



# Magistrates' Courts Act 1980

## 1980 CHAPTER 43

### PART III

#### SATISFACTION AND ENFORCEMENT

##### Modifications etc. (not altering text)

- C1** Part III (ss. 75–96) modified: (E.W.) by Drug Trafficking Offences Act 1986 (c. 32, SIF 39:1), s. **6(4)(6)**; by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 75(5)(6), 123(6), **Sch. 8 para. 16**; (3.2.1995) by 1994 c. 37, ss. **9(4)(6)**, 69(2) (with s. 66(2))  
Part III (ss. 75–96) extended (1.9.1994) by 1994 c. 22, ss. **32(3)(a)**, 41(3)(a), 66(1)  
Part III (ss. 75–96) applied (with modifications) (24.3.2003) (E.W.) by 2002 c. 29, ss. 35(3), 458(1)(3); S.I. 2003/333, **art. 2** Sch.
- C2** Pt. III applied (1.10.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. **85**, 153; S.I. 2009/2606, **art. 2(f)**
- C3** Pt. III restricted (prosp.) by Education and Skills Act 2008 (c. 25), ss. 56, 57, **58**, 173
- C4** Pt. III modified (6.4.2010) by The Community Infrastructure Levy Regulations 2010 (S.I. 2010/948), regs. 1, **97(10)**

#### *General provisions*

#### **75 Power to dispense with immediate payment.**

- (1) A magistrates' court by whose conviction or order a sum is adjudged to be paid may, instead of requiring immediate payment, allow time for payment, or order payment by instalments.
- (2) Where a magistrates' court has allowed time for payment, the court may, on application by or on behalf of the person liable to make the payment, allow further time or order payment by instalments.

<sup>F1</sup>(2A) .....

<sup>F1</sup>(2B) .....

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<sup>F1</sup>(2C) .....

- (3) Where a court has ordered payment by instalments and default is made in the payment of any one instalment, proceedings may be taken as if the default had been made in the payment of all the instalments then unpaid.

**Textual Amendments**

**F1** S. 75(2A)-(2C) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 48](#); [S.I. 2014/954](#), art. 2(d) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

**Modifications etc. (not altering text)**

**C5** S. 75 extended (with modifications) by [Legal Aid Act 1988 \(c. 34, SIF 77:1\)](#), ss. 24(6), 30, [Sch. 3 Pt. I para. 2\(3\)](#)

**76 Enforcement of sums adjudged to be paid.**

- (1) Subject to the following provisions of this Part of this Act, and to section 132 below <sup>F2</sup>, where default is made in paying a sum adjudged to be paid by a conviction or order of a magistrates' court, the court may [<sup>F3</sup>issue a warrant of control for the purpose of recovering the sum] or issue a warrant committing the defaulter to prison.
- (2) A warrant of commitment may be issued as aforesaid either—
  - (a) where it appears on the return to a [<sup>F4</sup>warrant of control] that the money and goods of the defaulter are insufficient to [<sup>F5</sup>pay the amount outstanding, as defined by paragraph 50(3) of Schedule 12 to the Tribunals, Courts and Enforcement Act 2007] ; or
  - (b) instead of a [<sup>F6</sup>warrant of control] .
- (3) The period for which a person may be committed to prison under such a warrant as aforesaid shall not, subject to the provisions of any enactment passed after 31st December 1879, exceed the period applicable to the case under Schedule 4 to this Act.

<sup>F7</sup>(4) .....

<sup>F7</sup>(5) .....

<sup>F7</sup>(6) .....

**Textual Amendments**

**F2** Words repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 78, [Sch. 16](#)

**F3** Words in s. 76(1) substituted (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 13 para. 46\(2\)](#) (with s. 89); [S.I. 2014/768](#), art. 2(1)(b)

**F4** Words in s. 76(2)(a) substituted (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 13 para. 46\(3\)\(a\)](#) (with s. 89); [S.I. 2014/768](#), art. 2(1)(b)

**F5** Words in s. 76(2)(a) substituted (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 13 para. 46\(3\)\(b\)](#) (with s. 89); [S.I. 2014/768](#), art. 2(1)(b)

**F6** Words in s. 76(2)(b) substituted (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 13 para. 46\(4\)](#) (with s. 89); [S.I. 2014/768](#), art. 2(1)(b)

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- F7** S. 76(4)-(6) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 49\(a\)](#); [S.I. 2014/954](#), art. 2(d) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

**Modifications etc. (not altering text)**

- C6** S. 76 modified (1.4.1992) by [Civil Jurisdiction and Judgments Act 1982 \(c. 27, SIF 49:3\)](#), s. 5(5B) (which was inserted (1.4.1992) by [Maintenance Enforcement Act 1991 \(c. 17, SIF 49:3\)](#), s. 10, [Sch. 1 para. 21\(2\)](#); [S.I. 1992/455](#), art.2).
- C7** S. 76 applied (with modifications) (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 1(1), Sch. 1 paras. 4(6)(a), [6\(7\)\(a\)](#)

