

## SCHEDULES

### SCHEDULE 1

#### COMMITTAL PROCEEDINGS

#### PART II

#### OTHER PROVISIONS

##### *Criminal Law Amendment Act 1867*

- 14 Sections 6 and 7 of the Criminal Law Amendment Act 1867 (statements taken under section 105 of the Magistrates' Courts Act 1980) shall be omitted.

##### *Bankers' Books Evidence Act 1879*

- 15 The following shall be inserted at the end of section 4 of the Bankers' Books Evidence Act 1879—

“Where the proceedings concerned are proceedings before a magistrates' court inquiring into an offence as examining justices, this section shall have effect with the omission of the words “orally or”.”

- 16 The following shall be inserted at the end of section 5 of the Bankers' Books Evidence Act 1879—

“Where the proceedings concerned are proceedings before a magistrates' court inquiring into an offence as examining justices, this section shall have effect with the omission of the words “either orally or”.”

##### *Administration of Justice (Miscellaneous Provisions) Act 1933*

- 17 In section 2 of the Administration of Justice (Miscellaneous Provisions) Act 1933 (procedure for indictment of offenders) in proviso (i) to subsection (2) for the words “in any examination or deposition taken before a justice in his presence” there shall be substituted “to the magistrates' court inquiring into that offence as examining justices”.

##### *Criminal Justice Act 1948*

- 18 In section 41 of the Criminal Justice Act 1948 (evidence by certificate) the following subsection shall be inserted after subsection (5)—

“(5A) Where the proceedings mentioned in subsection (1) above are proceedings before a magistrates' court inquiring into an offence as examining justices this section shall have effect with the omission of—

- (a) subsection (4), and

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- (b) in subsection (5), paragraph (b) and the word “or” immediately preceding it.”

*Theft Act 1968*

- 19 In section 27 of the Theft Act 1968 (evidence on charge of theft or handling stolen goods) the following subsection shall be inserted after subsection (4)—

“(4A) Where the proceedings mentioned in subsection (4) above are proceedings before a magistrates' court inquiring into an offence as examining justices that subsection shall have effect with the omission of the words from “subject to the following conditions” to the end of the subsection.”

- 20 In section 28 of the Theft Act 1968 (orders for restitution) in subsection (4) for the words from “the depositions” to the end of the subsection there shall be substituted “and such written statements, depositions and other documents as were tendered by or on behalf of the prosecutor at any committal proceedings”.

*Children and Young Persons Act 1969*

- 21 In Schedule 5 to the Children and Young Persons Act 1969, in paragraph 55 for the words “section 102” there shall be substituted “section 5B”.

*Criminal Justice Act 1972*

- 22 (1) Section 46 of the Criminal Justice Act 1972 (written statements made outside England and Wales) shall be amended as follows.

- (2) In subsection (1) the following words shall be omitted—

- (a) “Section 102 of the Magistrates' Courts Act 1980 and”;
- (b) “which respectively allow”;
- (c) “committal proceedings and in other”;
- (d) “and section 106 of the said Act of 1980”;
- (e) “which punish the making of”;
- (f) “102 or”;
- (g) “, as the case may be”.

- (3) The following subsections shall be inserted after subsection (1)—

“(1A) The following provisions, namely—

- (a) so much of section 5A of the Magistrates' Courts Act 1980 as relates to written statements and to documents or other exhibits referred to in them,
- (b) section 5B of that Act, and
- (c) section 106 of that Act,

shall apply where written statements are made in Scotland or Northern Ireland as well as where written statements are made in England and Wales.

(1B) The following provisions, namely—

- (a) so much of section 5A of the Magistrates' Courts Act 1980 as relates to written statements and to documents or other exhibits referred to in them, and
- (b) section 5B of that Act,

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shall (subject to subsection (1C) below) apply where written statements are made outside the United Kingdom.

(1C) Where written statements are made outside the United Kingdom—

- (a) section 5B of the Magistrates' Courts Act 1980 shall apply with the omission of subsections (2)(b) and (3A);
- (b) paragraph 1 of Schedule 2 to the Criminal Procedure and Investigations Act 1996 (use of written statements at trial) shall not apply.”

(4) Subsection (2) shall be omitted.

*Sexual Offences (Amendment) Act 1976*

23 (1) Section 3 of the Sexual Offences (Amendment) Act 1976 (application of restrictions on evidence at certain trials to committal proceedings etc.) shall be amended as follows.

(2) The following subsection shall be substituted for subsection (1)—

“(1) Where a magistrates' court inquires into a rape offence as examining justices, then, except with the consent of the court, no restricted matter shall be raised; and for this purpose a restricted matter is a matter as regards which evidence could not be adduced and a question could not be asked without leave in pursuance of section 2 of this Act if—

- (a) the inquiry were a trial at which a person is charged as mentioned in section 2(1) of this Act, and
- (b) each of the accused at the inquiry were charged at the trial with the offence or offences of which he is accused at the inquiry.”

