



# Criminal Justice Act 1967

## 1967 CHAPTER 80

### PART II

#### POWERS OF COURTS TO DEAL WITH OFFENDERS

##### *Powers to deal with persistent offenders*

#### **37 Punishment of persistent offenders.**

- (1) No person shall be sentenced by a court to preventive detention or corrective training.
- (2) Where an offender is convicted on indictment of an offence punishable with imprisonment for a term of two years or more and the conditions specified in subsection (4) of this section are satisfied, then, if the court is satisfied, by reason of his previous conduct and of the likelihood of his committing further offences, that it is expedient to protect the public from him for a substantial time, the court may impose an extended term of imprisonment under this section.
- (3) The extended term which may be imposed under this section for any offence may exceed the maximum term authorised for the offence apart from this section if the maximum so authorised is less than ten years, but shall not exceed ten years if the maximum so authorised is less than ten years or exceed five years if the maximum so authorised is less than five years.
- (4) The conditions referred to in subsection (2) of this section are:—
  - (a) the offence was committed before the expiration of three years from a previous conviction of an offence punishable on indictment with imprisonment for a term of two years or more or from his final release from prison after serving a sentence of imprisonment, corrective training or preventive detention passed on such a conviction; and
  - (b) the offender has been convicted on indictment on at least three previous occasions since he attained the age of twenty-one of offences punishable on indictment with imprisonment for a term of two years or more; and

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- (c) the total length of the sentences of imprisonment, corrective training or preventive detention to which he was sentenced on those occasions was not less than five years and—
  - (i) on at least one of those occasions a sentence of preventive detention was passed on him; or
  - (ii) on at least two of those occasions a sentence of imprisonment (other than a suspended sentence which has not taken effect) or of corrective training was so passed and of those sentences one was a sentence of imprisonment for a term of three years or more in respect of one offence or two were sentences of imprisonment each for a term of two years or more in respect of one offence.
- (5) Where an extended term of imprisonment is imposed on an offender under this section, the court shall issue a certificate (hereafter in this Act referred to as " an extended sentence certificate ") stating that the term was so imposed.

### **38 Supplementary provisions as to persistent offenders.**

- (1) For the purposes of subsection (4)(a) of the last foregoing section a certificate purporting to be signed by the governor of a prison to the effect—
  - (a) that a prisoner was finally released from that prison on a date specified in the certificate after serving a sentence so specified; or
  - (b) that a prisoner had not been finally released from that prison on a date so specified after serving a sentence so specified;shall be evidence of the matter so certified.
- (2) For the purposes of subsection (4)(b) of the last foregoing section a person who has been convicted by a magistrates' court of an indictable offence and sentenced for that offence by a court of quarter sessions, or on appeal from such a court, to imprisonment, corrective training or preventive detention shall be treated as if he had been convicted of that offence on indictment.
- (3) For the purpose of determining whether the conditions specified in subsection (4) of the last foregoing section are satisfied in relation to an offender no account shall be taken of any previous conviction or sentence unless notice has been given to the offender at least three days before the later sentence is passed on him that it is intended to prove the previous conviction or sentence to the court.
- (4) For the purposes of the last foregoing subsection a certificate purporting to be signed by a constable or a prison officer that a copy of a notice annexed to the certificate was given to an offender shall be evidence that it was so given and of the contents of the notice.
- (5) In this section and the last foregoing section " final release " includes a release on licence under section 60 or 61 of this Act, but does not include any temporary discharge.
- (6) A person sentenced at any time to corrective training or preventive detention in Scotland or Northern Ireland and transferred under section 26 of the Criminal Justice Act 1961 to England and Wales shall be treated for the purposes of detention, release, recall and otherwise as having been sentenced in England and Wales to a term of imprisonment of the same length as the term of his original sentence and, if he was originally sentenced to preventive detention, he shall also be so treated as if an extended sentence certificate had been issued in respect of him.

- (7) A person sentenced to an extended term of imprisonment under the last foregoing section and transferred under the said section 26 to Scotland or Northern Ireland shall, notwithstanding anything in subsection (4) of the said section 26 (treatment of prisoners so transferred) be treated as if an extended sentence certificate had not been issued in respect of him.

