



# Magistrates' Courts Act 1980

## 1980 CHAPTER 43

### PART I

#### CRIMINAL JURISDICTION AND PROCEDURE

##### *Jurisdiction to issue process and deal with charges*

#### **1 Issue of summons to accused or warrant for his arrest**

- (1) Upon an information being laid before a justice of the peace for an area to which this section applies that any person has, or is suspected of having, committed an offence, the justice may, in any of the events mentioned in subsection (2) below, but subject to subsections (3) to (5) below.—
- (a) issue a summons directed to that person requiring him to appear before a magistrates' court for the area to answer to the information, or
  - (b) issue a warrant to arrest that person and bring him before a magistrates' court for the area or such magistrates' court as is provided in subsection (5) below.
- (2) A justice of the peace for an area to which this section applies may issue a summons or warrant under this section—
- (a) if the offence was committed or is suspected to have been committed within the area, or
  - (b) if it appears to the justice necessary or expedient, with a view to the better administration of justice, that the person charged should be tried, jointly with, or in the same place as, some other person who is charged with an offence, and who is in custody, or is being or is to be proceeded against, within the area, or
  - (c) if the person charged resides or is, or is believed to reside or be, within the area, or
  - (d) if under any enactment a magistrates' court for the area has jurisdiction to try the offence, or
  - (e) if the offence was committed outside England and Wales and, where it is an offence exclusively punishable on summary conviction, if a magistrates' court

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for the area would have jurisdiction to try the offence if the offender were before it.

- (3) No warrant shall be issued under this section unless the information is in writing and substantiated on oath.
- (4) No warrant shall be issued under this section for the arrest of any person who has attained the age of 17 unless—
  - (a) the offence to which the warrant relates is an indictable offence or is punishable with imprisonment, or
  - (b) the person's address is not sufficiently established for a summons to be served on him.
- (5) Where the offence charged is not an indictable offence—
  - (a) no summons shall be issued by virtue only of paragraph (c) of subsection (2) above, and
  - (b) any warrant issued by virtue only of that paragraph shall require the person charged to be brought before a magistrates' court having jurisdiction to try the offence.
- (6) Where the offence charged is an indictable offence, a warrant under this section may be issued at any time notwithstanding that a summons has previously been issued.
- (7) A justice of the peace may issue a summons or warrant under this section upon an information being laid before him notwithstanding any enactment requiring the information to be laid before two or more justices.
- (8) The areas to which this section applies are any county, any London commission area and the City of London.

## **2 Jurisdiction to deal with charges**

- (1) A magistrates' court for a county, a London commission area or the City of London shall have jurisdiction to try all summary offences committed within the county, the London commission area or the City (as the case may be).
- (2) Where a person charged with a summary offence appears or is brought before a magistrates' court in answer to a summons issued under paragraph (b) of section 1(2) above, or under a warrant issued under that paragraph, the court shall have jurisdiction to try the offence.
- (3) A magistrates' court for a county, a London commission area or the City of London shall have jurisdiction as examining justices over any offence committed by a person who appears or is brought before the court, whether or not the offence was committed within the county, the London commission area or the City (as the case may be).
- (4) Subject to sections 18 to 22 below and any other enactment (wherever contained) relating to the mode of trial of offences triable either way, a magistrates' court shall have jurisdiction to try summarily an offence triable either way in any case in which under subsection (3) above it would have jurisdiction as examining justices.
- (5) A magistrates' court shall, in the exercise of its powers under section 24 below, have jurisdiction to try summarily an indictable offence in any case in which under subsection (3) above it would have jurisdiction as examining justices.

- (6) A magistrates' court for any area by which a person is tried for an offence shall have jurisdiction to try him for any summary offence for which he could be tried by a magistrates' court for any other area.
- (7) Nothing in this section shall affect any jurisdiction over offences conferred on a magistrates' court by any enactment not contained in this Act.

### **3 Offences committed on boundaries, etc.**

- (1) Where an offence has been committed on the boundary between two or more areas to which this section applies, or within 500 yards of such a boundary, or in any harbour, river, arm of the sea or other water lying between two or more such areas, the offence may be treated for the purposes of the preceding provisions of this Act as having been committed in any of those areas.
- (2) An offence begun in one area to which this section applies and completed in another may be treated for the purposes of the preceding provisions of this Act as having been wholly committed in either.
- (3) Where an offence has been committed on any person, or on or in respect of any property, in or on a vehicle or vessel engaged on any journey or voyage through two or more areas to which this section applies, the offence may be treated for the purposes of the preceding provisions of this Act as having been committed in any of those areas; and where the side or any part of a road or any water along which the vehicle or vessel passed in the course of the journey or voyage forms the boundary between two or more areas to which this section applies, the offence may be treated for the purposes of the preceding provisions of this Act as having been committed in any of those areas.
- (4) The areas to which this section applies are any county, any London commission area and the City of London.

#### *Committal proceedings*

### **4 General nature of committal proceedings**

- (1) The functions of examining justices may be discharged by a single justice.
- (2) Examining justices shall sit in open court except where any enactment contains an express provision to the contrary and except where it appears to them as respects the whole or any part of committal proceedings that the ends of justice would not be served by their sitting in open court.
- (3) Subject to subsection (4) below and section 102 below, evidence given before examining justices shall be given in the presence of the accused, and the defence shall be at liberty to put questions to any witness at the inquiry.
- (4) Examining justices may allow evidence to be given before them in the absence of the accused if—
  - (a) they consider that by reason of his disorderly conduct before them it is not practicable for the evidence to be given in his presence, or
  - (b) he cannot be present for reasons of health but is represented by counsel or a solicitor and has consented to the evidence being given in his absence.

## **5 Adjournment of inquiry**

- (1) A magistrates' court may, before beginning to inquire into an offence as examining justices, or at any time during the inquiry, adjourn the hearing, and if it does so shall remand the accused.
- (2) The court shall when adjourning fix the time and place at which the hearing is to be resumed ; and the time fixed shall be that at which the accused is required to appear or be brought before the court in pursuance of the remand.

## **6 Discharge or committal for trial**

- (1) Subject to the provisions of this and any other Act relating to the summary trial of indictable offences, if a magistrates' court inquiring into an offence as examining justices is of opinion, on consideration of the evidence and of any statement of the accused, that there is sufficient evidence to put the accused on trial by jury for any indictable offence, the court shall commit him for trial; and, if it is not of that opinion, it shall, if he is in custody for no other cause than the offence under inquiry, discharge him.
- (2) A magistrates' court inquiring into an offence as examining justices may, if satisfied that all the evidence before the court (whether for the prosecution or the defence) consists of written statements tendered to the court under section 102 below, with or without exhibits, commit the accused for trial for the offence without consideration of the contents of those statements, unless—
  - (a) the accused or one of the accused is not represented by counsel or a solicitor;
  - (b) counsel or a solicitor for the accused or one of the accused, as the case may be, has requested the court to consider a submission that the statements disclose insufficient evidence to put that accused on trial by jury for the offence ;
 and subsection (1) above shall not apply to a committal for trial under this subsection.
- (3) Subject to section 4 of the Bail Act 1976 and section 41 below, the court may commit a person for trial—
  - (a) in custody, that is to say, by committing him to custody there to be safely kept until delivered in due course of law, or
  - (b) on bail in accordance with the Bail Act 1976, that is to say, by directing him to appear before the Crown Court for trial;
 and where his release on bail is conditional on his providing one or more surety or sureties and, in accordance with section 8(3) of the Bail Act 1976, the court fixes the amount in which the surety is to be bound with a view to his entering into his recognizance subsequently in accordance with subsections (4) and (5) or (6) of that section the court shall in the meantime commit the accused to custody in accordance with paragraph (a) of this subsection.
- (4) Where the court has committed a person to custody in accordance with paragraph (a) of subsection (3) above, then, if that person is in custody for no other cause, the court may, at any time before his first appearance before the Crown Court, grant him bail in accordance with the Bail Act 1976 subject to a duty to appear before the Crown Court for trial.
- (5) Where a magistrates' court acting as examining justices commits any person for trial or determines to discharge him, the clerk of the court shall, on the day on which the