(3) In subsection (2) for the words “evidence or question” (in each place) there shall be substituted “matter”.

*Police and Criminal Evidence Act 1984*

24 The following shall be inserted at the end of section 71 of the Police and Criminal Evidence Act 1984 (microfilm copies)—

“Where the proceedings concerned are proceedings before a magistrates' court inquiring into an offence as examining justices this section shall have effect with the omission of the words “authenticated in such manner as the court may approve.””

25 In section 76 of the Police and Criminal Evidence Act 1984 (confessions) the following subsection shall be inserted after subsection (8)—

“(9) Where the proceedings mentioned in subsection (1) above are proceedings before a magistrates' court inquiring into an offence as examining justices this section shall have effect with the omission of—

- (a) in subsection (1) the words “and is not excluded by the court in pursuance of this section”, and
- (b) subsections (2) to (6) and (8).”

26 In section 78 of the Police and Criminal Evidence Act 1984 (exclusion of unfair evidence) the following subsection shall be inserted after subsection (2)—

“(3) This section shall not apply in the case of proceedings before a magistrates' court inquiring into an offence as examining justices.”

- 27 In Schedule 3 to the Police and Criminal Evidence Act 1984 (computer records) at the end of paragraph 9 there shall be inserted the words “; but the preceding provisions of this paragraph shall not apply where the court is a magistrates' court inquiring into an offence as examining justices.”

*Criminal Justice Act 1988*

- 28 In section 23 of the Criminal Justice Act 1988 (first-hand hearsay) the following subsection shall be inserted after subsection (4)—

“(5) This section shall not apply to proceedings before a magistrates' court inquiring into an offence as examining justices.”

- 29 In section 24 of the Criminal Justice Act 1988 (business etc. documents) the following subsection shall be inserted after subsection (4)—

“(5) This section shall not apply to proceedings before a magistrates' court inquiring into an offence as examining justices.”

- 30 The following shall be inserted at the end of section 26 of the Criminal Justice Act 1988 (statements in certain documents)—

“This section shall not apply to proceedings before a magistrates' court inquiring into an offence as examining justices.”

- 31 The following shall be inserted at the end of section 27 of the Criminal Justice Act 1988 (proof of statements contained in documents)—

“This section shall not apply to proceedings before a magistrates' court inquiring into an offence as examining justices.”

- 32 In section 30 of the Criminal Justice Act 1988 (expert reports) the following subsection shall be inserted after subsection (4)—

“(4A) Where the proceedings mentioned in subsection (1) above are proceedings before a magistrates' court inquiring into an offence as examining justices this section shall have effect with the omission of—

- (a) in subsection (1) the words “whether or not the person making it attends to give oral evidence in those proceedings”, and
- (b) subsections (2) to (4).”

- 33 In section 32A(10) of the Criminal Justice Act 1988 (video recordings) the words “notwithstanding that the child witness is not called at the committal proceedings” shall be omitted.

- 34 In section 40 of the Criminal Justice Act 1988 (power to join in indictment count for common assault etc.) in subsection (1) for the words from “in an examination” to the end of the subsection there shall be substituted “to a magistrates' court inquiring into the offence as examining justices”.

*Road Traffic Offenders Act 1988*

35 In section 11 of the Road Traffic Offenders Act 1988 (evidence by certificate as to driver, user or owner) the following subsection shall be inserted after subsection (3)

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“(3A) Where the proceedings mentioned in subsection (1) above are proceedings before a magistrates' court inquiring into an offence as examining justices this section shall have effect with the omission of—

- (a) subsection (2), and
- (b) in subsection (3), paragraph (b) and the word “or” immediately preceding it.”

36 In section 13 of the Road Traffic Offenders Act 1988 (admissibility of records as evidence) the following subsection shall be inserted after subsection (6)—

“(7) Where the proceedings mentioned in subsection (2) above are proceedings before a magistrates' court inquiring into an offence as examining justices this section shall have effect as if—

- (a) in subsection (2) the words “to the same extent as oral evidence of that fact is admissible in those proceedings” were omitted;
- (b) in subsection (4) the word “and” were inserted at the end of paragraph (a);
- (c) in subsection (4), paragraphs (c) and (d) and the words “as if the accused had appeared and admitted it” were omitted.”

37 In section 16 of the Road Traffic Offenders Act 1988 (specimens) the following subsection shall be inserted after subsection (6)—

“(6A) Where the proceedings mentioned in section 15(1) of this Act are proceedings before a magistrates' court inquiring into an offence as examining justices this section shall have effect with the omission of subsection (4).”

38 In section 20 of the Road Traffic Offenders Act 1988 (speeding etc.) the following subsection shall be inserted after subsection (8)—

“(8A) Where the proceedings for an offence to which this section applies are proceedings before a magistrates' court inquiring into an offence as examining justices this section shall have effect as if in subsection (8) the words from “and nothing” to the end of the subsection were omitted.”