**77 Postponement of issue of warrant.**

- (1) Where a magistrates' court has power to issue a <sup>[F8]</sup>warrant of control] under this Part of this Act, it may, if it thinks it expedient to do so, postpone the issue of the warrant until such time and on such conditions, if any, as the court thinks just.
- (2) Where a magistrates' court has power to issue a warrant of commitment under this Part of this Act, it may, if it thinks it expedient to do so, fix a term of imprisonment <sup>[F9]</sup>or detention under <sup>[F10]</sup>section 108 of the powers of Criminal Courts (Sentencing) Act 2000] (detention of persons aged <sup>[F10]</sup>18] to 20 for default)]and postpone the issue of the warrant until such time and on such conditions, if any, as the court thinks just.
- <sup>[F11]</sup>(3) A magistrates' court shall have power at any time to do either or both of the following—
- (a) to direct that the issue of the warrant of commitment shall be postponed until a time different from that to which it was previously postponed;
- (b) to vary any of the conditions on which its issue is postponed,
- but only if it thinks it just to do so having regard to a change of circumstances since the relevant time.
- (4) In this section “the relevant time” means—
- (a) where neither of the powers conferred by subsection (3) above has been exercised previously, the date when the issue of the warrant was postponed under subsection (2) above; and
- (b) in any other case, the date of the exercise or latest exercise of either or both of the powers.
- (5) Without prejudice to the generality of subsection (3) above, if on an application by a person in respect of whom issue of a warrant has been postponed it appears to a justice of the peace acting <sup>[F12]</sup>in the local justice] area in which the warrant has been or would have been issued that since the relevant time there has been a change of circumstances which would make it just for the court to exercise one or other or both of the powers conferred by that subsection, he shall refer the application to the court.
- <sup>[F13]</sup>(6) Where such an application is referred to the court—
- (a) the clerk of the court shall fix a time and place for the application to be heard; and
- (b) the designated officer for the court shall give the applicant notice of that time and place.]

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- (7) Where such a notice has been given but the applicant does not appear at the time and place specified in the notice, the court may proceed with the consideration of the application in his absence.
- (8) If a warrant of commitment in respect of the sum adjudged to be paid has been issued before the hearing of the application, the court shall have power to order that the warrant shall cease to have effect and, if the applicant has been arrested in pursuance of it, to order that he shall be released, but it shall only make an order under this subsection if it is satisfied that the change of circumstances on which the applicant relies was not put before the court when it was determining whether to issue the warrant.]

#### Textual Amendments

- F8** Words in s. 77(1) substituted (6.4.2014) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 13 para. 47** (with s. 89); S.I. 2014/768, art. 2(1)(b)
- F9** Words inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 77, **Sch. 14 para. 50**
- F10** Words in s. 77(2) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 66** (which Sch. 9 para. 66 of the amending Act is repealed (*prosp.*) by 2000 c. 43, ss. 74, 75, 80(1), Sch. 7 Pt. II para. 203(2), **Sch. 8**)
- F11** S. 77(3)–(8) added (E.W.) by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 61(1)(2), 123(6), **Sch. 8 para. 16**
- F12** Words in s. 77(5) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 218(2)**; S.I. 2005/910, **art. 3(y)**
- F13** S. 77(6) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 218(3)**; S.I. 2005/910, **art. 3(y)**

#### Modifications etc. (not altering text)

- C8** S. 77(1) extended by S.I. 1985/215, **art. 4(3)**, 1985/313, art. 4(3), 1985/487, art. 5(3), 1986/110, art. 4(3), 1986/250, art. 5(3), 1986/779, art. 3(3), 1986/2090, art. 5(3), 1987/213, art. 4(3), 1987/292, art. 3(3)
- C9** S. 77(1) applied: by S.I. 1990/137, **art. 5(3)**; by S.I. 1991/138, **art. 5(3)**; by S.I. 1991/139, **reg. 7(3)**; by S.I. 1991/522, **art. 3(3)**; (31.1.1992) by S.I. 1992/130, **reg. 8(3)**; (8.2.1992) by S.I. 1992/190, **art. 5(3)**; (27.2.1993) by S.I. 1993/387, **art. 5(3)**; (5.5.1993) by S.I. 1993/1197, **art. 3(3)**; (1.9.1993) by S.I. 1993/2015, **art. 6(3)** and S.I. 1993/2016, **art. 5(3)**; (22.3.1994) by S.I. 1994/451, **art. 5(3)**; (15.7.1994) by S.I. 1994/1679, **art. 5(3)** and S.I. 1994/1681, **art. 4(3)**; (18.4.1995) by S.I. 1995/907, **art. 4(3)** and S.I. 1995/908, **art. 5(3)**; (29.2.1996) by S.I. 1996/247, **art. 5(3)**; (24.4.1996) by S.I. 1996/1036, **art. 5(3)**; (9.4.1997) by S.I. 1997/883, **art. 5(3)**; (12.8.1997) by S.I. 1997/1949, **art. 5(3)**; (14.3.1998) by S.I. 1998/268, **art. 5(3)**; (18.3.1999) by S.I. 1999/424, **art. 5(3)**; (8.2.2000) by S.I. 2000/51, **art. 5(2)**; (21.2.2000) by S.I. 2000/181, **art. 5(2)**; (25.2.2000) by S.I. 2000/435, **art. 5(2)**; (W.)(18.3.2000) by S.I. 2000/976, **art. 5(2)**; (W.)(1.4.2000) by S.I. 2000/1075, **art. 5(2)**; (W.)(7.4.2000) by S.I. 2000/1078, **art. 6(2)**; (11.4.2000) by S.I. 2000/827, **art. 5(2)**; (W.)(11.4.2000) by S.I. 2000/1096, **art. 5(2)**; (15.4.2000) by S.I. 2000/1081, **art. 5(2)**; (24.7.2000) by S.I. 2000/1843, **art. 6(2)**; (W.)(24.7.2000) by S.I. 2000/2230, **art. 5(2)**; S. 77(1) applied (29.5.2001) by S.I. 2001/1631, **art. 5(2)** (which was revoked (8.3.2002) by S.I. 2002/272, **art. 13**); S. 77(1) applied (8.3.2002) by S.I. 2002/272, **art. 5(2)**
- C10** S. 77(1) applied (8.2.2003) by The Sea Fishing (Restriction on Days at Sea) Order 2003 (S.I. 2003/229), **art. 13(2)**  
S. 77(1) applied (7.7.2003) by The Sea Fishing (Restriction on Days at Sea)(No. 2) Order 2003 (S.I. 2003/1535), {art. 13(2)}  
S. 77(1) applied (E.) (26.5.2004) by The Sea Fishing (Enforcement of Community Quota and Third Country Fishing Measures)(England) Order 2004 (S.I. 2004/1237), {art. 6(2)}