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committal proceedings are concluded or the next day, cause to be displayed in a part of the court house to which the public have access a notice—

- (a) in either case giving that person's name, address, and age (if known);
- (b) in a case where the court so commits him, stating the charge or charges on which he is committed and the court to which he is committed;
- (c) in a case where the court determines to discharge him, describing the offence charged and stating that it has so determined;

but this subsection shall have effect subject to sections 4 and 6 of the Sexual Offences (Amendment) Act 1976 (anonymity of complainant and accused in rape etc. cases).

- (6) A notice displayed in pursuance of subsection (5) above shall not contain the name or address of any person under the age of 17 unless the justices in question have stated that in their opinion he would be mentioned in the notice apart from the preceding provisions of this subsection and should be mentioned in it for the purpose of avoiding injustice to him.

## **7 Place of trial on indictment**

A magistrates' court committing a person for trial shall specify the place at which he is to be tried, and in selecting that place shall have regard to—

- (a) the convenience of the defence, the prosecution and the witnesses,
- (b) the expediting of the trial, and
- (c) any direction given by or on behalf of the Lord Chief Justice with the concurrence of the Lord Chancellor under section 4(5) of the Courts Act 1971.

## **8 Restrictions on reports of committal proceedings**

- (1) Except as provided by subsections (2), (3) and (8) below, it shall not be lawful to publish in Great Britain a written report, or to broadcast in Great Britain a report, of any committal proceedings in England and Wales containing any matter other than that permitted by subsection (4) below.
- (2) A magistrates' court shall, on an application for the purpose made with reference to any committal proceedings by the accused or one of the accused, as the case may be, order that subsection (1) above shall not apply to reports of those proceedings.
- (3) It shall not be unlawful under this section to publish or broadcast a report of committal proceedings containing any matter other than that permitted by subsection (4) below—
  - (a) where the magistrates' court determines not to commit the accused, or determines to commit none of the accused, for trial, after it so determines ;
  - (b) where the court commits the accused or any of the accused for trial, after the conclusion of his trial or, as the case may be, the trial of the last to be tried;and where at any time during the inquiry the court proceeds to try summarily the case of one or more of the accused under section 25(3) or (7) below, while committing the other accused or one or more of the other accused for trial, it shall not be unlawful under this section to publish or broadcast as part of a report of the summary trial, after the court determines to proceed as aforesaid, a report of so much of the committal proceedings containing any such matter as takes place before the determination.
- (4) The following matters may be contained in a report of committal proceedings published or broadcast without an order under subsection (2) above before the time authorised by subsection (3) above, that is to say—

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- (a) the identity of the court and the names of the examining justices;
  - (b) the names, addresses and occupations of the parties and witnesses and the ages of the accused and witnesses;
  - (c) the offence or offences, or a summary of them, with which the accused is or are charged ;
  - (d) the names of counsel and solicitors engaged in the proceedings ;
  - (e) any decision of the court to commit the accused or any of the accused for trial, and any decision of the court on the disposal of the case of any accused not committed ;
  - (f) where the court commits the accused or any of the accused for trial, the charge or charges, or a summary of them, on which he is committed and the court to which he is committed ;
  - (g) where the committal proceedings are adjourned, the date and place to which they are adjourned;
  - (h) any arrangements as to bail on committal or adjournment ;
  - (i) whether legal aid was granted to the accused or any of the accused.
- (5) If a report is published or broadcast in contravention of this section, the following persons, that is to say—
- (a) in the case of a publication of a written report as part of a newspaper or periodical, any proprietor, editor or publisher of the newspaper or periodical;
  - (b) in the case of a publication of a written report otherwise than as part of a newspaper or periodical, the person who publishes it;
  - (c) in the case of a broadcast of a report, any body corporate which transmits or provides the programme in which the report is broadcast and any person having functions in relation to the programme corresponding to those of the editor of a newspaper or periodical,
- shall be liable on summary conviction to a fine not exceeding £500.
- (6) Proceedings for an offence under this section shall not, in England and Wales, be instituted otherwise than by or with the consent of the Attorney-General.
- (7) Subsection (1) above shall be in addition to, and not in derogation from, the provisions of any other enactment with respect to the publication of reports and proceedings of magistrates' and other courts.
- (8) For the purposes of this section committal proceedings shall, in relation to an information charging an indictable offence, be deemed to include any proceedings in the magistrates' court before the court proceeds to inquire into the information as examining justices; but where a magistrates' court which has begun to try an information summarily discontinues the summary trial in pursuance of section 25(2) or (6) below and proceeds to inquire into the information as examining justices, that circumstance shall not make it unlawful under this section for a report of any proceedings on the information which was published or broadcast before the court determined to proceed as aforesaid to have been so published or broadcast.
- (9) Any report in a newspaper, and any broadcast report, of committal proceedings in a case where publication is permitted by virtue only of subsection (3) above, published as soon as practicable after it is so permitted, shall be treated for the purposes of section 3 of the Law of Libel Amendment Act 1888 (privilege of contemporaneous newspaper reports of court proceedings) and section 9(2) of the Defamation Act 1952

(extension of the said section 3 to broadcasting) as having been published or broadcast contemporaneously with the committal proceedings.

(10) In this section—

"broadcast" means broadcast by wireless telegraphy sounds or visual images intended for general reception ;

"publish", in relation to a report, means publish the report, either by itself or as part of a newspaper or periodical, for distribution to the public.

### *Summary trial of information*

## **9 Procedure on trial**

- (1) On the summary trial of an information, the court shall, if the accused appears, state to him the substance of the information and ask him whether he pleads guilty or not guilty.
- (2) The court, after hearing the evidence and the parties, shall convict the accused or dismiss the information.
- (3) If the accused pleads guilty, the court may convict him without hearing evidence.

