



Magistrates' Courts Act 1980

1980 CHAPTER 43

PART I

CRIMINAL JURISDICTION AND PROCEDURE

Miscellaneous

41 Restriction on grant of bail in treason

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

42 Restriction on justices sitting after dealing with bail

- (1) A justice of the peace shall not take part in trying the issue of an accused's guilt on the summary trial of an information if in the course of the same proceedings the justice has been informed, for the purpose of determining whether the accused shall be granted bail, that he has one or more previous convictions.
- (2) For the purposes of this section any committal proceedings from which the proceedings on the summary trial arose shall be treated as part of the trial.

43 Bail on arrest without warrant

- (1) On a person's being taken into custody for an offence without a warrant, a police officer not below the rank of inspector, or the police officer in charge of the police station to which the person is brought, may, and, if it will not be practicable to bring him before a magistrates' court within 24 hours after his being taken into custody, shall, inquire into the case and, unless the offence appears to the officer to be a serious one, grant him bail in accordance with the Bail Act 1976 subject to a duty to appear before a magistrates' court at such time and place as the officer appoints.

Status: This is the original version (as it was originally enacted).

- (2) Where a person has been granted bail under subsection (1) above, the magistrates' court before which he is to appear may appoint a later time as the time at which he is to appear and may enlarge the recognizance's of any sureties for him to that time.
- (3) Where, on a person's being taken into custody for an offence without a warrant, it appears to any such officer as aforesaid that the inquiry into the case cannot be completed forthwith, he may grant him bail in accordance with the Bail Act 1976 subject to a duty to appear at such a police station and at such a time as the officer appoints unless he previously receives a notice in writing from the officer in charge of that police station that his attendance is not required ; and the recognizance of any surety for that person may be enforced as if it were conditioned for the appearance of that person before a magistrates' court for the petty sessions area in which the police station named in the recognizance is situated.
- (4) Where a person is taken into custody for an offence without a warrant and is retained in custody, he shall be brought before a magistrates' court as soon as practicable.

44 Aiders and abettors

- (1) A person who aids, abets, counsels or procures the commission by another person of a summary offence shall be guilty of the like offence and may be tried (whether or not he is charged as a principal) either by a court having jurisdiction to try that other person or by a court having by virtue of his own offence jurisdiction to try him.
- (2) Any offence consisting in aiding, abetting, counselling or procuring the commission of an offence triable either way (other than an offence listed in Schedule 1 to this Act) shall by virtue of this subsection be triable either way.

45 Incitement

- (1) Any offence consisting in the incitement to commit a summary offence shall be triable only summarily.
- (2) Subsection (1) above is without prejudice to any other enactment by virtue of which any offence is triable only summarily.
- (3) On conviction of an offence consisting in the incitement to commit a summary offence a person shall be liable to the same penalties as he would be liable to on conviction of the last-mentioned offence.

46 Corporations

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

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

Where any enactment requires, expressly or by implication, that a summons in respect of an offence shall be issued or served within a specified period after the commission of the offence, and service of the summons may under the rules be effected by post, then, if under the rules service of the summons is not treated as proved, but it is shown that a letter containing the summons was posted at such time as to enable it to be delivered in the ordinary course of post within that period, a second summons may

be issued on the same information; and the enactment shall have effect, in relation to that summons, as if the specified period were a period running from the return day of the original summons.

48 Return of property taken from accused

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

49 Taking of finger-prints

- (1) Where any person not less than 14 years old—
 - (a) who has been taken into custody is charged with an offence before a magistrates' court; or
 - (b) appears before a magistrates' court in answer to a summons for an offence punishable with imprisonment,the court may, if it thinks fit, on the application of a police officer not below the rank of inspector, order the finger-prints of that person to be taken by a constable.
- (2) Finger-prints taken in pursuance of an order under this section shall be taken either at the place where the court is sitting or, if the person to whom the order relates is remanded in custody, at any place to which he is committed; and a constable may use such reasonable force as may be necessary for that purpose.
- (3) The provisions of this section shall be in addition to those of any other enactment under which finger-prints may be taken.
- (4) Where the finger-prints of any person have been taken in pursuance of an order under this section, then, if he is acquitted, or the examining justices determine not to commit him for trial, or if the information against him is dismissed, the finger-prints and all copies and records of them shall be destroyed.
- (5) In this section " finger-prints " includes palm-prints.

50 Construction of references to complaint in enactments dealing with offences

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