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- S. 77(1) applied (E.) (1.1.2005) by [The Sea Fishing \(Enforcement of Community Satellite Monitoring Measures\) Order 2004 \(S.I. 2004/3226\)](#), [art. 16\(2\)](#)
- S. 77(1) applied (E.) (2.2.2005) by [The Incidental Catches of Cetaceans in Fisheries \(England\) Order 2005 \(S.I. 2005/17\)](#), [art. 6\(2\)](#) (subject to [art. 1\(3\)](#))
- S. 77(1) applied (E.) (28.2.2005) by [The Sea Fishing \(Restriction on Days at Sea\) Order 2005 \(S.I. 2005/393\)](#), [art. 24\(2\)](#) (subject to [art. 1\(3\)](#))
- S. 77(1) applied (1.6.2006) by [The Sea Fishing \(Restriction on Days at Sea\)\(Monitoring, Inspection and Surveillance\) Order 2006 \(S.I. 2006/1327\)](#), {[art. 23\(2\)](#)}
- S. 77(1) applied (W.) (7.7.2006) by [The Sea Fishing \(Northern Hake Stock\)\(Wales\) Order 2006 \(S.I. 2006/1796\)](#), {[art. 10\(2\)](#)}
- S. 77(1) applied (10.7.2006) by [The Sea Fishing \(Marking and Identification of Passive Fishing Gear and Beam Trawls\)\(England\) Order 2006 \(S.I. 2006/1549\)](#), {[art. 6\(2\)](#)}
- S. 77(1) applied (15.8.2006) by [The Sea Fishing \(Enforcement of Annual Community and Third Country Fishing Measures\)\(England\) Order 2006 \(S.I. 2006/1970\)](#), {[art. 11\(2\)](#)}
- S. 77(1) applied (20.4.2007) by [The Sea Fishing \(Restriction on Days at Sea\) Order 2007 \(S.I. 2007/927\)](#), [art. 18\(2\)](#)
- S. 77(1) applied (1.10.2007) by [The Sea Fishing \(Prohibition on the Removal of Shark Fins\) Order 2007 \(S.I. 2007/2554\)](#), [art. 6\(2\)](#)
- C11** S. 77(1) applied (30.9.2008) by [The Sea Fishing \(Recovery Measures\) Order 2008 \(S.I. 2008/2347\)](#), [art. 12\(2\)](#)
- C12** S. 77(1) applied (12.8.2009) by [The Sea Fishing \(Landing and Weighing of Herring, Mackerel and Horse Mackerel\) Order 2009 \(S.I. 2009/1850\)](#), [art. 10\(2\)](#)
- C13** S. 77(1) applied (25.1.2010) by [Sea Fishing \(Illegal, Unreported and Unregulated Fishing\) Order 2009 \(S.I. 2009/3391\)](#), [arts. 1, 11\(2\)](#) (with [art. 2\(1\)](#))
- C14** S. 77(1) applied (6.3.2015) by [The Sea Fishing \(Enforcement and Miscellaneous Provisions\) Order 2015 \(S.I. 2015/191\)](#), [arts. 1\(1\), 3\(3\)](#)

## 78 Defect in distress warrant and irregularity in its execution.

- (1) A warrant of distress issued for the purpose of levying a sum adjudged to be paid by the conviction or order of a magistrates' court shall not, if it states that the sum has been so adjudged to be paid, be held void by reason of any defect in the warrant.
- (2) A person acting under a warrant of distress shall not be deemed to be a trespasser from the beginning by reason only of any irregularity in the execution of the warrant.
- (3) Nothing in this section shall prejudice the claim of any person for special damages in respect of any loss caused by a defect in the warrant or irregularity in its execution.
- (4) If any person removes any goods marked in accordance with <sup>[F14]</sup>rules of court] as articles impounded in the execution of a warrant of distress, or defaces or removes any such mark, he shall be liable on summary conviction to a fine not exceeding <sup>[F15]</sup>level 1 on the standard scale].
- (5) If any person charged with the execution of a warrant of distress wilfully retains from the proceeds of a sale of the goods on which distress is levied, or otherwise exacts, any greater costs and charges than those properly payable, or makes any improper charge, he shall be liable on summary conviction to a fine not exceeding <sup>[F15]</sup>level 1 on the standard scale].