## **10 Adjournment of trial**

- (1) A magistrates' court may at any time, whether before or after beginning to try an information, adjourn the trial, and may do so, notwithstanding anything in this Act, when composed of a single justice.
- (2) The court may when adjourning either fix the time and place at which the trial is to be resumed, or, unless it remands the accused, leave the time and place to be determined later by the court; but the trial shall not be resumed at that time and place unless the court is satisfied that the parties have had adequate notice thereof.
- (3) A magistrates' court may, for the purpose of enabling inquiries to be made or of determining the most suitable method of dealing with the case, exercise its power to adjourn after convicting the accused and before sentencing him or otherwise dealing with him ; but, if it does so, the adjournment shall not be for more than 4 weeks at a time unless the court remands the accused in custody and, where it so remands him, the adjournment shall not be for more than 3 weeks at a time.
- (4) On adjourning the trial of an information the court may remand the accused and, where the accused has attained the age of 17, shall do so if the offence is triable either way and—
  - (a) on the occasion on which the accused first appeared, or was brought, before the court to answer to the information he was in custody or, having been released on bail, surrendered to the custody of the court; or
  - (b) the accused has been remanded at any time in the course of proceedings on the information ;

and, where the court remands the accused, the time fixed for the resumption of the trial shall be that at which he is required to appear or be brought before the court in pursuance of the remand.

## **11 Non-appearance of accused: general provisions**

- (1) Subject to the provisions of this Act, where at the time and place appointed for the trial or adjourned trial of an information the prosecutor appears but the accused does not, the court may proceed in his absence.
- (2) Where a summons has been issued, the court shall not begin to try the information in the absence of the accused unless either it is proved to the satisfaction of the court, on oath or in such other manner as may be prescribed, that the summons was served on the accused within what appears to the court to be a reasonable time before the trial or adjourned trial or the accused has appeared on a previous occasion to answer to the information.
- (3) A magistrates' court shall not in a person's absence sentence him to imprisonment or detention in a detention centre or make an order under section 23 of the Powers of Criminal Courts Act 1973 that a suspended sentence passed on him shall take effect.
- (4) A magistrates' court shall not in a person's absence impose any disqualification on him, except on resumption of the hearing after an adjournment under section 10(3) above; and where a trial is adjourned in pursuance of this subsection the notice required by section 10(2) above shall include notice of the reason for the adjournment.

## **12 Non-appearance of accused: plea of guilty**

- (1) Subject to subsection (7) below, this section shall apply where a summons has been issued requiring a person to appear before a magistrates' court, other than a juvenile court, to answer to an information for a summary offence, not being an offence for which the accused is liable to be sentenced to be imprisoned for a term exceeding 3 months, and the clerk of the court is notified by or on behalf of the prosecutor that the following documents have been served upon the accused with the summons, that is to say—
  - (a) a notice containing such statement of the effect of this section as may be prescribed; and
  - (b) a concise statement in the prescribed form of such facts relating to the charge as will be placed before the court by or on behalf of the prosecutor if the accused pleads guilty without appearing before the court.
- (2) Subject to subsections (3) to (5) below, where the clerk of the court receives a notification in writing purporting to be given by the accused or by a solicitor acting on his behalf that the accused desires to plead guilty without appearing before the court, the clerk of the court shall inform the prosecutor of the receipt of the notification and if at the time and place appointed for the trial or adjourned trial of the information the accused does not appear and it is proved to the satisfaction of the court, on oath or in such other manner as may be prescribed, that the notice and statement of facts referred to in subsection (1) above have been served upon the accused with the summons, then—
  - (a) subject to section 11(3) and (4) above, the court may proceed to hear and dispose of the case in the absence of the accused, whether or not the prosecutor is also absent, in like manner as if both parties had appeared and the accused had pleaded guilty; or
  - (b) if the court decides not to proceed as aforesaid, the court shall adjourn or further adjourn the trial for the purpose of dealing with the information as if the notification aforesaid had not been given.



- (3) If at any time before the hearing the clerk of the court receives an intimation in writing purporting to be given by or on behalf of the accused that he wishes to withdraw the notification aforesaid, the clerk of the court shall inform the prosecutor thereof and the court shall deal with the information as if this section had not been passed.
- (4) Before accepting the plea of guilty and convicting the accused in his absence under subsection (2) above, the court shall cause the notification and statement of facts aforesaid, including any submission received with the notification which the accused wishes to be brought to the attention of the court with a view to mitigation of sentence, to be read out before the court.
- (5) If the court proceeds under subsection (2) above to hear and dispose of the case in the absence of the accused, the court shall not permit any statement to be made by or on behalf of the prosecutor with respect to any facts relating to the offence charged other than the statement of facts aforesaid except on a resumption of the trial after an adjournment under section 10(3) above.
- (6) In relation to an adjournment by reason of the requirements of paragraph (b) of subsection (2) above or to an adjournment on the occasion of the accused's conviction in his absence under that subsection, the notice required by section 10(2) above shall include notice of the reason for the adjournment.
- (7) The Secretary of State may by order made by statutory instrument provide that this section shall not apply in relation to such offences (in addition to an offence for which the accused is liable to be sentenced to be imprisoned for a term exceeding 3 months) as may be specified in the order, and any order under this subsection—
  - (a) may vary or revoke any previous order thereunder; and
  - (b) shall not be made unless a draft thereof has been approved by resolution of each House of Parliament.
- (8) Any such notice or statement as is mentioned in subsection (1) above may be served in Scotland with a summons which is so served under the Summary Jurisdiction (Process) Act 1881.

### **13 Non-appearance of accused: issue of warrant**

- (1) Subject to the provisions of this section, where the court, instead of proceeding in the absence of the accused, adjourns or further adjourns the trial, the court may, if the information has been substantiated on oath, issue a warrant for his arrest.
- (2) Where a summons has been issued, the court shall not issue a warrant under this section unless either it is proved to the satisfaction of the court, on oath or in such other manner as may be prescribed, that the summons was served on the accused within what appears to the court to be a reasonable time before the trial or adjourned trial or the accused has appeared on a previous occasion to answer to the information.
- (3) A warrant for the arrest of any person who has attained the age of 17 shall not be issued under this section unless—
  - (a) the offence to which the warrant relates is punishable with imprisonment; or
  - (b) the court, having convicted the accused, proposes to impose a disqualification on him.

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- (4) This section shall not apply to an adjournment by reason of the requirements of paragraph (b) of subsection (2) of section 12 above or to an adjournment on the occasion of the accused's conviction in his absence under that subsection.
- (5) Where the court adjourns the trial—
  - (a) after having, either on that or on a previous occasion, received any evidence or convicted the accused without hearing evidence on his pleading guilty under section 9(3) above; or
  - (b) after having on a previous occasion convicted the accused without hearing evidence on his pleading guilty under section 12(2) above,
 the court shall not issue a warrant under this section unless it thinks it undesirable, by reason of the gravity of the offence, to continue the trial in the absence of the accused.