### *Suspended sentences*

## **39 Suspended sentences of imprisonment.**

- (1) A court which passes a sentence of imprisonment for a term of not more than two years for an offence may order that the sentence shall not take effect unless, during a period specified in the order, being not less than one year or more than three years from the date of the order, the offender commits in Great Britain another offence punishable with imprisonment and thereafter a court having power to do so orders under the next following section that the original sentence shall take effect; and in this Part of this Act "operational period", in relation to a suspended sentence, means the period so specified.
- (2) A court which passes a suspended sentence on any person for an offence shall not make a probation order in his case in respect of another offence of which he is convicted by or before the court or for which he is dealt with by the court.
- (3) A court which passes a sentence of imprisonment for a term of not more than six months in respect of one offence shall make an order under subsection (1) of this section unless—
- (a) the act or any of the acts constituting that offence consisted of an assault on or threat of violence to another person, or of having or possessing a firearm, an imitation firearm, an explosive or an offensive weapon or of indecent conduct with or towards a person under the age of sixteen years;
  - (b) that offence is one in respect of which a probation order or order for conditional discharge was originally made or the offender was subject to such an order at the time of committing that offence ;
  - (c) on the occasion on which sentence is passed for that offence, the court passes or proposes to pass a sentence of immediate imprisonment on the offender for another offence which the court is not required to suspend;
  - (d) the offender is serving, or has since the commission of the offence served, a sentence of imprisonment or borstal training previously passed for another offence; or
  - (e) the offender had at any time before the commission of the offence been sentenced to, or served any part of a sentence of, corrective training, imprisonment or borstal training previously passed for another offence or been subject to a suspended sentence.
- (4) The Secretary of State may by order provide that paragraph (e) of the last foregoing subsection shall have effect in any case prescribed by the order as if the reference to any time were a reference to any time during a period so prescribed (being a period of not less than three years); and an order under this subsection may make different provision for different cases.

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- (5) The Secretary of State may by order provide that subsection (3) of this section shall have effect as if for the reference to six months there were substituted a reference to twelve months.
- (6) No order shall be made by the Secretary of State under this section unless a draft of the order has been laid before Parliament and approved by both Houses of Parliament.
- (7) On passing a suspended sentence the court shall explain to the offender in ordinary language his liability under the next following section if during the operational period he commits an offence punishable with imprisonment.
- (8) Where a court has passed a suspended sentence on any person, and that person is subsequently sentenced to borstal training, he shall cease to be liable to be dealt with in respect of the suspended sentence unless the subsequent sentence or any conviction or finding on which it was passed is quashed on appeal.
- (9) Subject to any provision to the contrary contained in this Act or any enactment passed or instrument made under any enactment after the commencement of this Act—
  - (a) a suspended sentence which has not taken effect under the next following section shall be treated as a sentence of imprisonment for the purposes of all enactments and instruments made under enactments except any enactment or instrument which provides for disqualification for or loss of office, or forfeiture of pensions, of persons sentenced to imprisonment; and
  - (b) where a suspended sentence has taken effect under that section, the offender shall be treated for the purposes of the said excepted enactments and instruments as having been convicted on the ordinary date on which the period allowed for making an appeal against an order under that section expires or, if such an appeal is made, the date on which it is finally disposed of or abandoned or fails for non-prosecution.

#### **40 Power of court on conviction of further offence to deal with suspended sentence.**

- (1) Where an offender is convicted of an offence punishable with imprisonment committed during the operational period of a suspended sentence and either he is so convicted by or before a court having power under the next following section to deal with him in respect of the suspended sentence or he subsequently appears or is brought before such a court, then, unless the sentence has already taken effect, that court shall consider his case and deal with him by one of the following methods:—
  - (a) the court may order that the suspended sentence shall take effect with the original term unaltered ;
  - (b) it may order that the sentence shall take effect with the substitution of a lesser term for the original term;
  - (c) it may by order vary the original order under subsection (1) of the last foregoing section by substituting for the period specified therein a period expiring not later than three years from the date of the variation; or
  - (d) it may make no order with respect to the suspended sentence;
 and a court shall make an order under paragraph (a) of this subsection unless the court is of opinion that it would be unjust to do so in view of all the circumstances which have arisen since the suspended sentence was passed, including the facts of the subsequent offence, and where it is of that opinion the court shall state its reasons.

- (2) Where a court orders that a suspended sentence shall take effect, with or without any variation of the original term, the court may order that that sentence shall take effect immediately or that the term thereof shall commence on the expiration of another term of imprisonment passed on the offender by that or another court.
- (3) Where under subsection (1)(a) or (b) of this section a court orders that a suspended sentence shall take effect with a term of not more than six months and the court would have had power to sentence the offender to be detained in a detention centre for that term if it had convicted him of the original offence on the occasion of the order, the order may include a direction that he shall serve the sentence in a detention centre.
- (4) Without prejudice to the last foregoing subsection, where under the said subsection (1) (a) or (b) a court orders that a suspended sentence shall take effect with a term of less than three months, the court may include such a direction in the order if the offender is then liable to be detained in a detention centre by virtue of an order or warrant made or issued by that or another court.
- (5) An order under the said subsection (1)(a) or (b) which includes such a direction shall be treated for all purposes as an order under section 4 of the Criminal Justice Act 1961 (detention of offenders aged fourteen to twenty) for the detention of the offender in a detention centre, and subsection (2) of this section shall not apply in relation to any such order.
- (6) In proceedings for dealing with an offender in respect of a suspended sentence which take place before a court of assize or quarter sessions any question whether the offender has been convicted of an offence punishable with imprisonment committed during the operational period of the suspended sentence shall be determined by the court and not by the verdict of a jury.
- (7) Where a court deals with an offender under this section in respect of a suspended sentence the clerk of the court shall notify the clerk of the court which passed the sentence of the method adopted.
- (8) Where on consideration of the case of an offender a court makes no order with respect to a suspended sentence, the clerk of the court shall record that fact.
- (9) For the purposes of any enactment conferring rights of appeal in criminal cases any such order made by a court shall be treated as a sentence passed on the offender by that court for the offence for which the suspended sentence was passed.