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### Textual Amendments

- F14** Words in s. 78(4) substituted (1.9.2004) by [Courts Act 2003 \(c. 39\)](#), ss. 109(1), 110, [Sch. 8 para. 219\(a\)](#); [S.I. 2004/2066, art. 2\(c\)\(xi\)](#) (subject to [art. 3](#))
- F15** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#)

### Modifications etc. (not altering text)

- C15** S. 78 extended by [S.I. 1985/215, art. 4\(3\)](#), [1985/313](#), art. 4(3), [1985/487](#), art. 5(3), [1986/110](#), art. 4(3), [1986/250](#), art. 5(3), [1986/779](#), art. 3(3), [1986/2090](#), art. 5(3), [1987/213](#), art. 4(3), [1987/292](#), art. 3(3)
- C16** S. 78 applied: by [S.I. 1990/137, art. 5\(3\)](#); by [S.I. 1991/138, art. 5\(3\)](#); by [S.I. 1991/139, reg. 7\(3\)](#); by [S.I. 1991/522, art. 3\(3\)](#); (31.1.1992) by [S.I. 1992/130, reg. 8\(3\)](#); (8.2.1992) by [S.I. 1992/190, art. 5\(3\)](#); (27.2.1993) by [S.I. 1993/387, art. 5\(3\)](#); (5.5.1993) by [S.I. 1993/1197, art. 3\(3\)](#); (1.9.1993) by [S.I. 1993/2015, art. 6\(3\)](#) and [S.I. 1993/2016, art. 5\(3\)](#); (22.3.1994) by [S.I. 1994/451, art. 5\(3\)](#); (15.7.1994) by [S.I. 1994/1679, art. 5\(3\)](#) and [S.I. 1994/1681, art. 4\(3\)](#); (18.4.1995) by [S.I. 1995/907, art. 4\(3\)](#) and [S.I. 1995/908, art. 5\(3\)](#); (29.2.1996) by [S.I. 1996/247, art. 5\(3\)](#); (24.4.1996) by [S.I. 1996/1036, art. 5\(3\)](#); (9.4.1997) by [S.I. 1997/883, art. 5\(3\)](#); (12.8.1997) by [S.I. 1997/1949, art. 5\(3\)](#); (14.3.1998) by [S.I. 1998/268, art. 5\(3\)](#); (W.) (18.3.1999) by [S.I. 1999/424, art. 5\(3\)](#); (8.2.2000) by [S.I. 2000/51, art. 5\(2\)](#); (21.2.2000) by [S.I. 2000/181, art. 5\(2\)](#); (25.2.2000) by [S.I. 2000/435, art. 5\(2\)](#); (W.) (18.3.2000) by [S.I. 2000/976, art. 5\(2\)](#); (W.) (1.4.2000) by [S.I. 2000/1075, art. 5\(2\)](#); (W.) (7.4.2000) by [S.I. 2000/1078, art. 6\(2\)](#); (11.4.2000) by [S.I. 2000/827, art. 5\(2\)](#); (W.) (11.4.2000) by [S.I. 2000/1096, art. 5\(2\)](#); (15.4.2000) by [S.I. 2000/1081, art. 5\(2\)](#); (24.7.2000) by [S.I. 2000/1843, art. 6\(2\)](#); (W.) (24.7.2000) by [S.I. 2000/2230, art. 5\(2\)](#); S. 78 applied (29.5.2001) by [S.I. 2001/1631, art. 5\(2\)](#) (which was revoked (8.3.2002) by [S.I. 2002/272](#) art. 13); s. 78 applied (8.2.2002) by [S.I. 2002/272, art. 5\(2\)](#)
- C17** S. 78 applied (8.2.2003) by [The Sea Fishing \(Restriction on Days at Sea\) Order 2003 \(S.I. 2003/229\)](#), [art. 13\(2\)](#)
- S. 78 applied (7.7.2003) by [The Sea Fishing \(Restriction on Days at Sea\)\(No. 2\) Order 2003 \(S.I. 2003/1535\)](#), {art. 13(2)}
- S. 78 applied (with modifications) (temp.) (23.2.2004 and 29.3.2004 for certain purposes, otherwise 5.4.2004 until 31.3.2006) by [The Fines Collection Regulations 2004 \(S.I. 2004/176\)](#), [regs. 1\(3\), 10](#) (with [reg. 3](#)) (as amended (30.3.2005) by [S.I. 2005/484](#), [regs. 1\(1\)\(a\)\(2\), 2](#))
- S. 78 applied (E.) (26.5.2004) by [The Sea Fishing \(Enforcement of Community Quota and Third Country Fishing Measures\)\(England\) Order 2004 \(S.I. 2004/1237\)](#), {art. 6(2)}
- S. 78 applied (E.) (1.1.2005) by [The Sea Fishing \(Enforcement of Community Satellite Monitoring Measures\) Order 2004 \(S.I. 2004/3226\)](#), {art. 16(2)}
- S. 78 applied (E.) (2.2.2005) by [The Incidental Catches of Cetaceans in Fisheries \(England\) Order 2005 \(S.I. 2005/17\)](#), [art. 6\(2\)](#) (subject to [art. 1\(3\)](#))
- S. 78 applied (E.) (28.2.2005) by [The Sea Fishing \(Restriction on Days at Sea\) Order 2005 \(S.I. 2005/393\)](#), [art. 24\(2\)](#)
- S. 78 applied (1.6.2006) by [The Sea Fishing \(Restriction on Days at Sea\)\(Monitoring, Inspection and Surveillance\) Order 2006 \(S.I. 2006/1327\)](#), {art. 23(2)}
- S. 78 applied (W.) (7.7.2006) by [The Sea Fishing \(Northern Hake Stock\)\(Wales\) Order 2006 \(S.I. 2006/1796\)](#), {art. 10(2)}
- S. 78 applied (10.7.2006) by [The Sea Fishing \(Marking and Identification of Passive Fishing Gear and Beam Trawls\)\(England\) Order 2006 \(S.I. 2006/1549\)](#), {art. 6(2)}
- S. 78 applied (15.8.2006) by [The Sea Fishing \(Enforcement of Annual Community and Third Country Fishing Measures\)\(England\) Order 2006 \(S.I. 2006/1970\)](#), {art. 11(2)}
- S. 78 applied (20.4.2007) by [The Sea Fishing \(Restriction on Days at Sea\) Order 2007 \(S.I. 2007/927\)](#), [art. 18\(2\)](#)
- S. 78 applied (1.10.2007) by [The Sea Fishing \(Prohibition on the Removal of Shark Fins\) Order 2007 \(S.I. 2007/2554\)](#), [art. 6\(2\)](#)