#### **14 Proceedings invalid where accused did not know of them**

- (1) Where a summons has been issued under section 1 above and a magistrates' court has begun to try the information to which the summons relates, then, if—
  - (a) the accused, at any time during or after the trial, makes a statutory declaration that he did not know of the summons or the proceedings until a date specified in the declaration, being a date after the court has begun to try the information ; and
  - (b) within 21 days of that date the declaration is served on the clerk to the justices, without prejudice to the validity of the information, the summons and all subsequent proceedings shall be void.
- (2) For the purposes of subsection (1) above a statutory declaration shall be deemed to be duly served on the clerk to the justices if it is delivered to him, or left at his office, or is sent in a registered letter or by the recorded delivery service addressed to him at his office.
- (3) If on the application of the accused it appears to a magistrates' court (which for this purpose may be composed of a single justice) that it was not reasonable to expect the accused to serve such a statutory declaration as is mentioned in subsection (1) above within the period allowed by that subsection, the court may accept service of such a declaration by the accused after that period has expired; and a statutory declaration accepted under this subsection shall be deemed to have been served as required by that subsection.
- (4) Where any proceedings have become void by virtue of subsection (1) above, the information shall not be tried again by any of the same justices.

#### **15 Non-appearance of prosecutor**

- (1) Where at the time and place appointed for the trial or adjourned trial of an information the accused appears or is brought before the court and the prosecutor does not appear, the court may dismiss the information or, if evidence has been received on a previous occasion, proceed in the absence of the prosecutor.
- (2) Where, instead of dismissing the information or proceeding in the absence of the prosecutor, the court adjourns the trial, it shall not remand the accused in custody unless he has been brought from custody or cannot be remanded on bail by reason of his failure to find sureties.

## **16 Non-appearance of both parties**

Subject to section 11(3) and (4) and to section 12 above, where at the time and place appointed for the trial or adjourned trial of an information neither the prosecutor nor the accused appears, the court may dismiss the information or, if evidence has been received on a previous occasion, proceed in their absence.

*Offences triable on indictment or summarily*

## **17 Certain offences triable either way**

- (1) The offences listed in Schedule 1 to this Act shall be triable either way.
- (2) Subsection (1) above is without prejudice to any other enactment by virtue of which any offence is triable either way.

## **18 Initial procedure on information against adult for offence triable either way**

- (1) Sections 19 to 23 below shall have effect where a person who has attained the age of 17 appears or is brought before a magistrates' court on an information charging him with an offence triable either way.
- (2) Without prejudice to section 11(1) above, everything that the court is required to do under sections 19 to 22 below must be done before any evidence is called and, subject to subsection (3) below and section 23 below, with the accused present in court.
- (3) The court may proceed in the absence of the accused in accordance with such of the provisions of sections 19 to 22 below as are applicable in the circumstances if the court considers that by reason of his disorderly conduct before the court it is not practicable for the proceedings to be conducted in his presence ; and subsections (3) to (5) of section 23 below, so far as applicable, shall have effect in relation to proceedings conducted in the absence of the accused by virtue of this subsection (references in those subsections to the person representing the accused being for this purpose read as references to the person, if any, representing him).
- (4) A magistrates' court proceeding under sections 19 to 23 below may adjourn the proceedings at any time, and on doing so on any occasion when the accused is present may remand the accused, and shall remand him if—
  - (a) on the occasion on which he first appeared, or was brought, before the court to answer to the information he was in custody or, having been released on bail, surrendered to the custody of the court; or
  - (b) he has been remanded at any time in the course of proceedings on the information ;and where the court remands the accused, the time fixed for the resumption of the proceedings shall be that at which he is required to appear or be brought before the court in pursuance of the remand.
- (5) The functions of a magistrates' court under sections 19 to 23 below may be discharged by a single justice, but the foregoing provision shall not be taken to authorise the summary trial of an information by a magistrates' court composed of less than two justices.

## **19 Court to begin by considering which mode of trial appears more suitable**

- (1) The court shall consider whether, having regard to the matters mentioned in subsection (3) below and any representations made by the prosecutor or the accused, the offence appears to the court more suitable for summary trial or for trial on indictment.
- (2) Before so considering, the court—
  - (a) shall cause the charge to be written down, if this has not already been done, and read to the accused; and
  - (b) shall afford first the prosecutor and then the accused an opportunity to make representations as to which mode of trial would be more suitable.
- (3) The matters to which the court is to have regard under subsection (1) above are the nature of the case; whether the circumstances make the offence one of serious character; whether the punishment which a magistrates' court would have power to inflict for it would be adequate; and any other circumstances which appear to the court to make it more suitable for the offence to be tried in one way rather than the other.
- (4) If the prosecution is being carried on by the Attorney General, the Solicitor General or the Director of Public Prosecutions and he applies for the offence to be tried on indictment, the preceding provisions of this section and sections 20 and 21 below shall not apply, and the court shall proceed to inquire into the information as examining justices.

## **20 Procedure where summary trial appears more suitable**

- (1) If, where the court has considered as required by section 19(1) above, it appears to the court that the offence is more suitable for summary trial, the following provisions of this section shall apply (unless excluded by section 23 below).
- (2) The court shall explain to the accused in ordinary language—
  - (a) that it appears to the court more suitable for him to be tried summarily for the offence, and that he can either consent to be so tried or, if he wishes, be tried by a jury; and
  - (b) that if he is tried summarily and is convicted by the court, he may be committed for sentence to the Crown Court under section 38 below if the convicting court, on obtaining information about his character and antecedents, is of opinion that they are such that greater punishment should be inflicted than the convicting court has power to inflict for the offence.
- (3) After explaining to the accused as provided by subsection (2) above the court shall ask him whether he consents to be tried summarily or wishes to be tried by a jury, and—
  - (a) if he consents to be tried summarily, shall proceed to the summary trial of the information;
  - (b) if he does not so consent, shall proceed to inquire into the information as examining justices.

## **21 Procedure where trial on indictment appears more suitable**

If, where the court has considered as required by section 19(1) above, it appears to the court that the offence is more suitable for trial on indictment, the court shall tell the accused that the court has decided that it is more suitable for him to be tried for

the offence by a jury, and shall proceed to inquire into the information as examining justices.

## **22 Certain offences triable either way to be tried summarily if value involved is small**

- (1) If the offence charged by the information is one of those mentioned in the first column of Schedule 2 to this Act (in this section referred to as " scheduled offences ") then, subject to subsection (7) below, the court shall, before proceeding in accordance with section 19 above, consider whether, having regard to any representations made by the prosecutor or the accused, the value involved (as defined in subsection (10) below) appears to the court to exceed the relevant sum.

For the purposes of this section the relevant sum is £200.

