

SCHEDULES

SCHEDULE 3

Section 17.

APPLICATION OF MAGISTRATES' COURTS ACT 1980 TO CIVIL CONTEMPT PROCEEDINGS UNDER SECTION 63(3)

- 1 (1) Where the proceedings are taken of the court's own motion the provisions of the Act listed in this sub-paragraph shall apply as if a complaint had been made against the person against whom the proceedings are taken, and subject to the modifications specified in sub-paragraphs (2) and (3) below. The enactments so applied are:—
- section 51 (issue of summons)
 - section 53(1) and (2) (procedure on hearing)
 - section 54 (adjournment)
 - section 55 (non-appearance of defendant)
 - section 97(1) (summons to witness)
 - section 101 (onus of proving exceptions etc.)
 - section 121(1) and (3)(a) (constitution and place of sitting of court)
 - section 123 (defect in process).
- (2) In section 55, in subsection (1) for the words " the complainant appears but the defendant does not" there shall be substituted the words " the defendant does not appear " , and in subsection (2) the words "if the complaint has been substantiated on oath, and" shall be omitted.
- (3) In section 123, in subsections (1) and (2) the words " adduced on behalf of the prosecutor or complainant" shall be omitted.
- 2 Where the proceedings are taken by way of complaint for an order, section 127 of the Act (limitation of time) shall not apply to the complaint.
- 3 Whether the proceedings are taken of the court's own motion or by way of complaint for an order, subsection (3) of section 55 shall apply as if the following words were added at the end of the subsection : —
- “or, having been arrested under section 18 of the Domestic Proceedings and Magistrates' Courts Act 1978 in connection with the matter of the complaint, is at large after being remanded under subsection (3)(b) or (5) of that section.”.