



Magistrates' Courts Act 1980

1980 CHAPTER 43

PART VII

MISCELLANEOUS AND SUPPLEMENTARY

Process

123 Defect in process.

- (1) No objection shall be allowed to any information or complaint, or to any summons or warrant to procure the presence of the defendant, for any defect in it in substance or in form, or for any variance between it and the evidence adduced on behalf of the prosecutor or complainant at the hearing of the information or complaint.
- (2) If it appears to a magistrates' court that any variance between a summons or warrant and the evidence adduced on behalf of the prosecutor or complainant is such that the defendant has been misled by the variance, the court shall, on the application of the defendant, adjourn the hearing.
- [^{F1}(3) In the application of this section to proceedings conducted in accordance with section 16A—
 - (a) a reference in subsection (1) or (2) to evidence adduced on behalf of the prosecutor at a hearing is to be read as a reference to evidence placed before the court on behalf of the prosecutor, and
 - (b) subsection (2) is to be read as if for the words from “has been misled” to the end there were substituted “ is likely to have been misled by the variance, the court shall treat the written charge as not being appropriate for trial in accordance with section 16A ”.]

Textual Amendments

- F1** S. 123(3) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), [Sch. 11 para. 5](#); [S.I. 2015/778](#), art. 3, [Sch. 1 para. 77](#)

Changes to legislation: Magistrates' Courts Act 1980, Section 123 is up to date with all changes known to be in force on or before 24 April 2024. 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) View outstanding changes

Modifications etc. (not altering text)

- C1** S. 123 applied (with modifications) (1.4.1997) by S.I. 1997/704, **rule 5(1)(3)(4)(h)(6)**
- C2** S. 123 applied (with modifications) by S.I. 2010/60, rule 62.16 (as substituted (4.4.2011) by The Criminal Procedure (Amendment No. 2) Rules 2010 (S.I. 2010/3026), rules 1, 9, **Sch. 2**)
- C3** S. 123 modified (3.10.2011) by The Criminal Procedure Rules 2011 (S.I. 2011/1709), **rule 62.16(3)(f)**
- C4** S. 123 modified (1.10.2012) by The Criminal Procedure Rules 2012 (S.I. 2012/1726), **rule 62.16(2)(3)(f)**
- C5** S. 123 modified (7.10.2013) by The Criminal Procedure Rules 2013 (S.I. 2013/1554), **rule 62.16(2)(3)(f)** (with **rule 2.1**)
- C6** S. 123 modified (6.10.2014) by The Criminal Procedure Rules 2014 (S.I. 2014/1610), **rule 62.16(2)(3)(f)** (with **rule 2.1**)
- C7** S. 123 modified (5.10.2015) by The Criminal Procedure Rules 2015 (S.I. 2015/1490), **rule 48.16(2)(3)**
- C8** S. 123 modified (5.10.2020) by The Criminal Procedure Rules 2020 (S.I. 2020/759), **rule 48.16(2)(3)**

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied by [2017 anaw 2 Sch. 3 para. 18\(5\)](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 1(6A) inserted by [2003 c. 44 Sch. 36 para. 8\(5\)](#)
- s. 1(6A) words substituted by [2015 c. 2 Sch. 11 para. 3\(4\)](#) (Effect not applied as (6A) was only inserted prospectively.)
- s. 1(7A) inserted by [2003 c. 44 Sch. 36 para. 8\(6\)](#)
- s. 12(2A) inserted by [2022 c. 35 s. 4\(3\)](#)
- s. 12(5A)-(5F) inserted by [2022 c. 35 s. 4\(6\)](#)
- s. 17A(1A) inserted by [2022 c. 35 Sch. 2 para. 6\(2\)\(b\)](#)
- s. 17B(1A)-(1F) substituted for s. 17B(1) by [2022 c. 35 s. 9\(2\)\(b\)](#)
- s. 17B(5) inserted by [2022 c. 35 s. 9\(2\)\(d\)](#)
- s. 17BA inserted by [2022 c. 35 s. 7](#)
- s. 17ZA-17ZC inserted by [2022 c. 35 s. 6\(2\)](#)
- s. 18(1)-(1B) substituted for s. 18(1) by [2022 c. 35 Sch. 2 para. 6\(7\)\(a\)](#)
- s. 18(4A)(4B) inserted by [2022 c. 35 Sch. 2 para. 6\(7\)\(b\)](#)
- s. 18(6) inserted by [2022 c. 35 Sch. 2 para. 6\(7\)\(c\)](#)
- s. 20(7A)(7B) inserted by [2022 c. 35 Sch. 2 para. 6\(8\)\(c\)](#)
- s. 22(2A)-(2E) inserted by [2022 c. 35 Sch. 2 para. 6\(9\)\(a\)](#)
- s. 22A(1A)-(1E) inserted by [2022 c. 35 s. 6\(3\)\(b\)](#)
- s. 23(1A)-(1G) substituted for s. 23(1) by [2022 c. 35 s. 9\(4\)\(b\)](#)
- s. 23(4A)(4B) inserted by [2022 c. 35 s. 9\(4\)\(d\)](#)
- s. 24A(1A) inserted by [2022 c. 35 Sch. 2 para. 6\(11\)\(b\)](#)
- s. 24BA inserted by [2022 c. 35 s. 9\(5\)](#)
- s. 24ZA24ZB inserted by [2022 c. 35 s. 8](#)
- s. 75A inserted by [2013 c. 22 s. 26\(1\)](#)
- s. 85(5) inserted by [2013 c. 22 s. 26\(4\)](#)
- s. 139A inserted by [2013 c. 22 s. 26\(6\)](#)
- s. 145(1A) inserted by [2010 c. 26 Sch. 3 para. 8\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 3 Pt. 2 repealed (4.9.2013) without ever being in force by [2013 c. 22](#), s. 17(4) ; S.I. 2013/2200 art. 2(a))
- s. 145(1A) repealed by [2010 c. 26 Sch. 4 Pt. 2](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 4 Pt. 2 repealed (4.9.2013) without ever being in force by [2013 c. 22](#), s. 17(4) ; S.I. 2013/2200 art. 2(a))
- Sch. 6A (entry) by [2000 c. 43 Sch. 7 para. 69](#)