- (2) If, where subsection (1) above applies, it appears to the court clear that, for the offence charged, the value involved does not exceed the relevant sum, the court shall proceed as if the offence were triable only summarily, and sections 19 to 21 above shall not apply.
- (3) If, where subsection (1) above applies, it appears to the court clear that, for the offence charged, the value involved exceeds the relevant sum, the court shall thereupon proceed in accordance with section 19 above in the ordinary way without further regard to the provisions of this section.
- (4) If, where subsection (1) above applies, it appears to the court for any reason not clear whether, for the offence charged, the value involved does or does not exceed the relevant sum, the provisions of subsections (5) and (6) below shall apply.
- (5) The court shall cause the charge to be written down, if this has not already been done, and read to the accused, and shall explain to him in ordinary language—
- (a) that he can, if he wishes, consent to be tried summarily for the offence and that if he consents to be so tried, he will definitely be tried in that way; and
  - (b) that if he is tried summarily and is convicted by the court, his liability to imprisonment or a fine will be limited as provided in section 33 below.
- (6) After explaining to the accused as provided by subsection (5) above the court shall ask him whether he consents to be tried summarily and—
- (a) if he so consents, shall proceed in accordance with subsection (2) above as if that subsection applied ;
  - (b) if he does not so consent, shall proceed in accordance with subsection (3) above as if that subsection applied.
- (7) Subsection (1) above shall not apply where the offence charged—
- (a) is one of two or more offences with which the accused is charged on the same occasion and which appear to the court to constitute or form part of a series of two or more offences of the same or a similar character ; or
  - (b) consists in the incitement to commit two or more scheduled offences.
- (8) Where a person is convicted by a magistrates' court of a scheduled offence, it shall not be open to him to appeal to the Crown Court against the conviction on the ground that the convicting court's decision as to the value involved was mistaken.
- (9) If, where subsection (1) above applies, the offence charged is one with which the accused is charged jointly with a person who has not attained the age of 17, the

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reference in that subsection to any representations made by the accused shall be read as including any representations made by the person under 17.

- (10) In this section "the value involved", in relation to any scheduled offence, means the value indicated in the second column of Schedule 2 to this Act, measured as indicated in the third column of that Schedule; and in that Schedule "the material time" means the time of the alleged offence.

## **23 Power of court, with consent of legally represented accused, to proceed in his absence**

- (1) Where—

- (a) the accused is represented by counsel or a solicitor who in his absence signifies to the court the accused's consent to the proceedings for determining how he is to be tried for the offence being conducted in his absence; and
- (b) the court is satisfied that there is good reason for proceeding in the absence of the accused,

the following provisions of this section shall apply.

- (2) Subject to the following provisions of this section, the court may proceed in the absence of the accused in accordance with such of the provisions of sections 19 to 22 above as are applicable in the circumstances.
- (3) If, in a case where subsection (1) of section 22 above applies, it appears to the court as mentioned in subsection (4) of that section, subsections (5) and (6) of that section shall not apply and the court—
  - (a) if the accused's consent to be tried summarily has been or is signified by the person representing him, shall proceed in accordance with subsection (2) of that section as if that subsection applied; or
  - (b) if that consent has not been and is not so signified, shall proceed in accordance with subsection (3) of that section as if that subsection applied.
- (4) If, where the court has considered as required by section 19(1) above, it appears to the court that the offence is more suitable for summary trial then—
  - (a) if the accused's consent to be tried summarily has been or is signified by the person representing him, section 20 above shall not apply, and the court shall proceed to the summary trial of the information; or
  - (b) if that consent has not been and is not so signified, section 20 above shall not apply and the court shall proceed to inquire into the information as examining justices and may adjourn the hearing without remanding the accused.
- (5) If, where the court has considered as required by section 19(1) above, it appears to the court that the offence is more suitable for trial on indictment, section 21 above shall not apply, and the court shall proceed to inquire into the information as examining justices and may adjourn the hearing without remanding the accused.

## **24 Summary trial of information against child or young person for indictable offence**

- (1) Where a person under the age of 17 appears or is brought before a magistrates' court on an information charging him with an indictable offence other than homicide, he shall be tried summarily unless—

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- (a) he has attained the age of 14 and the offence is such as is mentioned in subsection (2) of section 53 of the Children and Young Persons Act 1933 (under which young persons convicted on indictment of certain grave crimes may be sentenced to be detained for long periods) and the court considers that if he is found guilty of the offence it ought to be possible to sentence him in pursuance of that subsection; or
  - (b) he is charged jointly with a person who has attained the age of 17 and the court considers it necessary in the interests of justice to commit them both for trial;
- and accordingly in a case falling within paragraph (a) or (b) of this subsection the court shall commit the accused for trial if either it is of opinion that there is sufficient evidence to put him on trial or it has power under section 6(2) above so to commit him without consideration of the evidence.
- (2) Where, in a case falling within subsection (1)(b) above, a magistrates' court commits a person under the age of 17 for trial for an offence with which he is charged jointly with a person who has attained that age, the court may also commit him for trial for any other indictable offence with which he is charged at the same time (whether jointly with the person who has attained that age or not) if that other offence arises out of circumstances which are the same as or connected with those giving rise to the first-mentioned offence.
  - (3) If on trying a person summarily in pursuance of subsection (1) above the court finds him guilty, it may impose a fine of an amount not exceeding £200 or may exercise the same powers as it could have exercised if he had been found guilty of an offence for which, but for section 19(1) of the Powers of Criminal Courts Act 1973, it could have sentenced him to imprisonment for a term not exceeding 3 months.
  - (4) In relation to a person under the age of 14 subsection (3) above shall have effect as if for the words " £200 " there were substituted the words " £50 " ; but this subsection shall cease to have effect on the coming into force of section 4 of the Children and Young Persons Act 1969 (which prohibits criminal proceedings against children).

## **25 Power to change from summary trial to committal proceedings, and vice versa**

- (1) Subsections (2) to (4) below shall have effect where a person who has attained the age of 17 appears or is brought before a magistrates' court on an information charging him with an offence triable either way.
- (2) Where the court has (otherwise than in pursuance of section 22(2) above) begun to try the information summarily, the court may, at any time before the conclusion of the evidence for the prosecution, discontinue the summary trial and proceed to inquire into the information as examining justices and, on doing so, may adjourn the hearing without remanding the accused.
- (3) Where the court has begun to inquire into the information as examining justices, then, if at any time during the inquiry it appears to the court, having regard to any representations made in the presence of the accused by the prosecutor, or made by the accused, and to the nature of the case, that the offence is after all more suitable for summary trial, the court may, after doing as provided in subsection (4) below, ask the accused whether he consents to be tried summarily and, if he so consents, may proceed to try the information summarily; but if the prosecution is being carried on by the Attorney General, the Solicitor General or the Director of Public Prosecutions, the court shall not act under this subsection without his consent.

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- (4) Before asking the accused under subsection (3) above whether he consents to be tried summarily, the court shall in ordinary language—
  - (a) explain to him that it appears to the court more suitable for him to be tried summarily for the offence, but that this can only be done if he consents to be so tried ; and
  - (b) unless it has already done so, explain to him, as provided in section 20(2)(6) above, about the court's power to commit to the Crown Court for sentence.
- (5) Where a person under the age of 17 appears or is brought before a magistrates' court on an information charging him with an indictable offence other than homicide, and the court—
  - (a) has begun to try the information summarily on the footing that the case does not fall within paragraph (a) or (b) of section 24(1) above and must therefore be tried summarily, as required by the said section 24(1); or
  - (b) has begun to inquire into the case as examining justices on the footing that the case does so fall,
 subsection (6) or (7) below, as the case may be, shall have effect.
- (6) If, in a case falling within subsection (5)(a) above, it appears to the court at any time before the conclusion of the evidence for the prosecution that the case is after all one which under the said section 24(1) ought not to be tried summarily, the court may discontinue the summary trial and proceed to inquire into the information as examining justices and, on doing so, may adjourn the hearing without remanding the accused.
- (7) If, in a case falling within subsection (5)(b) above, it appears to the court at any time during the inquiry that the case is after all one which under the said section 24(1) ought to be tried summarily, the court may proceed to try the information summarily.

