



Criminal Law Act 1977

1977 CHAPTER 45

PART III

CRIMINAL PROCEDURE, PENALTIES, ETC.

14^{F1}

Textual Amendments

F1 S. 14 repealed by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), [Sch. 9](#)

Allocation of offences to classes as regards mode of trial

15 **Offences which are to become triable only summarily.**

(1) The following offences shall be triable only summarily (instead of either way), namely—

- (a) the offences mentioned (and broadly described) in column 1 of Schedule 1 to this Act; . . .^{F2}
- (b)^{F2}

^{X1}(2) The provisions mentioned in subsection (3) below (which confer a right to claim trial by jury for certain offences triable summarily, thereby making triable either way such of those offences as would otherwise be triable only summarily) shall cease to have effect.

^{X2}(3) The said provisions are—

- (a)^{F3}
- (b) sections 9 and 19(1) and (2) of the ^{M1}Conspiracy and Protection of Property Act 1875;

Status: Point in time view as at 01/02/1991.

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- (c) in the ^{M2}Cruelty to Animals Act 1876, section 15 and, in section 17, the words from “or if” to “Justiciary”;
 - (d) in the ^{M3} Witnesses (Public Enquiries) Protection Act 1892, in section 3 the words from “provided that” onwards and, in section 6, paragraph (2).
- (4) The following offences under the ^{M4}Night Poaching Act 1828 shall be triable only summarily (instead of only on indictment), namely—
- (a) offences under section 2 of that Act (assaults by persons committing offences under the Act);
 - (b) offences under section 9 of that Act (entering land, with others, armed and for the purpose of taking or destroying game or rabbits).
- (5) Subsections (1) and (4) above are without prejudice to any other enactment by virtue of which any offence is triable only summarily.

Editorial Information

X1 The text of ss. 5(10)(11), 15(2), 17, 30(1)(2), 31(10), 32(3), 46, 49, 52, 57, 63(1), 65(4)(5), Sch. 13 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

X2 The text of ss. 15(3), 37, 44, 53, 58, Schs. 1, 5, 6, 7, 9, 11, 12 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Textual Amendments

F2 Word “and” and s. 15(1)(b) repealed by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), [Sch. 9](#)

F3 [S. 15\(3\)\(a\)](#) repealed by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), [Sch. 9](#)

Marginal Citations

M1 [1875 c.86.](#)

M2 [1876 c. 77](#)

M3 [1892 c.64](#)

M4 [1828 c. 69.](#)

16 F4

Textual Amendments

F4 [Ss. 16, 18–27, 28\(1\)–\(7\), 29, 30\(4\)](#) repealed by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), [Sch. 9](#)

17 **Offence which is to become triable only on indictment.** ^{X3}

Section 5 of the ^{M5}Newspaper Libel and Registration Act 1881 (which provides for the summary trial, with the consent of the accused, of charges against newspaper proprietors and others responsible for the publication of newspapers for libels published in them) shall cease to have effect.

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Editorial Information

X3 The text of ss. 5(10)(11), 15(2), 17, 30(1)(2), 31(10), 32(3), 46, 49, 52, 57, 63(1), 65(4)(5), Sch. 13 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M5 1881 c. 60

18— ^{F5}
26.

Textual Amendments

F5 Ss. 16, 18–27, 28(1)–(7), 29, 30(4) repealed by Magistrates' Courts Act 1980 (c. 43, SIF 82), **Sch. 9**

Penalties

27 ^{F6}

Textual Amendments

F6 Ss. 16, 18–27, 28(1)–(7), 29, 30(4) repealed by Magistrates' Courts Act 1980 (c. 43, SIF 82), **Sch. 9**

28 Penalties on summary conviction for offences triable either way.

(1) ^{F7}

(8) Schedule 5 to this Act shall have effect for the purpose of altering the penalties available on summary conviction of certain offences triable either way not listed in [^{F8}Schedule 1 to the Magistrates' Courts Act 1980]; . . . ^{F9}.