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- C18** S. 78 applied (30.9.2008) by [The Sea Fishing \(Recovery Measures\) Order 2008 \(S.I. 2008/2347\)](#), **art. 12(2)**
- C19** S. 78 applied (12.8.2009) by [The Sea Fishing \(Landing and Weighing of Herring, Mackerel and Horse Mackerel\) Order 2009 \(S.I. 2009/1850\)](#), **art. 10(2)**
- C20** S. 78 applied (25.1.2010) by [Sea Fishing \(Illegal, Unreported and Unregulated Fishing\) Order 2009 \(S.I. 2009/3391\)](#), arts. 1, **11(2)** (with art. 2(1))
- C21** S. 78 applied (6.3.2015) by [The Sea Fishing \(Enforcement and Miscellaneous Provisions\) Order 2015 \(S.I. 2015/191\)](#), arts. 1(1), **3(3)**

## 79 Release from custody and reduction of detention on payment.

- (1) Where imprisonment or other detention has been imposed on any person by the order of a magistrates' court in default of payment of any sum adjudged to be paid by the conviction or order of a magistrates' court or for want of sufficient [<sup>F16</sup>goods] to satisfy such a sum, then, on the payment of the sum, together with the costs and charges, if any, of the commitment<sup>F17</sup>, or (as the case may be) on the payment of the amount outstanding,] the order shall cease to have effect; and if the person has been committed to custody he shall be released unless he is in custody for some other cause.
- (2) Where, after a period of imprisonment or other detention has been imposed on any person in default of payment of any sum adjudged to be paid by the conviction or order of a magistrates' court or for want of sufficient [<sup>F18</sup>goods] to satisfy such a sum, payment is made in accordance with [<sup>F19</sup>rules of court] of part of the sum, the period of detention shall be reduced by such number of days as bears to the total number of days in that period less one day the same proportion as the amount so paid bears [<sup>F20</sup>—
  - (a) to the amount outstanding at the time the period of detention was imposed, if the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods) had been used for recovering the sum;
  - (b) otherwise, to so much of the sum as was due at that time.]
- (3) In calculating the reduction required under subsection (2) above any fraction of a day shall be left out of account.
- [<sup>F21</sup>(4) In this Act, references to want of sufficient goods to satisfy a sum of money are references to circumstances where—
  - (a) a warrant of control has been issued for the sum to be recovered from a person, but
  - (b) it appears on the return to the warrant that the person's money and goods are insufficient to pay the amount outstanding.
- (5) In this section, “the amount outstanding” has the meaning given by paragraph 50(3) of Schedule 12 to the Tribunals, Courts and Enforcement Act 2007.]

### Textual Amendments

- F16** Word in s. 79(1) substituted (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, **Sch. 13 para. 48(2)(a)** (with s. 89); S.I. 2014/768, art. 2(1)(b)
- F17** Words in s. 79(1) substituted (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, **Sch. 13 para. 48(2)(b)** (with s. 89); S.I. 2014/768, art. 2(1)(b)
- F18** Word in s. 79(2) substituted (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, **Sch. 13 para. 48(3)(a)** (with s. 89); S.I. 2014/768, art. 2(1)(b)

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- F19** Words in s. 79(2) substituted (1.9.2004) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 219(b)**; S.I. 2004/2066, **art. 2(c)(xi)** (subject to art. 3)
- F20** Words in s. 79(2) substituted (6.4.2014) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 13 para. 48(3)(b)** (with s. 89); S.I. 2014/768, art. 2(1)(b)
- F21** S. 79(4)(5) inserted (6.4.2014) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 13 para. 48(4)** (with s. 89); S.I. 2014/768, art. 2(1)(b)

## 80 Application of money found on defaulter to satisfy sum adjudged.

- (1) Where a magistrates' court has adjudged a person to pay a sum by a conviction <sup>F22</sup>..., the court may order him to be searched.
- (2) Any money found on the arrest of a person adjudged to pay such a sum as aforesaid, or on a search as aforesaid, or on his being taken to a prison or other place of detention in default of payment of such a sum or for want of sufficient [<sup>F23</sup>goods] to satisfy such a sum, may, unless the court otherwise directs, be applied towards payment of the said sum; and the balance, if any, shall be returned to him.
- (3) A magistrates' court shall not allow the application as aforesaid of any money found on a person if it is satisfied that the money does not belong to him or that the loss of the money would be more injurious to his family than would be his detention.