## **26 Power to issue summons to accused in certain circumstances**

- (1) Where—
  - (a) in the circumstances mentioned in section 23(1)(a) above the court is not satisfied that there is good reason for proceeding in the absence of the accused; or
  - (b) subsection (4)(b) or (5) of section 23 or subsection (2) or (6) of section 25 above applies, and the court adjourns the hearing in pursuance of that subsection without remanding the accused,
 the justice or any of the justices of which the court is composed may issue a summons directed to the accused requiring his presence before the court.
- (2) If the accused is not present at the time and place appointed—
  - (a) in a case within subsection (1)(a) above, for the proceedings under section 19(1) or 22(1) above, as the case may be; or
  - (b) in a case within subsection (1)(b) above, for the resumption of the hearing,
 the court may issue a warrant for his arrest.

## **27 Effect of dismissal of information for offence triable either way**

Where on the summary trial of an information for an offence triable either way the court dismisses the information, the dismissal shall have the same effect as an acquittal on indictment.



## **28 Using in summary trial evidence given in committal proceedings**

Where under section 25(3) or (7) above a magistrates' court, having begun to inquire into an information as examining justices, proceeds to try the information summarily, then, subject to sections 102(9) and 103(3) below, any evidence already given before the court shall be deemed to have been given in and for the purposes of the summary trial.

*Power to remit person under 17 for trial to juvenile court*

## **29 Power of magistrates' court to remit a person under 17 for trial to a juvenile court in certain circumstances**

### **(1) Where—**

(a) a person under the age of 17 ("the juvenile") appears or is brought before a magistrates' court other than a juvenile court on an information jointly charging him and one or more other persons with an offence; and

(b) that other person, or any of those other persons, has attained that age,

subsection (2) below shall have effect notwithstanding proviso (a) in section 46(1) of the Children and Young Persons Act 1933 (which would otherwise require the charge against the juvenile to be heard by a magistrates' court other than a juvenile court).

In the following provisions of this section "the older accused" means such one or more of the accused as have attained the age of 17.

### **(2) If—**

(a) the court proceeds to the summary trial of the information in the case of both or all of the accused, and the older accused or each of the older accused pleads guilty; or

(b) the court—

(i) in the case of the older accused or each of the older accused, proceeds to inquire into the information as examining justices and either commits him for trial or discharges him; and

(ii) in the case of the juvenile, proceeds to the summary trial of the information,

then, if in either situation the juvenile pleads not guilty, the court may before any evidence is called in his case remit him for trial to a juvenile court acting for the same place as the remitting court or for the place where he habitually resides.

(3) A person remitted to a juvenile court under subsection (2) above shall be brought before and tried by a juvenile court accordingly.

(4) Where a person is so remitted to a juvenile court—

(a) he shall have no right of appeal against the order of remission; and

(b) the remitting court may give such directions as appear to be necessary with respect to his custody or for his release on bail until he can be brought before the juvenile court

(5) The preceding provisions of this section shall apply in relation to a corporation as if it were an individual who has attained the age of 17.

*Remand for medical examination*

**30 Remand for medical examination**

- (1) If, on the trial by a magistrates' court of an offence punishable on summary conviction with imprisonment, the court is satisfied that the accused did the act or made the omission charged but is of opinion that an inquiry ought to be made into his physical or mental condition before the method of dealing with him is determined, the court shall adjourn the case to enable a medical examination and report to be made and shall remand him; but the adjournment shall not be for more than 3 weeks at a time where the court remands him in custody nor for more than 4 weeks at a time where it remands him on bail.
- (2) Where on an adjournment under subsection (1) above the accused is remanded on bail, the court shall impose conditions under paragraph (d) of section 3(6) of the Bail Act 1976 and the requirements imposed as conditions under that paragraph shall be or shall include requirements that the accused—
  - (a) undergo medical examination by a duly qualified medical practitioner or, where the inquiry is into his mental condition and the court so directs, two such practitioners; and
  - (b) for that purpose attend such an institution or place, or on such practitioner, as the court directs and, where the inquiry is into his mental condition, comply with any other directions which may be given to him for that purpose by any person specified by the court or by a person of any class so specified.
- (3) The Costs in Criminal Cases Act 1973 shall apply to a duly qualified medical practitioner who makes a report otherwise than in writing for the purposes of this section as it applies to a person called to give evidence, and shall so apply notwithstanding that the proceedings for the purposes of which the report is made are not proceedings to which section 1 of that Act applies.

*Powers in respect of offenders*

**31 General limit on power of magistrates' court to impose imprisonment**

- (1) Without prejudice to section 133 below, a magistrates' court shall not have power to impose imprisonment for more than 6 months in respect of any one offence.
- (2) Unless expressly excluded, subsection (1) above shall apply even if the offence in question is one for which a person would otherwise be liable on summary conviction to imprisonment for more than 6 months.
- (3) Any power of a magistrates' court to impose a term of imprisonment for non-payment of a fine, or for want of sufficient distress to satisfy a fine, shall not be limited by virtue of subsection (1) above.
- (4) In subsection (3) above "fine" includes a pecuniary penalty but does not include a pecuniary forfeiture or pecuniary compensation.

## **32 Penalties on summary conviction for offences triable either way**

- (1) On summary conviction of any of the offences triable either way listed in Schedule 1 to this Act a person shall be liable to imprisonment for a term not exceeding 6 months or to a fine not exceeding the prescribed sum or both, except that—
  - (a) a magistrates' court shall not have power to impose imprisonment for an offence so listed if the Crown Court would not have that power in the case of an adult convicted of it on indictment;
  - (b) on summary conviction of an offence consisting in the incitement to commit an offence triable either way a person shall not be liable to any greater penalty than he would be liable to on summary conviction of the last-mentioned offence: and
  - (c) on summary conviction of attempting to commit an offence triable either way a person shall not be liable to any greater penalty than he would be liable to on summary conviction of the completed offence.
- (2) For any offence triable either way which is not listed in Schedule 1 to this Act, being an offence under a relevant enactment, the maximum fine which may be imposed on summary conviction shall by virtue of this subsection be the prescribed sum unless the offence is one for which by virtue of an enactment other than this subsection a larger fine may be imposed on summary conviction.
- (3) Where, by virtue of any relevant enactment, a person summarily convicted of an offence triable either way would, apart from this section, be liable to a maximum fine of one amount in the case of a first conviction and of a different amount in the case of a second or subsequent conviction, subsection (2) above shall apply irrespective of whether the conviction is a first, second or subsequent one.
- (4) Subsection (2) above shall not affect so much of any enactment as (in whatever words) makes a person liable on summary conviction to a fine not exceeding a specified amount for each day on which a continuing offence is continued after conviction or the occurrence of any other specified event.
- (5) Subsection (2) above shall not apply on summary conviction of any of the following offences: —
  - (a) offences under section 5(2) of the Misuse of Drugs Act 1971 (having possession of a controlled drug) where the controlled drug in relation to which the offence was committed was a Class B or Class C drug;
  - (b) offences under the following provisions of that Act, where the controlled drug in relation to which the offence was committed was a Class C drug, namely—
    - (i) section 4(2) (production, or being concerned in the production, of a controlled drug);
    - (ii) section 4(3) (supplying or offering a controlled drug or being concerned in the doing of either activity by another);
    - (iii) section 5(3) (having possession of a controlled drug with intent to supply it to another);
    - (iv) section 8 (being the occupier, or concerned in the management, of premises and permitting or suffering certain activities to take place there);
    - (v) section 12(6) (contravention of direction prohibiting practitioner etc. from possessing, supplying etc. controlled drugs); or
    - (vi) section 13(3) (contravention of direction prohibiting practitioner etc. from prescribing, supplying etc. controlled drugs).