Textual Amendments

F7 Ss. 16, 18–27, 28(1)–(7), 29, 30(4) repealed by Magistrates' Courts Act 1980 (c. 43, SIF 82), **Sch. 9**

F8 Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), **Sch. 7 para. 149**

F9 Words repealed by Magistrates' Courts Act 1980 (c. 43, SIF 82), **Sch. 9**

29 ^{F10}

Textual Amendments

F10 Ss. 16, 18–27, 28(1)–(7), 29, 30(4) repealed by Magistrates' Courts Act 1980 (c. 43, SIF 82), **Sch. 9**

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30 Penalties (and mode of trial) for offences made triable only summarily.

- ^{X4}(1) The enactments specified in column 2 of Schedule 1 to this Act, which relate to the mode of trial of, and the maximum penalties for, the offences mentioned (and broadly described) in column 1 of that Schedule (being the offences which by section 15(1)(a) above made triable only summarily instead of either way) shall have effect subject to the amendments specified in column 3 of that Schedule.
- ^{X4}(2) The said amendments have the effect of altering the maximum penalties available on summary conviction of the offences so mentioned as well as making alterations consequential on their becoming triable only summarily; and in that Schedule column 4 shows the present maximum penalties by way of fine or imprisonment on summary conviction and on conviction on indictment, and column 5 shows the new maximum penalties resulting from the amendments.
- (3) A person who (by virtue of section 15 above) is summarily convicted of an offence under section 2 (assaults by persons committing offences under the Act) or section 9 (entering land, with others, armed and for the purpose of taking or destroying game or rabbits) of the ^{M6}Night Poaching Act 1828 shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding £500, or to both (instead of to a maximum penalty on conviction on indictment of seven years imprisonment or a fine or both for an offence under the said section 2, or of fourteen years imprisonment or a fine or both for an offence under the said section 9).
- (4) ^{F11}

Editorial Information

- X4** The text of ss. 5(10)(11), 15(2), 17, 30(1)(2), 31(10), 32(3), 46, 49, 52, 57, 63(1), 65(4)(5), Sch. 13 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Textual Amendments

- F11** Ss. 16, 18–27, 28(1)–(7), 29, 30(4) repealed by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), [Sch. 9](#)

Marginal Citations

- M6** 1828 c. 69.

31 Increase of fines for certain summary offences.

- (1) The enactments specified in column 2 of Schedule 6 to this Act, which relate to the maximum fines for the offences mentioned (and broadly described) in column 1 of that Schedule, shall have effect as if the maximum fine that may be imposed on summary conviction of any offence so mentioned were a fine not exceeding the amount specified in column 4 of that Schedule instead of a fine not exceeding the amount specified in column 3 of that Schedule, so however that the preceding provision shall not alter the maximum daily fine, if any, provided for by any of those enactments.
- (2) This subsection applies to the following enactments (by virtue of which certain byelaws may make persons contravening the byelaws liable on summary conviction to a fine not exceeding £20), namely—

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- (a) section 183 of the ^{M7}Public Health Act 1875 and section 237 of the ^{M8}Local Government Act 1972 (local authorities' byelaws) in their application to byelaws under any public general Act; and
 - (b) ^{F12}
- (3) In the enactments to which subsection (2) above applies for any reference to £20 there shall be substituted a reference to £50; and any provision in force at the coming into force of this subsection which—
- (a) is contained in any byelaw made under a public general Act by virtue of—
 - (i) any enactment to which subsection (2) above applies; or
 - (ii) section 251 of the ^{M9}Local Government Act 1933; and
 - (b) specifies £20 as the maximum fine which may be imposed on summary conviction in respect of a contravention of, or offence under, any byelaw mentioned in that provision,
- shall have effect as if it specified £50 instead (but with no change by virtue of this subsection in the maximum daily fine, if any, for which it provides).
- The preceding provisions of this subsection are without prejudice to subsection (4) below.
- (4) The following byelaws, namely—
- (a) byelaws under section 75 of the ^{M10}Public Health Act 1961 (byelaws as to pleasure fairs and roller skating rinks);
 - (b) byelaws under section 76 of that Act (byelaws as to seaside pleasure boats); . . . ^{F13}
 - (c) ^{F13}
- may provide that persons contravening the byelaws shall be liable on summary conviction to a fine not exceeding [^{F14}level 3 on the standard scale] and, in the case of a continuing offence, a further fine not exceeding £5 for each day during which the offence continues after the conviction thereof; and any such byelaw in force at the coming into force of this subsection which specifies £20 or any smaller sum as the maximum fine which may be imposed on summary conviction of an offence under any such byelaw shall have effect as if it specified [^{F14}level 3 on the standard scale], instead (but with no change by virtue of this subsection in the maximum daily fine, if any, for which it provides).
- (5) This subsection applies to any pre-1949 enactment (however framed or worded) which—
- (a) as regards any summary offence makes a person liable on conviction thereof to a fine of, or not exceeding, a specified amount less than £50 which has not been altered since the end of 1948 (and is not altered by this Act); or
 - (b) confers power by subordinate instrument to make a person, as regards any summary offence (whether or not created by the instrument), liable on conviction thereof to a fine of, or not exceeding, a specified amount less than £50 which has not been altered since the end of 1948 (and is not altered by this Act).
- (6) Every enactment to which subsection (5) above applies shall have effect as if for the specified amount less than £50 there mentioned there were substituted—
- (a) £25 if the specified amount is less than £20; or
 - (b) £50 if the specified amount is not less than £20.