#### **41 Court by which suspended sentence is to be dealt with.**

- (1) An offender may be dealt with in respect of a suspended sentence by any court of assize or quarter sessions before which he appears or is brought or, where the sentence was passed by a magistrates' court, by any magistrates' court before which he appears or is brought.
- (2) Where an offender is convicted by a magistrates' court of an offence punishable with imprisonment and the court is satisfied that the offence was committed during the operational period of a suspended sentence passed by a court of assize or quarter sessions.—
  - (a) the court may, if it thinks fit, commit him in custody or on bail to a court of assize or quarter sessions having power to deal with him in respect of the suspended sentence; and

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- (b) if it does not, shall give written notice of the conviction to the clerk of the court by which the suspended sentence was passed.
- (3) The court to which a magistrates' court commits an offender under the last foregoing subsection shall be the court of assize or quarter sessions by which the suspended sentence was passed, except that the magistrates' court may commit him to some other court of assize or quarter sessions if, having regard to the time when and the place where he is likely to be dealt with in respect of the suspended sentence by the court by which that sentence was passed, it would be more convenient that he should be dealt with by that other court:

Provided that a magistrates' court shall not commit the offender to that other court of assize or quarter sessions in any case where it appears to the magistrates' court that he would thereby suffer hardship.

- (4) For the purposes of this and the next following sections a suspended sentence passed on an offender on appeal shall be treated as having been passed by the court by which he was originally sentenced.

#### **42      Discovery of further offences.**

- (1) If it appears to a judge or justice of the peace on whom jurisdiction is conferred by the next following subsection that an offender has been convicted in Great Britain of an offence punishable with imprisonment committed during the operational period of a suspended sentence and that he has not been dealt with in respect of the suspended sentence, the judge or justice may issue a summons requiring the offender to appear at the place and time specified therein, or may, subject to the following provisions of this section, issue a warrant for his arrest.
- (2) The following persons shall have jurisdiction for the purposes of the foregoing subsection, that is to say—
  - (a) if the suspended sentence was passed by the Central Criminal Court, a judge of that court;
  - (b) if it was passed by the Crown Court at Liverpool or the Crown Court at Manchester, a judge of the court by which it was passed;
  - (c) if it was passed by a court of assize (other than the Central Criminal Court or one of the said Crown Courts), a judge of the High Court;
  - (d) if it was passed by a court of quarter sessions, a justice acting for the area for which that court was held ;
  - (e) if it was passed by a magistrates' court, a justice acting for the area for which that court acted.
- (3) Where an offender is convicted by a court in Scotland of an offence punishable with imprisonment and the court is informed that the offence was committed during the operational period of a suspended sentence passed in England or Wales, the court shall give written notice of the conviction to the clerk of the court by which the suspended sentence was passed.
- (4) Unless he is acting in consequence of a notice under subsection (2) of the last foregoing section or under the last foregoing subsection, a justice of the peace shall not issue a summons under this section except on information and shall not issue a warrant under this section except on information in writing and on oath.

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- (5) A summons or warrant issued under this section shall direct the offender to appear or to be brought before the court by which the suspended sentence was passed ; but if a warrant is so issued requiring him to be brought before a court of assize or quarter sessions and he cannot forthwith be brought before that court because that court is not being held, the warrant shall have effect as if it directed him to be brought before a magistrates' court for the place where he is arrested and the latter court shall commit him in custody or on bail to that court of assize or quarter sessions or if, having regard to the time when and the place where he is likely to be dealt with in respect of the suspended sentence by that court, it would be more convenient that he should be dealt with by another court of assize or quarter sessions, to that other court:

Provided that a magistrates' court shall not commit the offender to that other court in any case where it appears to the magistrates' court that he would thereby suffer hardship.

- (6) Section 4 of the Summary Jurisdiction (Process) Act 1881 (execution of process of English courts in Scotland and vice versa) shall apply to any process issued by any judge or justice under this section as it applies to process issued under the Magistrates' Courts Act 1952 by a magistrates' court.

#### *Power of magistrates' courts to impose fines*

### **43 General power of magistrates' courts to impose fines.**

- (1) The maximum fine which may be imposed under section 19(6) of the Magistrates' Courts Act 1952 (liability of adults summarily convicted of certain indictable offences to imprisonment and fine) shall be £400 instead of £100.
- (2) In section 27(3) of the said Act of 1952 (power of a magistrates' court to fine an offender where the court would otherwise only have power to sentence him to imprisonment or other detention) for the words " twenty-five pounds " there shall be substituted the words " £100 ".
- (3) Nothing in this section shall affect the amount of the fine which may be imposed on conviction of an offence committed before the commencement of this Act.