### Textual Amendments

- F22** Words in s. 80(1) omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 10 para. 49(b)**; S.I. 2014/954, **art. 2(d)** (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F23** Word in s. 80(2) substituted (6.4.2014) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 13 para. 49** (with s. 89); S.I. 2014/768, art. 2(1)(b)

### Modifications etc. (not altering text)

- C22** S. 80 applied by Legal Aid Act 1988 (c. 34, SIF 77:1), ss. 24(6), 30, **Sch. 3 Pt. I para. 2(4)**  
S. 80 applied (2.4.2001) by 1991 c. 48, **s. 40B(10)** (as inserted (2.4.2001) by 2000 c. 19, **s. 16(3)**), (with s. 86(3); S.I. 2000/3354, **art. 2(3)**)

*Sums adjudged to be paid by a conviction*

## 81 Enforcement of fines imposed on young offenders.

- (1) Where a magistrates' court would, but for [<sup>F24</sup>section 89 of the Powers of Criminal Courts (Sentencing) Act 2000], have power to commit to prison a person under [<sup>F25</sup>the age of 18] for a default consisting in failure to pay, or want of sufficient [<sup>F26</sup>goods] to satisfy, a sum adjudged to be paid by a conviction, the court may, subject to the following provisions of this section, make—
- an order requiring the defaulter's parent or guardian to enter into a recognizance to ensure that the defaulter pays so much of that sum as remains unpaid; or
  - an order directing so much of that sum as remains unpaid to be paid by the defaulter's parent or guardian instead of by the defaulter.
- (2) An order under subsection (1) above shall not be made in respect of a defaulter—



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- (a) in pursuance of paragraph (a) of that subsection, unless the parent or guardian in question consents;
  - (b) in pursuance of paragraph (b) of that subsection, unless the court is satisfied in all the circumstances that it is reasonable to make the order.
- (3) None of the following orders, namely—
- (a) an order under [F27 section 60(1) of the said Act of 2000 ]<sup>M1</sup> for attendance at an attendance centre; or
  - (b) any order under subsection (1) above,
- shall be made by a magistrates' court in consequence of a default of a person under [F25the age of 18] years consisting in failure to pay, or want of sufficient [F28goods] to satisfy, a sum adjudged to be paid by a conviction unless the court has since the conviction inquired into the defaulter's means in his presence on at least one occasion.
- (4) An order under subsection (1) above shall not be made by a magistrates' court unless the court is satisfied that the defaulter has, or has had since the date on which the sum in question was adjudged to be paid, the means to pay the sum or any instalment of it on which he has defaulted, and refuses or neglects or, as the case may be, has refused or neglected, to pay it.
- (5) An order under subsection (1) above may be made in pursuance of paragraph (b) of that subsection against a parent or guardian who, having been required to attend, has failed to do so; but, save as aforesaid, an order under that subsection shall not be made in pursuance of that paragraph without giving the parent or guardian an opportunity of being heard.
- (6) A parent or guardian may appeal to the Crown Court against an order under subsection (1) above made in pursuance of paragraph (b) of that subsection.
- (7) Any sum ordered under subsection (1)(b) above to be paid by a parent or guardian may be recovered from him in like manner as if the order had been made on the conviction of the parent or guardian of an offence.
- (8) In this section—

“guardian”, in relation to a person under [F25the age of 18], means a person appointed, according to law, to be his guardian <sup>F29</sup>, or by order of a court of competent jurisdiction;

F30

“sum adjudged to be paid by a conviction” means any fine, costs, compensation or other sum adjudged to be paid by an order made on a finding of guilt, including an order made under [F31section 130 of the said Act 2000 ]<sup>M2</sup> (compensation orders) <sup>F29</sup>.

#### Textual Amendments

- F24** Words in s. 81(1) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 67(1)(2)**
- F25** Words in s. 81(1)(3)(8) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 68, 101(1), **Sch. 8 para. 6(2), Sch. 12 para. 22(1); S.I. 1992/333, art. 2(2), Sch. 2**
- F26** Word in s. 81(1) substituted (6.4.2014) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 13 para. 50** (with s. 89); S.I. 2014/768, art. 2(1)(b)
- F27** Words in s. 81(3) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 67(1)(3)**
- F28** Word in s. 81(3) substituted (6.4.2014) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 13 para. 50** (with s. 89); S.I. 2014/768, art. 2(1)(b)

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- F29** Words in s. 81(8) repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(6)(7), **Sch. 15** (with **Sch. 14** paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**
- F30** Definition of “the statutory restrictions upon the imprisonment of young offenders” repealed by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 78, **Sch. 16**
- F31** Words in s. 81(8) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 67(1)(4)**

**Modifications etc. (not altering text)**

- C23** S. 81 restricted (3.2.1995) by 1994 c. 37, **ss. 9(4)(a)**, 69(2) (with s. 66(2))  
S. 81 modified (1.1.1998) by 1997 c. 43, **s. 35(2)**; S.I. 1997/2200, **art. 3(a)**  
S. 81 amended (1.1.1998) by 1997 c. 43, **s. 40(2)**; S.I. 1997/2200, art., 3(c)

**Marginal Citations**

- M1** 2000 c.6  
**M2** 2000 c. 6.