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- (7) F15
- (8) Subsection (6) 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.
- (9) In subsection (5) above “pre-1949 enactment” means an enactment passed before 1st January 1949 or an enactment passed on or after that date which (whether directly or, through successive re-enactments, indirectly) re-enacts with or without modification an enactment passed before that date.
- ^{X5}(10) In section 67(6) of the ^{M11}Medicines Act 1968, for “£400” (which gives the maximum fine on summary conviction which can be imposed by regulations under section 66 for contravention of the regulations) there shall be substituted “£1,000”.
- (11) In this section “enactment” does not include an enactment contained in an order, regulation or other instrument made under an Act.

Editorial Information

- X5** The text of ss. 5(10)(11), 15(2), 17, 30(1)(2), 31(10), 32(3), 46, 49, 52, 57, 63(1), 65(4)(5), Sch. 13 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Textual Amendments

- F12** S. 31(2)(b) repealed by [Weights and Measures Act 1985 \(c. 72, SIF 131\)](#), s. 98(1), Sch. 11 para. 21(2), **Sch. 13**
- F13** Word “and” and s. 31(4)(c) repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **Sch. 16**
- F14** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **s. 46**
- F15** S. 31(7) repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **Sch. 16**

Marginal Citations

- M7** 1875 c. 55.
M8 1972 c. 70.
M9 1933 c. 51.
M10 1961 c. 64.
M11 1968 c.67.

32 Other provisions as to maximum fines.

- (1) Where a person convicted on indictment of any offence (whether triable only on indictment or either way) would, apart from this subsection, be liable to a fine not exceeding a specified amount, he shall by virtue of this subsection be liable to a fine of any amount.
- (2) F16
- ^{X6}(3) In paragraph 1(1)(d) of Schedule 2 to the ^{M12}European Communities Act 1972, for the words “£5 a day” (which give the maximum daily fine with which an offence created under the powers conferred by section 2(2) of that Act can under those powers be made punishable on summary conviction) there shall be substituted the words “£100 a day”.

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Editorial Information

X6 The text of ss. 5(10)(11), 15(2), 17, 30(1)(2), 31(10), 32(3), 46, 49, 52, 57, 63(1), 65(4)(5), Sch. 13 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Textual Amendments

F16 Ss. 32(2), 34, 35, 36(2)–(8) repealed by Magistrates' Courts Act 1980 (c. 43, SIF 82), **Sch. 9**

Modifications etc. (not altering text)

C1 S. 32(1) extended (N.I.) by Finance Act 1983 (c. 28, SIF 39:1), **Sch. 9 para. 1(1)**
C2 S. 32(1) excluded by Criminal Attempts Act 1981 (c. 47, SIF 82), **s. 4(5)(b)(i)**

Marginal Citations

M12 1972 c. 68

33 Penalty for offences under section 3 of Explosive Substances Act 1883.

For an offence under section 3 of the ^{M13}Explosive Substances Act 1883 (attempt to cause explosion, or making or keeping explosive, with intent to endanger life or property in the United Kingdom or the Republic of Ireland) the maximum term of imprisonment which may be imposed by a court in Great Britain shall be increased from twenty years to life.