#### *Enforcement of payment of fines, etc.*

### **44 Restriction on magistrates' courts' power to impose imprisonment for default in payment of fines, etc.**

- (1) The following provisions of this section shall have effect with respect to the issue of a warrant of commitment under Part III of the Magistrates' Courts Act 1952 for default in paying a sum adjudged to be paid by a conviction of a magistrates' court; and accordingly sections 69 and 70(1) of that Act (existing restrictions on the power of magistrates' courts to issue such warrants) shall cease to have effect.
- (2) 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 such sum 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;

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- (b) it appears to the court that he is unlikely to remain long enough at a place of abode in the United Kingdom to enable payment of the sum to be enforced by other methods; or
  - (c) on the occasion of that conviction the court sentences him to immediate imprisonment or detention in a detention centre for that or another offence or he is already serving a term of imprisonment or detention in a detention centre.
- (3) 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 65(2) of the Magistrates' Courts Act 1952 (power to fix a term and postpone the issue of a warrant).
- (4) 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 65(2) which is to be served by him in the event of any such default, it shall not thereafter issue a warrant of commitment for any such default or for want of sufficient distress to satisfy such a sum unless—
  - (a) he is already serving a term of imprisonment or detention in a detention centre ; or
  - (b) the court has since the conviction inquired into his means in his presence on at least one occasion.
- (5) Where a magistrates' court is required by the last foregoing subsection 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 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.
- (6) 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 65(2) of the Magistrates' Courts Act 1952 which is to be served by the offender in the event of a default in paying a sum adjudged to be paid by the conviction; or
  - (b) the offender is serving a term of imprisonment or detention in a detention centre ;issue a warrant of commitment for a default in paying the sum or fix such a term except at a hearing at which the offender is present; and subsections (2) to (5) of section 70 of that Act (process for securing appearance of offender at means inquiry) shall apply in relation to a hearing required to be held by this subsection as they apply in relation to an inquiry into a person's means.
- (7) Where a magistrates' court issues a warrant of commitment on the ground that one of the conditions mentioned in subsection (2) or (5) of this section is satisfied, it shall state that fact, specifying the ground, in the warrant.
- (8) A magistrates' court may, either before or on inquiring into a person's means under this section, and a justice of the peace acting for the same petty sessions area as that court may before any such inquiry, order him to furnish to the court within a period specified in the order such a statement of his means as the court may require.



- (9) A person who fails to comply with an order under the last foregoing subsection shall be liable on summary conviction to a fine not exceeding £50.
- (10) Where a fine has been imposed on conviction of an offender by a magistrates' court, the court may, on inquiring into his means or at a hearing under subsection (6) of this section, remit the whole or any part of the fine if the court thinks it just to do so having regard to any change in his circumstances since the conviction, and where the court remits the whole or part of the fine after a term of imprisonment has been fixed, it shall also reduce the term by an amount which bears the same proportion to the whole term as the amount remitted bears to the whole fine or, as the case may be, shall remit the whole term.

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

- (11) The last foregoing subsection shall not authorise a magistrates' court to remit the whole or any part of a sum ordered under section 95 of the National Insurance Act 1965 or section 69 of the National Insurance (Industrial Injuries) Act 1965 (recovery of unpaid contributions on prosecutions under those Acts) to be paid to the National Insurance Fund or the Industrial Injuries Fund and recoverable as a penalty by virtue of subsection (6) of either of those sections.

#### **45 Enforcement of payment of fines by High Court and county court.**

- (1) Subject to the provisions of the next following subsection, 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) as if the sum were due to the clerk of the magistrates' court in pursuance of a judgment or order of the High Court or county court, as the case may be.
- (2) The foregoing subsection shall not be construed as authorising the enforcement by a county court of payment of a fine exceeding the limit for the time being in force under section 40 of the County Courts Act 1959 on the amount of any penalty recoverable by statute in a county court.
- (3) The clerk of the magistrates' court shall not take proceedings by virtue of subsection (1) of this section to recover any sum adjudged to be paid by a conviction of the court from any person unless authorised to do so by the court after an inquiry under the last foregoing section into that person's means.
- (4) Any expenses incurred by the clerk of a magistrates' court in recovering any such sum shall be treated for the purposes of Part IV of the Justices of the Peace Act 1949 as expenses of the magistrates' courts committee.

#### **46 Enforcement of payment of fines by attachment of earnings orders.**

- (1) If it appears to a magistrates' court by which a sum has been adjudged to be paid by a conviction that the offender has defaulted in the payment of that sum and that he is a person to whom earnings fall to be paid, the court may, after inquiring into his means under section 44 of this Act, make one or more attachment of earnings orders within the meaning of the Maintenance Orders Act 1958.

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- (2) The provisions of Schedule 1 to this Act shall have effect for the purpose of applying, with modifications, provisions of the Maintenance Orders Act 1958 to attachment of earnings orders under this section and for the purpose of making a consequential amendment of that Act.

