



Administration of Justice Act 1970

1970 CHAPTER 31

PART V

MISCELLANEOUS PROVISIONS

41 Recovery of costs and compensation awarded by magistrates, assizes, quarter sessions, etc.

- (1) In the cases specified in Part I of Schedule 9 to this Act (being cases where, in criminal proceedings, a court makes an order against the accused for the payment of costs, compensation, etc.) any sum required to be paid by such an order as is there mentioned shall be treated, for the purposes of collection and enforcement, as if it had been adjudged to be paid on a conviction by a magistrates' court, being—
 - (a) where the order is made by a magistrates' court, that court; and
 - (b) in any other case, such magistrates' court as may be specified in the order.
- (2) In the cases specified in Part II of the said Schedule (being cases where a court makes an order against the prosecutor in criminal proceedings, and certain cases where an order for costs arises out of an appeal to [^{F1}the Crown Court] in proceedings which are not criminal) any sum required to be paid by such an order as is there mentioned shall be enforceable as if the order were for the payment of money recoverable summarily as a civil debt.
- (3) Without prejudice to the foregoing subsections, but subject to subsection (4) below, in the cases specified in Schedule 9 to this Act any sum required to be paid by such an order as is there mentioned shall be enforceable by the High Court or [^{F2}the county court] (otherwise than by issue of a [^{F3}writ of control] or other process against goods or by imprisonment or attachment of earnings) as if the sum were due in pursuance of a judgment or order of the High Court or county court as the case may be.

^{F4}(4)

^{F4}(4A)

^{F5}(5)

Changes to legislation: There are currently no known outstanding effects for the Administration of Justice Act 1970, Section 41. (See end of Document for details)

^{F6}(6)

^{X1}(7) In section 32(2) of the ^{M1}Courts-Martial (Appeals) Act 1968 (enforcement of order for costs against unsuccessful appellant or applicant for leave to appeal to that court), for paragraph (a) there shall be substituted the following:—

“(a) in the same manner as an order for costs made by the criminal division of the Court of Appeal under section 25 of the Criminal Appeal Act 1968 ; or”

^{F7}(8) Subject to subsection (8A) below, where in the case specified in paragraph 10 [^{F8}, 12B or 12C] of Schedule 9 to this Act the Crown Court thinks that the period for which the person subject to the order is liable apart from this subsection to be committed to prison for default under the order is insufficient, it may specify a longer period for that purpose; and then, in the case of default—

- (a) the specified period shall be substituted as the maximum for which the person may be imprisoned under section 76 of the Magistrates’ Courts Act ^{M2} 1980; and
- (b) paragraph 2 of Schedule 4 to that Act shall apply, with any necessary modifications, for the reduction of the specified period where, at the time of the person’s imprisonment, he has made part payment under the order.

(8A) The Crown Court may not specify under subsection (8) above a period of imprisonment longer than that which it could order a person to undergo on imposing on him a fine equal in amount to the sum required to be paid by the order.]

(9) Where a magistrates’ court has power to commit a person to prison for default in paying a sum due under an order enforceable as mentioned in this section, the court shall not exercise the power unless it is satisfied that all other methods of enforcing payment have been tried or considered and either have proved unsuccessful or are likely to do so.

Editorial Information

X1 The text of ss. 10(5), 41(7), 48, 51(2), 54(3) are in the form in which they were originally enacted: they were not reproduced in Statutes in Force and do not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Textual Amendments

- F1** Words substituted by [Courts Act 1971 \(c. 23\)](#), **Sch. 8 Pt. I para. 2**
- F2** Words in s. 41(3) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 9 para. 52**; [S.I. 2014/954](#), art. 2(c) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F3** Words in s. 41(3) substituted (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, **Sch. 13 para. 35** (with s. 89); [S.I. 2014/768](#), art. 2(1)(b)
- F4** S. 41(4)(4A) omitted (1.7.1991) by virtue of [S.I. 1991/724](#), art. 2(8), **Sch. Pt. I** (with art. 12)
- F5** S. 41(5) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), **s. 1(1)**, {[Sch. 1 Pt. 1 Group 4](#)}
- F6** S. 41(6) repealed by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), s. 154, **Sch. 9**
- F7** S. 41(8)(8A): by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), **s. 106**, (which was brought into force 12.10.1988) s. 41(8)(8A) are expressed to be substituted for s. 41(8) and by s. 170(2), Sch. 16 of that Act (the relevant part of which was brought into force 3.4.1989) s. 41(8) is expressed to be repealed, and by [Criminal Justice Act 1991 \(c. 53, 39:1\)](#), **s. 23(3)** (with s. 28) and [S.I. 1992/333](#), art. 2(2), **Sch.2**

Changes to legislation: There are currently no known outstanding effects for the Administration of Justice Act 1970, Section 41. (See end of Document for details)

the relevant entry in Sch. 16 is repealed with retrospective effect (1.10.1992); the text of s. 41(8)(8A) as so substituted is set out above

- F8** Words in s. 41(8) substituted (17.3.2016) by [Modern Slavery Act 2015 \(c. 30\)](#), s. 61(3), [Sch. 5 para. 11\(2\)](#) (as amended by S.I. 2016/244, regs. 1(1), 25(a)); S.I. 2016/243, reg. 2(a)

Modifications etc. (not altering text)

- C1** S. 41 should have effect as if a new paragraph relating to the [Isle of Wight County Council Act 1971 \(c. lxxi\)](#), [s. 5\(9\)\(e\)](#) were inserted in Sch. 9 Pt. I of this 1970 Act
- C2** S. 41 extended (1.7.1991) by S.I. 1991/724, [art. 2\(1\)](#) (with [art. 12](#))
S. 41 applied (15.8.2002) by S.I. 2002/1998, [art. 17\(13\)](#) (with [art. 33](#))

Marginal Citations

- M1** 1968 c. 20
M2 1980 c.43 (82).

Changes to legislation:

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