Marginal Citations

M13 1883 c. 3.

Young offenders

34, 35. ^{F17}

Textual Amendments

F17 Ss. 32(2), 34, 35, 36(2)–(8) repealed by Magistrates' Courts Act 1980 (c. 43, SIF 82), **Sch. 9**

36 Enforcement of fines imposed on young offenders.

(1) ^{F18}

(2) ^{F19}

(9) In this section—
..... ^{F20}
..... ^{F21}

“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 35 of the ^{M14}Powers of Criminal Courts Act 1973

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(compensation orders) as applied by section 3(6) of the ^{M15}Children and Young Persons Act 1969.

Textual Amendments

- F18** S. 36(1) repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **Sch. 16**
- F19** Ss. 32(2), 34, 35, 36(2)–(8) repealed by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), **Sch. 9**
- F20** Definition repealed by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), **Sch. 9**
- F21** Definition repealed by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), **Sch. 9**, [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **Sch. 16**

Marginal Citations

- M14** 1973 c. 62.
- M15** 1969 c. 54.

37 Supervision orders. ^{X7}

- (1) ^{F22}
- (2) In section 15 of the ^{M16}Children and Young Persons Act 1969 (variation and discharge of supervision orders), after subsection (2) there shall be inserted the following subsection—
- “(2A) If while a supervision order to which section 12(3A) of this Act applies is in force in respect of a person who has not attained the age of eighteen it is proved to the satisfaction of a juvenile court, on the application of the supervisor, that the supervised person has failed to comply with any requirement included in the supervision order in pursuance of section 12 or section 18(2)(b) of this Act, the court may, whether or not it also makes an order under subsection (1) of this section—
- (a) order him to pay an amount not exceeding £50; or
- (b) subject to section 16(10) of this Act, make an attendance centre order in respect of him.”
- (3) The preceding provisions of this section, and any related amendment or repeal provided for in Schedule 12 or 13 to this Act, shall not apply in relation to supervision orders made before the coming into force of those provisions.

Editorial Information

- X7** The text of ss. 15(3), 37, 44, 53, 58, Schs. 1, 5, 6, 7, 9, 11, 12 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Textual Amendments

- F22** S. 37(1) repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **Sch. 16**

Marginal Citations

- M16** 1969 c. 54.

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Cross-border enforcement

38 Execution throughout United Kingdom of warrants of arrest.

- (1) A warrant issued in Scotland or Northern Ireland for the arrest of a person charged with an offence may be executed in England or Wales by any constable acting within his police area; and [^{F23}subsection (3) of section 125 of the Magistrates' Courts Act 1980] (execution without possession of the warrant) shall apply to the execution in England or Wales of any such warrant.
- (2) A warrant issued in England, Wales or Northern Ireland for the arrest of a person charged with an offence may be executed in Scotland by any constable appointed for a police area in like manner as any such warrant issued in Scotland.
- (3) A warrant issued in England, Wales or Scotland for the arrest of a person charged with an offence may be executed in Northern Ireland by any member of the Royal Ulster Constabulary or the Royal Ulster Constabulary Reserve; [^{F24}and subsections (4) and (5) of section 159 of the ^{M17}Magistrates' Courts Act (Northern Ireland) 1964] (execution without possession of the warrant and execution on Sunday) shall apply to the execution in Northern Ireland of any such warrant.
- (4) A warrant may be executed by virtue of this section whether or not it has been endorsed under section 12, 14 or 15 of the ^{M18}Indictable Offences Act 1848 or under section 27, 28 or 29 of the ^{M19}Petty Sessions (Ireland) Act 1851.
- (5) ^{F25}

Textual Amendments

- F23** Words substituted by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), [Sch. 7 para. 150](#)
F24 Words substituted (N.I.) by [S.I. 1981/1675 \(N.I. 26\)](#), [Sch. 6 Pt. I para. 45](#)
F25 [S. 38\(5\)](#) repealed by [Insolvency Act 1985 \(c. 65, SIF 66\)](#), s. 235(3), [Sch. 10 Pt. IV](#)

Modifications etc. (not altering text)

- C3** [S. 38](#) extended by [Insolvency Act 1986 \(c. 45, SIF 66\)](#), [s. 426\(7\)](#)

Marginal Citations

- M17** [1964 c. 21 \(N.I.\)](#)
M18 [1848 c. 42.](#)
M19 [1851 c. 93.](#)

38A Execution in different parts of United Kingdom of warrants for imprisonment for non-payment of fine.

