

COURTS ACT 2003

EXPLANATORY NOTES

BACKGROUND

Criminal jurisdiction and procedure

95. Sections 1 and 2 of the MCA 1980 are the basic jurisdictional provisions for criminal cases. The two essential propositions are that justices have jurisdiction to issue summonses and warrants in respect of offences committed in their commission area and offences committed by people who live in their commission area (section 1), and that they have jurisdiction to try offences committed in their commission area (section 2). These provisions are altered to reflect the fact that under the Act lay magistrates will have national jurisdiction. The result of this will be that any justice will have jurisdiction to issue a summons or warrant, and any magistrates' court will have jurisdiction to try offences, regardless of where the offence was committed.

Transfer of criminal proceedings

96. Section 3B of the MCA 1980 (inserted by the AJA 1999) enables either the prosecution or the defence to apply to have a summary case transferred to a magistrates' court in another commission area (although this has not yet been brought into operation). This Act goes further and allows the court, either on the application of one of the parties or at its own volition, to transfer a criminal case at any stage in the proceedings.

Civil jurisdiction and procedure

97. Section 52 of the MCA 1980 limits the jurisdiction of justices to deal with civil complaints to anything done (or neglected to be done) within the commission area for which the justice acts. This Act amends this provision to reflect lay magistrates being given a national jurisdiction.

Transfer of civil proceedings (other than family proceedings)

98. There are presently no provisions that allow the transfer of civil proceedings from one magistrates' court to another. This Act introduces such provisions to match the new arrangements for criminal cases. There are already detailed provisions allowing the transfer of family proceedings between magistrates' courts and also to the county courts and the High Court. This Act makes no changes to these provisions.

Rulings at pre-trial hearings

99. These provisions allow for binding rulings to be made at pre-trial hearings in criminal cases that are to be heard in the magistrates' courts. The power will be available following a not guilty plea up to the commencement of the trial and extends to issues of law and admissibility of evidence.
100. Currently, a number of different pre-trial hearings may take place in the Crown Court and magistrates' courts. In the Crown Court the Criminal Procedure and Investigations

*These notes refer to the Courts Act 2003 (c.39)
which received Royal Assent on 20 November 2003*

Act 1996 (CPIA 1996), sections 39-43, provide for binding rulings on matters of law and admissibility of evidence.

101. The magistrates' courts have a number of their own pre-trial hearings under current arrangements. Where a guilty plea is anticipated, an Early First Hearing is scheduled. Early Administrative Hearings handle non-guilty pleas. In cases where the defendant is charged with an offence triable either way, magistrates hearing the case under 'initial procedure' will take a plea before determining venue. Following a not-guilty indication, magistrates may then determine mode of trial (section 17A MCA 1980). Where a case is to be tried summarily, a date for a pre-trial review is set, wherever it is deemed necessary. Pre-trial reviews are intended to assist the court in assessing the parties' readiness for trial. However, practices do differ across the country. Magistrates sitting at pre-trial hearings may make directions or recommendations as to appropriate preparation or conduct of the case. Such a direction may be noted on the court log, but would not bind any future magistrates hearing the case, although the next bench might take the direction into account in making any decision.
102. The proposed power is intended to assist in ensuring more efficient preparation of cases for trial in the magistrates' courts, as recommended by the Auld Review. It will bring the powers of lay magistrates and judges in pre-trial hearings heard in the magistrates' courts into line with those of the Crown Court. This is consistent with closer integration of the criminal courts.

Family proceedings courts and youth courts

103. Family proceedings and criminal cases with youth defendants are specialist jurisdictions, for which a magistrate must have a particular authorisation. The current authorisation system depends on local "panels", membership of which is based on commission areas, and which are elected in most areas of the country. The Act provides for a personal authorisation system to replace panel membership, and a rule-making power allowing the Lord Chancellor to propose consistent national rules as to how authorisation will work. This is consistent with the abolition of commission areas, and the extension of a national jurisdiction to magistrates.