



# Criminal Justice and Immigration Act 2008

## 2008 CHAPTER 4

### PART 4

#### OTHER CRIMINAL JUSTICE PROVISIONS

##### *Proceedings in magistrates' courts*

#### **54 Trial or sentencing in absence of accused in magistrates' courts**

- (1) Section 11 of the Magistrates' Courts Act 1980 (non-appearance of accused) is amended as follows.
- (2) In subsection (1), for “the court may proceed in his absence” substitute “—
- (a) if the accused is under 18 years of age, the court may proceed in his absence; and
  - (b) if the accused has attained the age of 18 years, the court shall proceed in his absence unless it appears to the court to be contrary to the interests of justice to do so.

This is subject to subsections (2), (2A), (3) and (4). ”

- (3) After subsection (2) insert—

“(2A) The court shall not proceed in the absence of the accused if it considers that there is an acceptable reason for his failure to appear.”

- (4) In each of subsections (3) and (4), for “A magistrates' court” substitute “ In proceedings to which this subsection applies, the court. ”

- (5) After subsection (3) insert—

“(3A) But where a sentence or order of a kind mentioned in subsection (3) is imposed or given in the absence of the offender, the offender must be brought before

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*Changes to legislation: Criminal Justice and Immigration Act 2008, Section 54 is up to date with all changes known to be in force on or before 24 February 2019. 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)*

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the court before being taken to a prison or other institution to begin serving his sentence (and the sentence or order is not to be regarded as taking effect until he is brought before the court).”

(6) After subsection (4) insert—

“(5) Subsections (3) and (4) apply to—

- (a) proceedings instituted by an information, where a summons has been issued; and
- (b) proceedings instituted by a written charge.

(6) Nothing in this section requires the court to enquire into the reasons for the accused's failure to appear before deciding whether to proceed in his absence.

(7) The court shall state in open court its reasons for not proceeding under this section in the absence of an accused who has attained the age of 18 years; and the court shall cause those reasons to be entered in its register of proceedings.”

(7) Section 13(5) of that Act (non-appearance of accused: issue of warrant) ceases to have effect.

**Annotations:**

**Commencement Information**

**II** [S. 54](#) in force at 14.7.2008 by [S.I. 2008/1586](#), art. 2(1), [Sch. 1 para. 28](#)

**Changes to legislation:**

Criminal Justice and Immigration Act 2008, Section 54 is up to date with all changes known to be in force on or before 24 February 2019. 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.

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

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

- Sch. 7 para. 5A and cross-heading inserted by [2008 c. 25 Sch. 1 para. 90\(3\)](#)