- (1) Subject to subsection (6) below, a person against whom an extract conviction is issued in Scotland for imprisonment in default of payment of a fine may be arrested—
 - (a) in England and Wales, by any constable acting within his police area;
 - (b) in Northern Ireland, by any member of the Royal Ulster Constabulary or the Royal Ulster Constabulary Reserve;and subsections (4) and (5) of section 159 of the Magistrates' Courts Act (Northern Ireland) 1964 (execution without possession of the warrant and execution on Sunday)

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shall apply to the execution in Northern Ireland of any such extract conviction as those subsections apply in relation to the execution of a warrant for arrest.

- (2) Subject to subsection (6) below, a person against whom there has been issued in England, Wales or Northern Ireland a warrant committing him to prison in default of payment of a sum adjudged to be paid by a conviction may be arrested in Scotland, by any constable appointed for a police area, in like manner as if the warrant were an extract conviction for imprisonment issued in Scotland in default of payment of a fine.
- (3) A person arrested by virtue of subsection (1) above under an extract conviction or by virtue of subsection (2) above under a warrant of commitment may be detained under it in any prison in the part of the United Kingdom in which he was arrested; and while so detained he shall be treated for all purposes as if he were detained under a warrant of commitment or extract conviction issued in that part of the United Kingdom.
- (4) An extract conviction or a warrant of commitment may be executed by virtue of this section whether or not it has been endorsed under section 4 of the Summary Jurisdiction (Process) Act 1881 or under section 27 of the Petty Sessions (Ireland) Act 1851.
- (5) In this section—
- “fine” includes any sum treated by any enactment as a fine for the purposes of its enforcement and any sum to be found as caution;
 - “imprisonment” includes, in the case of a person who is under the age of 21 years, detention;
 - “part of the United Kingdom” means England and Wales, Scotland or Northern Ireland;
 - “prison” means—
 - (i) in the case of a person who is under the age of 21 years arrested in Scotland, a young offenders institution; and
 - (ia) [^{F26}in the case of a person under that age arrested in England and Wales, any place in which he could be detained under section 12(10) of the Criminal Justice Act 1982;]
 - (ii) in the case of a person under that age arrested in Northern Ireland, a young offenders centre; and
 - “sum adjudged to be paid by a conviction” has the meaning given by section 150(3) of the Magistrates’ Courts Act 1980 or, in Northern Ireland, section 169(2) of the Magistrates’ Courts (Northern Ireland) Act 1964.
- (6) This section shall not apply to the arrest of persons under the age of 17 years.

Textual Amendments

F26 S. 38A(5)(ia) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), Sch. 14 para. 39

38B Further provision for execution of warrants of commitment for non-payment of sum adjudged to be paid by conviction in England and Wales or Northern Ireland.

- (1) Subject to subsection (6) below, a person against whom there has been issued in England and Wales a warrant committing him to prison in default of payment of a sum adjudged to be paid by a conviction may be arrested in Northern Ireland

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by any member of the Royal Ulster Constabulary or the Royal Ulster Constabulary Reserve in like manner as if the warrant were a warrant committing him to prison in default of payment of a sum adjudged to be paid by a conviction in Northern Ireland; and article 158(4) and (5) of the Magistrates' Courts (Northern Ireland) Order 1981 (execution without possession of the warrant and execution on Sunday) shall apply to the execution in Northern Ireland of any such warrant which has been issued in England and Wales as they apply in relation to the execution of a warrant for arrest.