**47 Fines imposed and recognizances forfeited at assizes and quarter sessions.**

- (1) A court of assize or quarter sessions by which a fine is imposed on any person or the recognizance of any person is forfeited shall, subject to the next following subsection, make an order under section 14(1) of the Criminal Justice Act 1948 (powers of courts of assize and quarter sessions in relation to fines and forfeited recognizances) fixing a term of imprisonment which that person is to undergo if the sum which he is liable to pay is not duly paid or recovered.
- (2) No person shall on the occasion when a fine is imposed on him or his recognizance is forfeited by any such court be committed to prison in pursuance of such an order unless—
- (a) in the case of an offence punishable with imprisonment, he appears to the court to have sufficient means to pay the sum forthwith ;
  - (b) it appears to the court that he is unlikely to remain long enough at a place of abode in the United Kingdom to enable payment of the sum to be enforced by other methods ; or
  - (c) on the occasion when the order is made the court sentences him to immediate imprisonment or detention in a detention centre for that or another offence, or sentences him as aforesaid for an offence in addition to forfeiting his recognizance, or he is already serving a term of imprisonment or detention in a detention centre.
- (3) Subject to the provisions of subsection (8) of this section, a fine imposed or a recognizance forfeited by a court of assize or quarter sessions after the commencement of this Act shall be treated for the purposes of collection, enforcement and remission of the fine or other sum as having been imposed or forfeited—
- (a) by a magistrates' court specified in an order made by the former court; or
  - (b) if no such order is made, by the magistrates' court by which the offender was committed to the former court to be tried or dealt with ;
- and in the case of a fine as having been so imposed on conviction by the magistrates' court in question.
- (4) Accordingly no proceedings shall be taken or other thing done in relation to a fine imposed, or sum due under a recognizance forfeited, after the commencement of this Act by a court of assize or quarter sessions under the Levy of Fines Act 1822, the Levy of Fines Act 1823, the Fines Act 1833 or the Queen's Remembrancer Act 1859.
- (5) Where a fine is imposed or a recognizance forfeited by a court of assize or quarter sessions, the clerk of the court shall—
- (a) as soon as practicable give particulars of the fine or recognizance to the clerk of the magistrates' court by which payment of the fine or the sum due under the recognizance is to be enforced ;
  - (b) at the end of the assizes or sessions at which the fine or recognizance is imposed or forfeited give those particulars to the Secretary of State, specifying the magistrates' court by which payment of the fine or other sum is to be enforced.

- (6) The term of imprisonment specified in any warrant of commitment issued by a magistrates' court on a default in the payment of a fine imposed, or sum due under a recognizance forfeited, by a court of assize or quarter sessions as the term which the offender is liable to serve shall be the term fixed by the latter court or, if that term has been reduced under section 67(2) of the Magistrates' Courts Act 1952 (part payment) or section 44(10) of this Act, that term as so reduced, notwithstanding that that term exceeds the period applicable to the case under Schedule 3 to that Act or section 285 of the Customs and Excise Act 1952 (maximum periods of imprisonment in default of payment of fines, etc.).
- (7) The foregoing provisions of this section shall apply in relation to a fine imposed or recognizance forfeited by the criminal division of the Court of Appeal, or by the House of Lords on appeal from that division, as they apply in relation to a fine imposed or recognizance forfeited by a court of assize or quarter sessions, and references in those provisions to a court of assize or quarter sessions and the clerk of the court shall be construed accordingly.
- (8) A magistrates' court shall not under section 44(10) of this Act or section 96 of the Magistrates' Courts Act 1952, as applied by subsection (3) of this section, remit the whole or any part of a fine imposed or a sum due under a recognizance forfeited by a court of assize or quarter sessions, without the consent of—
- (a) a judge of the Central Criminal Court, where the fine was imposed or the recognizance forfeited by that court;
  - (b) a judge of the Crown Court at Liverpool or the Crown Court at Manchester, as the case may require, where the fine was imposed or the recognizance forfeited by one of those courts;
  - (c) a judge of the High Court, where the fine was imposed or the recognizance forfeited by any court of assize (other than the Central Criminal Court or one of the said Crown Courts);
  - (d) the chairman or any deputy chairman, or the recorder or any deputy recorder, as the case may be, of a court of quarter sessions, where the fine was imposed or the recognizance forfeited by that court;
- and the said section 44(10) shall have effect accordingly.
- (9) A fine imposed or a recognizance forfeited by the criminal division of the Court of Appeal on appeal from a court of assize or quarter sessions or by the House of Lords on appeal from that division shall be treated for the purposes of collection, enforcement and remission of the fine or other sum as having been imposed or forfeited by that court of assize or quarter sessions.
- (10) Any fine or other sum the payment of which is enforceable by a magistrates' court by virtue of this section shall be treated for the purposes of the Justices of the Peace Act 1949 and, in particular, section 27 thereof (application of fines imposed by magistrates' courts) as having been imposed by a magistrates' court, or as being due under a recognizance forfeited by such a court, and as being Exchequer moneys.
- (11) All rights granted by the Crown, by charter or otherwise, to fines imposed or sums due under recognizances forfeited after the commencement of this Act by the High Court or courts of assize or quarter sessions are hereby extinguished and any such fines or sums which apart from the foregoing provision would be paid to the holders of such rights shall be paid into and retained in the Exchequer.

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- (12) The Treasury shall out of moneys provided by Parliament pay by way of compensation to the holder of any such right who has received any payment as such a holder during the period Of five years ending with 31st March 1967 an amount equal to three times the aggregate of the sums received by him in respect of fines imposed and recognizances forfeited in that period by the High Court or courts of assize or quarter sessions.