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- (6) Where, as regards any offence triable either way, there is under any enactment (however framed or worded) a power by subordinate instrument to restrict the amount of the fine which on summary conviction can be imposed in respect of that offence—
  - (a) subsection (2) above shall not affect that power or override any restriction imposed in the exercise of that power; and
  - (b) the amount to which that fine may be restricted in the exercise of that power shall be any amount less than the maximum fine which could be imposed on summary conviction in respect of the offence apart from any restriction so imposed.
- (7) Where there is under any relevant enactment (however framed or worded) a power by subordinate instrument to impose penal provisions, being a power which allows the creation of offences triable either way—
  - (a) the maximum fine which may in the exercise of that power be authorised on summary conviction in respect of an offence triable either way shall by virtue of this subsection be the prescribed sum unless some larger maximum fine can be authorised on summary conviction in respect of such an offence by virtue of an enactment other than this subsection ; and
  - (b) subsection (2) above shall not override any restriction imposed in the exercise of that power on the amount of the fine which on summary conviction can be imposed in respect of an offence triable either way created in the exercise of the power.
- (8) In subsection (5) above "controlled drug", " Class B drug " and " Class C drug " have the same meaning as in the Misuse of Drugs Act 1971.
- (9) In this section—
  - " fine " includes a pecuniary penalty but does not include a pecuniary forfeiture or pecuniary compensation;
  - " the prescribed sum " means £1,000 or such sum as is for the time being substituted in this definition by an order in force under section 143(1) below ;
  - " relevant enactment" means an enactment contained in the Criminal Law Act 1977 or in any Act passed before, or in the same Session as, that Act.

### **33      Maximum penalties on summary conviction in pursuance of section 22**

- (1) Where in pursuance of subsection (2) of section 22 above a magistrates' court proceeds to the summary trial of an information, then, if the accused is summarily convicted of the offence—
  - (a) the court shall not have power to impose on him in respect of that offence imprisonment for more than 3 months or a fine greater than £500 ; and
  - (b) section 38 below shall not apply as regards that offence.
- (2) In subsection (1) above " fine" includes a pecuniary penalty but does not include a pecuniary forfeiture or pecuniary compensation.

### **34      Mitigation of penalties, etc.**

- (1) Where under any enactment whether passed before or after the commencement of this Act a magistrates' court has power to sentence an offender to imprisonment for a period specified by the enactment, or to a fine of an amount specified by the enactment, then, except where an Act passed after 31st December 1879 expressly provides to the

contrary, the court may sentence him to imprisonment for less than that period or, as the case may be, to a fine of less than that amount.

- (2) Where under any such enactment an offender sentenced on summary conviction to imprisonment or a fine is required to enter into a recognizance with or without sureties to keep the peace or observe any other condition, the court convicting him may dispense with or modify the requirement.
- (3) Where under any such enactment a magistrates' court has power to sentence an offender to imprisonment or other detention but not to a fine, then, except where an Act passed after 31st December 1879 expressly provides to the contrary, the court may, instead of sentencing him to imprisonment or other detention, impose a fine which—
  - (a) for an offence triable either way, shall not exceed the prescribed sum within the meaning of section 32 above; and
  - (b) for a summary offence, shall—
    - (i) not exceed £200 ; and
    - (ii) not be of such an amount as would subject the offender, in default of payment of the fine, to a longer term of imprisonment or detention than the term to which he is liable on conviction of the offence.

### **35      Fixing amount of fine**

In fixing the amount of a fine, a magistrates' court shall take into consideration among other things the means of the person on whom the fine is imposed so far as they appear or are known to the court.

### **36      Restriction on fines in respect of young persons**

- (1) Where a person under 17 years of age is found guilty by a magistrates' court of an offence for which, apart from this section, the court would have power to impose a fine of an amount exceeding £200, the amount of any fine imposed by the court shall not exceed £200.
- (2) In relation to a person under the age of 14 subsection (1) above shall have effect as if for the words " £200 ", in both the places where they occur, there were substituted the words " £50 " ; but this subsection shall cease to have effect on the coming into force of section 4 of the Children and Young Persons Act 1969 (which prohibits criminal proceedings against children).

### **37      Committal to Crown Court with a view to borstal sentence**

- (1) Where a person is convicted by a magistrates' court of an offence punishable on summary conviction with imprisonment, then, if on the day of the conviction he is not less than 15 but under 21 years old and is a person who under section 1(2) and (4) of the Criminal Justice Act 1961 may be committed for a sentence of borstal training, the court may commit him in custody or on bail to the Crown Court for sentence in accordance with the provisions of section 20 of the Criminal Justice Act 1948.
- (2) A person committed in custody under subsection (1) above shall be committed—
  - (a) if the court has been notified by the Secretary of State that a remand centre is available for the reception, from that court, of persons of the class or description of the person committed, to a remand centre ;
  - (b) if the court has not been so notified, to a prison.

### **38 Committal for sentence on summary trial of offence triable either way**

Where on the summary trial of an offence triable either way (not being an offence as regards which this section is excluded by section 33 above) a person who is not less than 17 years old is convicted of the offence, then, if on obtaining information about his character and antecedents the court is of opinion that they are such that greater punishment should be inflicted for the offence than the court has power to inflict, the court may, in accordance with section 56 of the Criminal Justice Act 1967, commit him in custody or on bail to the Crown Court for sentence in accordance with the provisions of section 42 of the Powers of Criminal Courts Act W73.