- (2) Subject to subsection (6) below, a person against whom there has been issued in Northern Ireland a warrant committing him to prison in default of payment of a sum adjudged to be paid by a conviction may be arrested in England and Wales by any constable acting within his police area in like manner as if the warrant were a warrant committing him to prison in default of payment of a sum adjudged to be paid by a conviction in England and Wales.
- (3) A person arrested by virtue of subsection (1) or (2) above under a warrant of commitment may be detained under it in any prison in the part of the United Kingdom in which he was arrested; and while so detained he shall be treated for all purposes as if he were detained under a warrant of commitment issued in that part of the United Kingdom.
- (4) A warrant of commitment issued by a court in Northern Ireland may be executed in England and Wales by virtue of this section whether or not it has been endorsed under section 27 of the Petty Sessions (Ireland) Act 1851.
- (5) In this section
 - “part of the United Kingdom” means England and Wales or Northern Ireland;
 - “prison” means—
 - (a) in the case of a person who is under the age of 21 years arrested in England and Wales, any place in which he could be detained under section 12(10) of the Criminal Justice Act 1982; and
 - (b) in the case of a person under that age arrested in Northern Ireland, a young offenders centre; and
 - “sum adjudged to be paid by a conviction” has the meaning given by section 150(3) of the Magistrates' Courts Act 1980 or, in Northern Ireland, Article 2(5) of the Magistrates' Courts (Northern Ireland) Order 1981.
- (6) This section shall not apply to the arrest of persons under the age of 17 years.

[^{F27}
F28
F29
F30] 39

Service of summonses and citation throughout United Kingdom.

- (1) A summons requiring a person charged with an offence to appear before a court in England or Wales may, in such manner as may be prescribed by rules of court, be served on him in Scotland or Northern Ireland.
- (2) A summons requiring a person charged with an offence to appear before a court in Northern Ireland may, in such manner as may be prescribed by rules of court, be served on him in England, Wales or Scotland.
- (3) Citation of a person charged with a crime or offence to appear before a court in Scotland may be effected in any other part of the United Kingdom in like manner as it may be done in Scotland, and for this purpose the persons authorised to effect such citation shall include

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- ^{F31}(a) [, in England and Wales and Northern Ireland, constables and prison officers serving in those parts of the United Kingdom
- ^{F32}(b) [persons authorised by a chief officer of police in England or Wales to serve summonses there.]

Textual Amendments

F27 S. 38A inserted by Criminal Justice (Scotland) Act 1980 (c. 62), s. 51

F28 S. 38A inserted by Criminal Justice (Scotland) Act 1980 (c. 62), s. 51

F29 S. 38B inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 52

F30 S. 38B inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 52

F31 “(a)” inserted by Criminal Justice (Scotland) Act 1980 (c. 62), Sch. 7 para. 79(a)

F32 S. 39(3)(b) added by Criminal Justice (Scotland) Act 1980 (c. 62, SIF 39:1), Sch. 7 para. 79(b)

40 Transfer of fine orders.

Schedule 7 to this Act (which confers powers on courts in Northern Ireland, and extends the existing powers of courts in England, Wales and Scotland, to make transfer of fine orders) shall have effect.]]]]

Textual Amendments

F27 S. 38A inserted by Criminal Justice (Scotland) Act 1980 (c. 62), s. 51

F28 S. 38A inserted by Criminal Justice (Scotland) Act 1980 (c. 62), s. 51

F29 S. 38B inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 52

F30 S. 38B inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 52

Other provisions

41, 42. ^{F33}

Textual Amendments

F33 Ss. 41, 42, 45 repealed by Magistrates' Courts Act 1980 (c. 43, SIF 82), Sch. 9

43 ^{F34}

Textual Amendments

F34 S. 43 repealed by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 170, Sch. 8 para. 16, Sch. 16

44 Appeals against conviction. ^{X8}

In section 2 of the ^{M20}Criminal Appeal Act 1968 . . . ^{F35}(grounds for allowing appeals) in subsection (1)(a) (cases where the verdict of the jury is unsafe or unsatisfactory) for the words “verdict of the jury” there shall be substituted the word “conviction”.

Status: Point in time view as at 01/02/1991.