**48 Enforcement in Scotland of fines imposed at assizes or quarter sessions.**

- (1) The power of a magistrates' court or of a court of summary jurisdiction in Scotland to make a transfer of fine order under section 72A of the Magistrates' Courts Act 1952 (transfer of fine orders to Scotland) or section 44 of the Summary Jurisdiction (Scotland) Act 1954 (transfer of fine orders within and from Scotland) shall be exercisable in relation to a fine imposed on any person or a sum due from any person under a recognizance forfeited by a court of assize or quarter sessions the payment of which is enforceable by the magistrates' court or court of summary jurisdiction, notwithstanding that the court of assize or quarter sessions has in pursuance of the last foregoing section fixed a term of imprisonment which that person is to undergo if the fine or other sum is not duly paid or recovered.
- (2) Section 24 of the Queen's Remembrancer Act 1859 (recovery of fines and other debts due to the Crown in other parts of the United Kingdom) shall cease to apply to the enforcement in Scotland of a fine imposed or a sum due under a recognizance forfeited by a court of assize or quarter sessions.

**49 Fines imposed by coroners.**

A fine imposed by a coroner after the commencement of this Act under section 19 of the Coroners Act 1887 shall be treated for purposes of its collection, enforcement and remission as having been imposed by the magistrates' court for the area in which the coroner's court was held, and the coroner shall as soon as practicable after imposing the fine give particulars of the fine to the clerk of that court.

**50 Supplementary provisions as to payment of fines etc.**

Sections 44 to 46 of this Act and Part III of the Magistrates' Courts Act 1952 shall have effect as if those sections were contained in that Part of that Act and in section 5(5) of the Criminal Justice Act 1961 (construction of references to terms of imprisonment) the reference to section 14 of the Criminal Justice Act 1948 shall be construed as including a reference to section 47 of this Act.

*Probation and discharge*

**51 Combination of disqualification and endorsement for motoring offences with probation orders and orders for discharge.**

- (1) Notwithstanding anything in section 12(2) of the Criminal Justice Act 1948 (conviction of an offender placed on probation or discharged to be disregarded for the purposes of enactments relating to disqualification), a court which on convicting a person of an offence specified in Schedule 1 to the Road Traffic Act 1962 (offences involving disqualification) makes a probation order or an order discharging him

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absolutely or conditionally may on that occasion also exercise any power conferred, and shall also discharge any duty imposed, on the court by section 5 or 7 of the said Act of 1962 (disqualification and endorsement).

- (2) A conviction in respect of which a court has ordered a person to be disqualified or of which particulars have been endorsed on any licence held by him shall, notwithstanding anything in section 12(1) of the said Act of 1948 (conviction of offender placed on probation or discharged to be disregarded for the purpose of subsequent proceedings), be taken into account in determining his liability to punishment or disqualification for any offence specified in the said Schedule 1 committed subsequently.
- (3) In this section—
- " disqualified " means disqualified for holding or obtaining a licence, and
  - " disqualification " shall be construed accordingly;
  - " licence " means a licence to drive a motor vehicle granted under Part II of the Road Traffic Act 1960.

## **52 Duration of conditions of discharge.**

In section 7(1) of the Criminal Justice Act 1948 (power of a court on conviction of an offender to make an order discharging him absolutely or subject to the condition that he commits no offence during a specified period not exceeding twelve months) for the words " twelve months " there shall be substituted the words " three years ".

## **53 Substitution of conditional discharge for probation.**

- (1) Where on an application made by the probationer or the probation officer it appears to the court having power to discharge a probation order made under section 3 of the Criminal Justice Act 1948 that the order is no longer appropriate in the case of the probationer, the court may make, in substitution for the probation order, an order discharging him in respect of the original offence, subject to the condition that he commits no offence between the making of the order under this section and the expiration of the probation period.
- (2) A person in respect of whom an order is made under this section shall so long as the said condition continues in force be treated in all respects and in particular for the purposes of section 8 of the said Act of 1948 (commission of further offence by probationer or person subject to order for conditional discharge) as if the original order made in his case had been an order for conditional discharge made under section 7 of that Act by the court which made the original order and as if the period of conditional discharge were the same as the probation period.
- (3) On the making of an order under this section the clerk of the court shall forthwith give copies thereof to the probation officer, who shall give a copy to the person in respect of whom the order is made and to the person in charge of any institution in which that person was required by the probation order to reside.

## **54 Miscellaneous provisions as to probation orders.**

- (1) The power of discharging a probation order conferred by paragraph 1 of Schedule 1 to the Criminal Justice Act 1948 on the court by or before which the probationer is convicted shall, except where that court is a court of assize or quarter sessions and

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includes in the order a direction to the contrary, be exercised instead by the supervising court within the meaning of that Act.