**82 Restriction on power to impose imprisonment for default.**

- (1) A magistrates' court shall not on the occasion of convicting an offender of an offence issue a warrant of commitment for a default in paying any sum adjudged to be paid by the conviction unless—
- in the case of an offence punishable with imprisonment, he appears to the court to have sufficient means to pay the sum forthwith;
  - it appears to the court that he is unlikely to remain long enough at a place of abode in the United Kingdom to enable payment of the sum to be enforced by other methods; or
  - on the occasion of that conviction the court sentences him to immediate imprisonment [<sup>F32</sup>, youth custody] or detention in a detention centre for that or another offence or he is already serving [<sup>F33</sup> a sentence of custody for life, or a term of imprisonment, youth custody, detention under section 9 of the Criminal Justice Act 1982] or detention in a detention centre.

[<sup>F34</sup>(1A) Subsection (1)(c) above does not apply in relation to a surcharge ordered to be paid under section 161A of the Criminal Justice Act 2003.]

- (2) A magistrates' court shall not in advance of the issue of a warrant of commitment fix a term of imprisonment which is to be served by an offender in the event of a default in paying a sum adjudged to be paid by a conviction, except where it has power to issue a warrant of commitment forthwith, but postpones issuing the warrant under section 77(2) above.
- (3) Where on the occasion of the offender's conviction a magistrates' court does not issue a warrant of commitment for a default in paying any such sum as aforesaid or fix a term of imprisonment under the said section 77(2) which is to be served by him in the event of any such default, it shall not thereafter issue a warrant of commitment for any such default or for want of sufficient [<sup>F35</sup> goods] to satisfy such a sum unless—
- he is already serving [<sup>F33</sup> a sentence of custody for life, or a term of imprisonment, youth custody, detention under section 9 of the Criminal Justice Act 1982] or detention in a detention centre; or
  - the court has since the conviction inquired into his means in his presence on at least one occasion.

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- (4) Where a magistrates' court is required by subsection (3) above to inquire into a person's means, the court may not on the occasion of the inquiry or at any time thereafter issue a warrant of commitment for a default in paying any such sum unless—
- (a) in the case of an offence punishable with imprisonment, the offender appears to the court to have sufficient means to pay the sum forthwith; or
  - (b) the court—
    - (i) is satisfied that the default is due to the offender's wilful refusal or culpable neglect; and
    - (ii) has considered or tried all other methods of enforcing payment of the sum and it appears to the court that they are inappropriate or unsuccessful.

[<sup>F36</sup>(4A) The methods of enforcing payment mentioned in subsection (4)(b)(ii) above are—

- (a) a [<sup>F37</sup>warrant of control] under section 76 above;
- (b) an application to the High Court or county court for enforcement under section 87 below;
- (c) an order under section 88 below;
- (d) an attachment of earnings order; and
- (e) if the offender is [<sup>F38</sup>under the age of 25], an order under section 17 of the Criminal Justice Act 1982 (attendance centre orders).]

[<sup>F39</sup>(4B) The cases in which the offender's default may be regarded for the purposes of subsection (4)(b)(i) as being attributable to his wilful refusal or culpable neglect include any case in which—

- (a) he has refused, otherwise than on reasonable grounds, to consent to a work order proposed to be made under Schedule 6 to the Courts Act 2003 (discharge of fines by unpaid work), or
- (b) he has without reasonable excuse failed to comply with such an order.]

(5) After the occasion of an offender's conviction by a magistrates' court, the court shall not, unless—

- (a) the court has previously fixed a term of imprisonment under section 77(2) above which is to be served by the offender in the event of a default in paying a sum adjudged to be paid by the conviction; or
- (b) the offender is serving [<sup>F33</sup>a sentence of custody for life, or a term of imprisonment, youth custody, detention under section 9 of the Criminal Justice Act 1982] or detention in a detention centre,

issue a warrant of commitment for a default in paying the sum or fix such a term except at a hearing at which the offender is present.

[<sup>F40</sup>(5A) A magistrates' court may not issue a warrant of commitment under subsection (5) above at a hearing at which the offender is not present unless the [<sup>F41</sup>designated officer for] the court has first served on the offender a notice in writing stating that the court intends to hold a hearing to consider whether to issue such a warrant and giving the reason why the court so intends.

(5B) Where after the occasion of an offender's conviction by a magistrates' court the court holds a hearing for the purpose of considering whether to issue a warrant of commitment for default in paying a sum adjudged to be paid by the conviction, it shall consider such information about the offender's means as is available to it unless it has previously—

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- (a) inquired into the offender's means; and
  - (b) postponed the issue of the warrant of commitment under section 77(2) above.
- (5C) A notice under subsection (5A) above—
- (a) shall state the time and place appointed for the hearing; and
  - (b) shall inform the offender that, if he considers that there are grounds why the warrant should not be issued, he may make representations to the court in person or in writing,
- but the court may exercise its powers in relation to the issue of a warrant whether or not he makes representations.
- (5D) Except as mentioned in subsection (5E) below, the time stated in a notice under subsection (5A) above shall not be earlier than 21 days after the issue of the notice.
- (5E) Where a magistrates' court exercises in relation to an offender the power conferred by section 77(2) above and at the same hearing issues a notice under subsection (5A) above in relation to him, the time stated in the notice may be a time on any day following the end of the period for which the issue of the warrant of commitment has been postponed.
- (5F) A notice under subsection (5A) above to be served on any person shall be deemed to be served on that person if it is sent by registered post or the recorded delivery service addressed to him at his last known address, notwithstanding that the notice is returned as undelivered or is for any other reason not received by that person.]
- (6) Where a magistrates' court issues a warrant of commitment on the ground that one of the conditions mentioned in subsection (1) or (4) above is satisfied, it shall state that fact, specifying the ground, in the warrant.