Changes to legislation: Criminal Law Act 1977, Part III is up to date with all changes known to be in force on or before 28 July 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Editorial Information

X8 The text of ss. 15(3), 37, 44, 53, 58, Schs. 1, 5, 6, 7, 9, 11, 12 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Textual Amendments

F35 Words repealed by [Criminal Appeal \(Northern Ireland\) Act 1980 \(c. 47, SIF 38\)](#), [Sch. 5](#)

Marginal Citations

M20 [1968 c. 19](#)

45 F36

Textual Amendments

F36 [S. 39\(3\)\(b\)](#) added by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), [Sch. 7 para. 79\(b\)](#)

46 **Committal for sentence for offences tried summarily.** ^{X9}

For section 56(1) of the ^{M21}Criminal Justice Act 1967 (powers of magistrates' courts as regards committal for sentence in respect of offences tried summarily) there shall be substituted—

“(1) Where a magistrates' court (“the committing court”) commits a person in custody or on bail to the Crown Court under any enactment to which this section applies to be sentenced or otherwise dealt with in respect of an offence (“the relevant offence”), the committing court—

- (a) if the relevant offence is an offence triable either way, may also commit him, in custody or on bail as the case may require, to the Crown Court to be dealt with in respect of any other offence whatsoever in respect of which the committing court has power to deal with him (being an offence of which he has been convicted by that or any other court); or
- (b) if the relevant offence is a summary offence, may commit him, as aforesaid, to the Crown Court, to be dealt with in respect of—
 - (i) any other offence which the committing court has convicted him, being either an offence punishable with imprisonment or an offence in respect of which the committing court has a power or duty to order him to be disqualified under section 93 of the Road Traffic Act 1972 (disqualification for certain motoring offences); or
 - (ii) any suspended sentence in respect of which the the committing court has under section 24(1) of the Powers of the Criminal Courts Act 1973 power to deal with him.”

Status: Point in time view as at 01/02/1991.

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Editorial Information

- X9** The text of ss. 5(10)(11), 15(2), 17, 30(1)(2), 31(10), 32(3), 46, 49, 52, 57, 63(1), 65(4)(5), Sch. 13 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

- M21** 1967 c. 80.

47 Prison sentence partly served and partly suspended.

- (1) [^{F37}Subject to subsection (1A) below, where] a court passes on an adult a sentence of imprisonment for a term of not less than [^{F38}three] months and not more than two years, it may order that, after he has served part of the sentence in prison, the remainder of it shall be held in suspense.
- [^{F39}(1A) A court shall not make an order under this section unless the case appears to the court to be one in which an order under section 22 of the Powers of Criminal Courts Act 1973 (sentences wholly suspended) would be inappropriate.
- (1B) Subsection (1A) above is without prejudice to section 20 of the Powers of Criminal Courts Act 1973 (restriction on imposing sentences of imprisonment on persons who have not previously served prison sentences).]
- (2) [^{F40}The part of the sentence to be served in prison shall be not less than twenty-eight days and the part to be held in suspense shall be not less than one-quarter of the whole term, and the offender shall not be required to serve the latter] part unless it is restored under subsection (3) below; and this shall be explained to him by the court, using ordinary language and stating the substantial effect of that subsection.
- (3) If at any time after the making of the order he is convicted of an offence punishable with imprisonment and committed during the whole period of the original sentence, then (subject to [^{F41}subsections (4) and (4A)] below) a court which is competent under this subsection may restore the part of the sentence held in suspense and order him to serve it.
- (4) If a court, considering the offender's case with a view to exercising the powers of subsection (3) above, is of opinion that (in view of all the circumstances, including the facts of the subsequent offence) it would be unjust fully to restore the part of the sentence held in suspense, it shall either restore a lesser part or declare, with reasons given, its decision to make no order under the subsection.
- [^{F41}(4A) If an order restoring part of a sentence has been made under subsection (3) above, no order restoring any further part of it may be made.]
- (5) Where a court exercises those powers, it may direct that the restored part of the original sentence is to take effect as a term to be served either immediately or on the expiration of another term of imprisonment passed on the offender by that or another court.
- (6) "Adult" in this section means a person who has attained the age of twenty-one; and "the whole period" of a sentence is the time which the offender would have had to serve in prison if the sentence had been passed without an order under subsection (1) above and he had no remission under section 25(1) of the ^{M22}Prison Act 1952 (industry and good conduct in prison).