- (2) The power of discharging such an order conferred by virtue of section 80(5) of the said Act of 1948, in a case where the order is made on appeal, on the court from which the appeal is brought shall, except where that court is a court of assize or quarter sessions and there is included in the order a direction that the power should be reserved to that court, be exercised instead by the supervising court within the meaning of that Act.
- (3) Subsections (2) and (3) of section 5 of the said Act of 1948 (compulsory review of probation orders after six months) shall cease to have effect.
- (4) Where a magistrates' court has committed a probationer in custody under section 6(3) (b) of the said Act of 1948 (committal to assizes or quarter sessions on breach of probation order), that court or any other magistrates' court acting for the same area as that court may at any time before the first sitting of the court of assize or quarter sessions to which he has been committed release him on bail (with or without sureties) until he can appear before the last-mentioned court.
- (5) A court of assize or quarter sessions before which a probationer appears or is brought and which is satisfied that he has failed to comply with any of the requirements of the probation order may, instead of dealing with him under section 6(4)(b) of the said Act of 1948 for the offence in respect of which the probation order was made, impose on him a fine not exceeding £20, without prejudice, however, to the continuance of the probation order; and the maximum fine which may be imposed by a magistrates' court under section 6(3) of that Act for the like failure shall be £20 instead of £10.
- (6) The maximum fine which may be imposed by a court in Scotland under section 5(2) (a) of the Criminal Justice (Scotland) Act 1949 on a probationer for failure to comply with any of the requirements of a probation order shall be £20 instead of £10.
- (7) A probation order made or amended by virtue of section 9 of the Criminal Justice Act 1948 (probationers residing or intending to reside in Scotland) may, notwithstanding section 4(9) of that Act, include a requirement that the probationer shall submit to treatment for his mental condition, and—
  - (a) subsections (1), (3) and (7) of the said section 4 and section 3(2) of the Criminal Justice (Scotland) Act 1949 (all of which regulate the making of probation orders which include any such requirement) shall apply to the making of an order which includes any such requirement by virtue of this subsection as they apply to the making of an order which includes any such requirement by virtue of the said sections 4 and 3 respectively ; and
  - (b) subsections (4) to (6) of the said section 3 (functions of probation officer and medical practitioner where such a requirement has been imposed) shall apply in relation to a probationer who is undergoing treatment in Scotland in pursuance of a requirement imposed by virtue of this subsection as they apply in relation to a probationer undergoing such treatment in pursuance of a requirement imposed by virtue of the said section 3.
- (8) A probation order made or amended by virtue of section 7 of the Criminal Justice (Scotland) Act 1949 (Scottish probation orders relating to persons residing or intending to reside in England) may, notwithstanding section 3(9) of that Act, include a requirement that the probationer shall submit to treatment for his mental condition, and—
  - (a) subsections (1), (3) and (7) of the said section 3 and section 4(2) of the Criminal Justice Act 1948 (all of which regulate the making of probation

orders which include any such requirement) shall apply to the making of an order which includes any such requirement by virtue of this subsection as they apply to the making of an order which includes any such requirement by virtue of the said sections 3 and 4 respectively ; and

- (b) subsections (4) to (6) of the said section 4 (functions of probation officer and medical practitioner where such a requirement has been imposed) shall apply in relation to a probationer who is undergoing treatment in England or Wales in pursuance of a requirement imposed by virtue of this subsection as they apply in relation to a probationer undergoing such treatment in pursuance of a requirement imposed by virtue of the said section 4.

## **55 Selection of probation officers.**

A probation officer under whose supervision a woman or girl is placed in pursuance of an order under section 3 of the Criminal Justice Act 1948 or any provision of the Children and Young Persons Act 1933 may be a man or a woman, and accordingly paragraph 4(2) of Schedule 5 to the said Act of 1948 and paragraph 13 of Schedule 1 to the Children and Young Persons Act 1963 (which provide that the officer must be a woman) shall cease to have effect.

### *Miscellaneous*

## **56 Committal for sentence for offences tried summarily.**

- (1) Where a magistrates' court—
  - (a) has convicted a person of an offence punishable with imprisonment or of an offence in respect of which the court has a power or duty to order him to be disqualified under section 5 of the Road Traffic Act 1962 (disqualification for certain motoring offences), or has power under section 41(1) of this Act to deal with a person in respect of a suspended sentence ; and
  - (b) commits that person in custody or on bail to a court of assize or quarter sessions under any enactment to which this section applies to be sentenced or otherwise dealt with in respect of another offence ;

the magistrates' court may commit him in custody or on bail, as the case may require, to that court of assize or quarter sessions to be dealt with in respect of the offence mentioned in paragraph (a) of this subsection.

- (2) The enactments to which this section applies are the Vagrancy Act 1824 (incorrigible rogues), section 8(4) of the Criminal Justice Act 1948 (probationer convicted of a subsequent offence), sections 28 and 29 of the Magistrates' Courts Act 1952 (committal for sentence) and sections 41(2) and 62(6) of this Act.
- (3) The power of a magistrates' court under section 8(4) of the Criminal Justice Act 1948 to commit to a court of assize or quarter sessions a person subject to a probation order or an order for conditional discharge who has been convicted of an offence by the magistrates' court shall be exercisable notwithstanding that the magistrates' court has not dealt with him in respect of that offence; and accordingly in that subsection and subsection (5) of that section the words " and dealt with " shall cease to have effect.
- (4) The power of a magistrates court to commit an offender to quarter sessions under section 29 of the Magistrates' Courts Act 1952 shall be exercisable in accordance with the following provisions of this section; and accordingly in that section for the words "

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instead of dealing with him in any other manner " there shall be substituted the words " in accordance with section 56 of the Criminal Justice Act 1967 ".

