



Criminal Justice Act 1967

1967 CHAPTER 80

PART II

POWERS OF COURTS TO DEAL WITH OFFENDERS

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;
 - (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).

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- (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.
- (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

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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.
- (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

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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.