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- (7) Schedule 9 to this Act has effect with respect to procedural, sentencing and miscellaneous matters ancillary to those dealt with above in this section, including in particular the courts which are competent under subsection (3) above.
- (8) This section and paragraphs 1 to 6 of Schedule 9 to this Act and the ^{M23}Powers of Criminal Courts Act 1973 shall be construed and have effect as if this section and those paragraphs of the Schedule were contained in that Act.
- [^{F42}(9) The Secretary of State may by order made by statutory instrument vary—
- (a) the minimum term of imprisonment for the time being specified in subsection (1) above;
 - (b) the minimum part of the sentence to be served in prison for the time being specified in subsection (2) above.
- (10) An order made by virtue of subsection (9)(b) above may provide that the minimum part of the sentence to be served in prison shall be a specified length of time or a specified fraction of the whole sentence.
- (11) An order shall not be made under subsection (9) above unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.]

Textual Amendments

- F37** Words substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 30\(2\)](#)
- F38** Word substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 30\(3\)](#)
- F39** [S. 47\(1A\)\(1B\)](#) inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 30\(4\)](#)
- F40** Words substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 30\(5\)](#)
- F41** Words substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 30\(6\)](#)
- F42** [S. 47\(9\)\(10\)\(11\)](#) added by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 30\(8\)](#)

Marginal Citations

- M22** [1952 c. 52.](#)
- M23** [1973 c. 62.](#)

48 Power to make rules as to furnishing of information by prosecutor in criminal proceedings.

- (1) The power to make rules conferred by [^{F43}section 144 of the Magistrates' Courts Act 1980] shall, without prejudice to the generality of subsection (1) of that section, include power to make, with respect to proceedings against any person for a prescribed offence or an offence of any prescribed class, provision—
- (a) for requiring the prosecutor to do such things as may be prescribed for the purpose of securing that the accused or a person representing him is furnished with, or can obtain, advance information concerning all, or any prescribed class of, the facts and matters of which the prosecutor proposes to adduce evidence; and
 - (b) for requiring a magistrates' court, if satisfied that any requirement imposed by virtue of paragraph (a) above has not been complied with, to adjourn the proceedings pending compliance with that requirement unless the court is satisfied that the conduct of the case for the accused will not be substantially prejudiced by non-compliance with the requirement.

Status: Point in time view as at 01/02/1991.

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- (2) Rules made by virtue of subsection (1)(a) above—
- (a) may require the prosecutor to do as provided in the rules either—
 - (i) in all cases; or
 - (ii) only if so requested by or on behalf of the accused;
 - (b) may exempt facts and matters of any prescribed description from any requirement imposed by the rules, and may make the opinion of the prosecutor material for the purposes of any such exemption; and
 - (c) may make different provision with respect to different offences or offences of different classes.
- (3) It shall not open to person convicted of an offence to appeal against the conviction on the ground that a requirement imposed by virtue of subsection (1) above was not complied with by the prosecutor.

Textual Amendments

F43 Words substituted by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), [Sch. 7 para. 151](#)

49 Power to order search of persons before Crown Court. ^{X10}

After section 34 of the ^{M24}Powers of Criminal Courts Act 1973 there shall be inserted—

“34A Power of Crown Court to order search of persons before it.

- (1) Where—
- (a) the Crown Court imposes a fine on a person or forfeits his recognizance;
 - (b) the Crown Court makes against a person any such order as is mentioned in paragraphs 3, 4 or 9 of Schedule 9 to the Administration of Justice Act 1970 (orders for the payment of costs);
 - (c) the Crown Court makes against a person any such order as is mentioned in paragraph 12 of that Schedule (fines etc. payable by parents or guardians) other than an order under section 35 of this Act; or
 - (d) on determination of an appeal brought by a person under section 83 of the Magistrates' Courts Act 1952 a sum is payable by him, whether by virtue of an order of the Crown Court or by virtue of a conviction or order of the magistrates' court against whose decision the appeal was brought,
- then, if that person is before it, the Crown Court may order him to be searched.
- (2) Any money found on a person in a search under this section may be applied, unless the court otherwise directs, towards payment of the fine or other sum payable by him; and the balance, if any, shall be returned to him.”

Editorial Information

X10 The text of ss. 5(10)(11), 15(2), 17, 30(1)(2), 31(10), 32(3), 46, 49, 52, 57, 63(1), 65(4)(5), Sch. 13 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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Marginal Citations

M24 [1973 c. 62](#)

Status:

Point in time view as at 01/02/1991.

Changes to legislation:

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