- (5) Where under subsection (1) of this section a magistrates' court commits a person to be dealt with by a court of assize or quarter sessions in respect of an offence, the latter court may after inquiring into the circumstances of the case deal with him in any way in which the magistrates' court might have dealt with him, and, without prejudice to the foregoing provision, where under that subsection or any enactment to which this section applies a magistrates' court so commits a person, any duty or power which, apart from this subsection, would fall to be discharged or exercised by the magistrates' court shall not be discharged or exercised by that court but shall instead be discharged or may instead be exercised by the court of assize or quarter sessions.
- (6) Any duty imposed or power conferred by virtue of the last foregoing subsection on a court of quarter sessions, in a case where an offender has been committed to the court under section 28 of the Magistrates' Courts Act 1952, shall be discharged or may be exercised by the court notwithstanding that it sentences him to borstal training and in that or any other case shall be discharged or may be exercised notwithstanding anything in any other enactment and, in particular, in sections 5 and 7 of the Road Traffic Act 1962.
- (7) Where a magistrates' court has power under section 8(4) of the Criminal Justice Act 1948 or section 41 of this Act to commit an offender to a court of assize to be dealt with in respect of an offence and has power under any other enactment to commit him to a court of quarter sessions to be dealt with in respect of another offence, the magistrates' court, if it commits him in respect of both offences, shall commit him to the court of quarter sessions.
- (8) Where under subsection (1) of this section or any enactment to which this section applies a magistrates' court commits an offender to a court of assize or quarter sessions and by reason of the foregoing provisions of this section the magistrates' court does not exercise its power or discharge its duty under section 5 of the Road Traffic Act 1962 of ordering the offender to be disqualified, it may nevertheless order him to be disqualified until the court to which he is committed has dealt with him in respect of the offence.
- (9) Where a court makes an order under the last foregoing subsection in respect of any person, it shall require him to produce to the court any licence under Part II of the Road Traffic Act 1960, and any Northern Ireland licence, held by him and shall cause any such licence to be sent to the clerk of the court to which he is committed ; and if he does not produce any such licence as required he shall be liable on summary conviction to a fine not exceeding £50.
- (10) Where a court makes any such order in respect of any person, sections 112 and 116(2) of the Road Traffic Act 1960 (supplementary provisions as to disqualification and endorsement) and section 7(1) of the Road Traffic Act 1962 (endorsements) shall not apply in relation to the order, but the court shall—
  - (a) if he holds a licence under the said Part II, send notice of the order to the licensing authority by which the licence was granted and to the licensing authority in whose area he resides ;
  - (b) if he holds a Northern Ireland licence, send such a notice to the Minister of Transport;and the court to which he is committed shall, if it determines not to order him to be disqualified under section 5 of the Road Traffic Act 1962, send notice of the



determination to any such licensing authority or the Ministry of Transport, as the case may require.

- (11) Where a person is committed to a court of assize or quarter sessions under this section or any enactment to which this section applies to be dealt with in respect of an offence specified in Part I or II of Schedule 1 to the Road Traffic Act 1962 (offences involving disqualification) and no order is made in his case under subsection (8) of this section, section 7(4) of that Act (duty to deliver licence to court) shall apply to him as it applies to a person who is prosecuted for such an offence and convicted before that court.
- (12) A period of disqualification imposed on any person by virtue of subsection (5) of this section shall be treated as reduced by any period during which he was disqualified by reason only of an order made under subsection (8) thereof; but a period during which he was so disqualified shall not be taken into account under this subsection for the purpose of reducing more than one other period of disqualification.
- (13) In this section—
  - " disqualified " means disqualified for holding or obtaining a licence under Part II of the Road Traffic Act 1960;
  - " licence " means a licence to drive a motor vehicle; and
  - " Northern Ireland licence " means a licence under any such provision as is mentioned in section 116(1) of the said Act of 1960 (use of Northern Ireland licences in Great Britain).

## **57 Social inquiry report before sentence.**

- (1) The Secretary of State may by rules make provision requiring that in any case to which the rules apply a court of any prescribed class shall before passing on any person a sentence to which the rules apply consider a social inquiry report, that is to say a report about him and his circumstances, made by a probation officer or any other person authorised to do so by the rules.
- (2) Rules under this section may apply to a sentence of imprisonment or detention of any class prescribed by the rules and may make different provision for different cases.
- (3) No sentence shall be invalidated by the failure of a court to consider a social inquiry report in accordance with rules under subsection (1) of this section, but any other court on appeal from that court shall consider such a report in determining whether a different sentence should be passed on the appellant from the sentence passed on him by the court below.
- (4) In this section " sentence of imprisonment or detention " means a sentence of imprisonment, borstal training or detention in a detention centre or a sentence of detention passed under section 53 of the Children and Young Persons Act 1933 (young offenders convicted of grave crimes).

## **58 Power to make recommendations for deportation.**

Notwithstanding any rule of practice restricting the matters which ought to be taken into account in dealing with an offender who is sentenced to imprisonment, a recommendation for deportation may be made under section 7 of the Commonwealth Immigrants Act 1962 in respect of an offender who is sentenced to imprisonment for life.