### **39 Cases where magistrates' court may remit offender to another such court for sentence**

- (1) Where a person who has attained the age of 17 (" the offender") has been convicted by a magistrates' court (" the convicting court") of an offence to which this section applies (" the instant offence ") and—
  - (a) it appears to the convicting court that some other magistrates' court (" the other court") has convicted him of another such offence in respect of which the other court has neither passed sentence on him nor committed him to the Crown Court for sentence nor dealt with him in any other way; and
  - (b) the other court consents to his being remitted under this section to the other court,

the convicting court may remit him to the other court to be dealt with in respect of the instant offence by the other court instead of by the convicting court.
- (2) The offender, if remitted under this section, shall have no right of appeal against the order of remission.
- (3) Where the convicting court remits the offender to the other court under this section, it shall adjourn the trial of the information charging him with the instant offence, and—
  - (a) section 128 below and all other enactments (whenever passed) relating to remand or the granting of bail in criminal proceedings shall have effect in relation to the convicting court's power or duty to remand the offender on that adjournment as if any reference to the court to or before which the person remanded is to be brought or appear after remand were a reference to the court to which he is being remitted; and
  - (b) subject to subsection (4) below, the other court may deal with the case in any way in which it would have power to deal with it (including, where applicable, the remission of the offender under this section to another magistrates' court in respect of the instant offence) if all proceedings relating to that offence which took place before the convicting court had taken place before the other court.
- (4) Nothing in this section shall preclude the convicting court from making any order which it has power to make under section 28 of the Theft Act 1968 (orders for restitution) by virtue of the offender's conviction of the instant offence.
- (5) Where the convicting court has remitted the offender under this section to the other court, the other court may remit him back to the convicting court; and the provisions of subsection (3) above (so far as applicable) shall apply with the necessary modifications in relation to any remission under this subsection.
- (6) This section applies to—
  - (a) any offence punishable with imprisonment; and

- (b) any offence in respect of which the convicting court has a power or duty to order the offender to be disqualified under section 93 of the Road Traffic Act 1972 (disqualification for certain motoring offences);

and in this section "conviction" includes a finding under section 30(1) above that the person in question did the act or made the omission charged, and convicted "shall be construed accordingly.

#### **40      Restriction on amount payable under compensation order of magistrates' court**

- (1) The compensation to be paid under a compensation order made by a magistrates' court in respect of any offence of which the court has convicted the offender shall not exceed £1,000; and the compensation or total compensation to be paid under a compensation order or compensation orders made by a magistrates' court in respect of any offence or offences taken into consideration in determining sentence shall not exceed the difference (if any) between the amount or total amount which under the preceding provisions of this subsection is the maximum for the offence or offences of which the offender has been convicted and the amount or total amounts (if any) which are in fact ordered to be paid in respect of that offence or those offences.
- (2) In subsection (1) above "compensation order" has the meaning assigned to it by section 35(1) of the Powers of Criminal Courts Act 1973.

#### *Miscellaneous*

#### **41      Restriction on grant of bail in treason**

A person charged with treason shall not be granted bail except by order of a judge of the High Court or the Secretary of State.

#### **42      Restriction on justices sitting after dealing with bail**

- (1) A justice of the peace shall not take part in trying the issue of an accused's guilt on the summary trial of an information if in the course of the same proceedings the justice has been informed, for the purpose of determining whether the accused shall be granted bail, that he has one or more previous convictions.
- (2) For the purposes of this section any committal proceedings from which the proceedings on the summary trial arose shall be treated as part of the trial.

#### **43      Bail on arrest without warrant**

- (1) On a person's being taken into custody for an offence without a warrant, a police officer not below the rank of inspector, or the police officer in charge of the police station to which the person is brought, may, and, if it will not be practicable to bring him before a magistrates' court within 24 hours after his being taken into custody, shall, inquire into the case and, unless the offence appears to the officer to be a serious one, grant him bail in accordance with the Bail Act 1976 subject to a duty to appear before a magistrates' court at such time and place as the officer appoints.
- (2) Where a person has been granted bail under subsection (1) above, the magistrates' court before which he is to appear may appoint a later time as the time at which he is to appear and may enlarge the recognizance's of any sureties for him to that time.

- (3) Where, on a person's being taken into custody for an offence without a warrant, it appears to any such officer as aforesaid that the inquiry into the case cannot be completed forthwith, he may grant him bail in accordance with the Bail Act 1976 subject to a duty to appear at such a police station and at such a time as the officer appoints unless he previously receives a notice in writing from the officer in charge of that police station that his attendance is not required ; and the recognizance of any surety for that person may be enforced as if it were conditioned for the appearance of that person before a magistrates' court for the petty sessions area in which the police station named in the recognizance is situated.
- (4) Where a person is taken into custody for an offence without a warrant and is retained in custody, he shall be brought before a magistrates' court as soon as practicable.

#### **44 Aiders and abettors**

- (1) A person who aids, abets, counsels or procures the commission by another person of a summary offence shall be guilty of the like offence and may be tried (whether or not he is charged as a principal) either by a court having jurisdiction to try that other person or by a court having by virtue of his own offence jurisdiction to try him.
- (2) Any offence consisting in aiding, abetting, counselling or procuring the commission of an offence triable either way (other than an offence listed in Schedule 1 to this Act) shall by virtue of this subsection be triable either way.

#### **45 Incitement**

- (1) Any offence consisting in the incitement to commit a summary offence shall be triable only summarily.
- (2) Subsection (1) above is without prejudice to any other enactment by virtue of which any offence is triable only summarily.
- (3) On conviction of an offence consisting in the incitement to commit a summary offence a person shall be liable to the same penalties as he would be liable to on conviction of the last-mentioned offence.

#### **46 Corporations**

The provisions of Schedule 3 to this Act shall have effect where a corporation is charged with an offence before a magistrates' court.

#### **47 Service of summons out of time after failure to prove service by post**

Where any enactment requires, expressly or by implication, that a summons in respect of an offence shall be issued or served within a specified period after the commission of the offence, and service of the summons may under the rules be effected by post, then, if under the rules service of the summons is not treated as proved, but it is shown that a letter containing the summons was posted at such time as to enable it to be delivered in the ordinary course of post within that period, a second summons may be issued on the same information; and the enactment shall have effect, in relation to that summons, as if the specified period were a period running from the return day of the original summons.



#### **48 Return of property taken from accused**

Where a summons or warrant has been issued requiring any person to appear or be brought before a magistrates' court to answer to an information, or where any person has been arrested without a warrant for an offence, and property has been taken from him after the issue of the summons or warrant or, as the case may be, on or after his arrest without a warrant, the police shall report the taking of the property, with particulars of the property, to the magistrates' court which deals with the case; and, if the court, being of opinion that the whole or any part of the property can be returned to the accused consistently with the interests of justice and the safe custody of the accused, so directs, the property, or such part of it as the court directs, shall be returned to the accused or to such other person as he may require.

#### **49 Taking of finger-prints**

- (1) Where any person not less than 14 years old—
  - (a) who has been taken into custody is charged with an offence before a magistrates' court; or
  - (b) appears before a magistrates' court in answer to a summons for an offence punishable with imprisonment,the court may, if it thinks fit, on the application of a police officer not below the rank of inspector, order the finger-prints of that person to be taken by a constable.
- (2) Finger-prints taken in pursuance of an order under this section shall be taken either at the place where the court is sitting or, if the person to whom the order relates is remanded in custody, at any place to which he is committed ; and a constable may use such reasonable force as may be necessary for that purpose.
- (3) The provisions of this section shall be in addition to those of any other enactment under which finger-prints may be taken.
- (4) Where the finger-prints of any person have been taken in pursuance of an order under this section, then, if he is acquitted, or the examining justices determine not to commit him for trial, or if the information against him is dismissed, the finger-prints and all copies and records of them shall be destroyed.
- (5) In this section " finger-prints " includes palm-prints.

#### **50 Construction of references to complaint in enactments dealing with offences**

In any enactment conferring power on a magistrates' court to deal with an offence, or to issue a summons or warrant against a person suspected of an offence, on the complaint of any person, for references to a complaint there shall be substituted references to an information.