.	In Schedule 2, paragraphs 7 to 9 and paragraph 14.
1980 c. 5.	Child Care Act 1980.	In Schedule 5, paragraph 5.
1980 c. 11.	Protection of Trading Interests Act 1980.	In section 8(5), the words from "together with" to the end.