#### Textual Amendments

- F32** Words inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 77, **Sch. 14 para. 52(a)**
- F33** Words substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 77, **Sch. 14 para. 52(b)**
- F34** [S. 82\(1A\)](#) inserted (1.6.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), **ss. 179(1), 185(1)** (with **ss. 4, 21, 33, 42, 58, 75, 93**); S.I. 2014/949, art. 4
- F35** Word in s. 82(3) substituted (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, **Sch. 13 para. 51(2)** (with s. 89); S.I. 2014/768, art. 2(1)(b)
- F36** [S. 82\(4A\)](#) added (E.W.) by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), **s. 61(3)** (with s. 123(6), **Sch. 8 para. 16**)
- F37** Words in s. 82(4A)(a) substituted (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, **Sch. 13 para. 51(3)** (with s. 89); S.I. 2014/768, art. 2(1)(b)
- F38** Words in s. 82(4A)(e) substituted (1.10.1997) by [1997 c. 43](#), s. 55(1), **Sch. 4 para. 10(1)**; S.I. 1997/2200, **art. 2(1)(l)(2)(e)**
- F39** [S. 82\(4B\)](#) inserted (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), **ss. 109(1), 110**, **Sch. 8 para. 220(2)**; S.I. 2005/910, **art. 3(y)**
- F40** [S. 82\(5A\)-\(5F\)](#) added (E.W.) by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), **s. 61(4)** (with s. 123(6), **Sch. 8 para. 16**)
- F41** Words in s. 82(5A) substituted (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), **ss. 109(1), 110**, **Sch. 8 para. 220(3)**; S.I. 2005/910, **art. 3(y)**

#### Modifications etc. (not altering text)

- C24** [S. 82](#) amended (1.10.1997) by [1997 c. 43](#), **s. 55(2)**; S.I. 1997/2200, **art. 2(1)(m)**

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**83 Process for securing attendance of offender<sup>F42</sup> . . . .**

- (1) A magistrates' court may, for the purpose of enabling inquiry to be made under section 82 above or for securing the attendance of an offender at a hearing required to be held by subsection (5) of that section—
  - (a) issue a summons requiring the offender to appear before the court at the time and place appointed in the summons; or
  - (b) issue a warrant to arrest him and bring him before the court.
- (2) On the failure of the offender to appear before the court in answer to a summons [<sup>F43</sup>issued under this section, or by virtue of Schedule 5 to the Courts Act 2003] the court may issue a warrant to arrest him and bring him before the court.
- (3) A warrant issued under this section may be executed in like manner, and the like proceedings may be taken with a view to its execution, in any part of the United Kingdom, as if it had been issued under section 13 above.

<sup>F44</sup>(4) . . . . .

**Textual Amendments**

- F42** Words in s. 83 heading omitted (3.7.2006) by virtue of [The Collection of Fines \(Final Scheme\) Order 2006 \(S.I. 2006/1737\)](#), [art. 47\(b\)](#)
- F43** Words in s. 83(2) substituted (3.7.2006) by [The Collection of Fines \(Final Scheme\) Order 2006 \(S.I. 2006/1737\)](#), [art. 47\(a\)](#)
- F44** S. 83(4) repealed (19.2.2001) by [1999 c. 22, ss. 97\(2\), 106, Sch. 15 Pt. V\(8\)](#) (with s. 107, [Sch. 14 para. 7\(2\), 36\(9\)](#)); [S.I. 2001/168](#), [arts. 1, 2](#) (subject to the transitional provisions in [art. 3](#))

**84 Power to require statement of [<sup>F45</sup>assets and other financial circumstances] .**

- (1) A magistrates' court may, either before or on inquiring into a person's means under section 82 above, and a justice of the peace acting [<sup>F46</sup>in the same local justice] area as that court may before any such inquiry, order him to furnish to the court within a period specified in the order such a statement of his [<sup>F47</sup>assets and other financial circumstances] as the court may require.
- (2) A person who fails to comply with an order under subsection (1) above shall be liable on summary conviction to a fine not exceeding [<sup>F48</sup>level 3 on the standard scale].
- (3) If a person in furnishing any statement in pursuance of an order under subsection (1) above makes a statement which he knows to be false in a material particular or recklessly furnishes a statement which is false in a material particular, or knowingly fails to disclose any material fact, he shall be liable on summary conviction to imprisonment for a term not exceeding 4 months or a fine not exceeding [<sup>F48</sup>level 3 on the standard scale]or both.
- (4) Proceedings in respect of an offence under subsection (3) above may, notwithstanding anything in section 127(1) below, be commenced at any time within 2 years from the date of the commission of the offence or within 6 months from its first discovery by the prosecutor, whichever period expires the earlier.

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#### Textual Amendments

- F45** Words in s. 84 heading substituted (11.12.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 16 para. 25\(b\)](#); S.I. 2013/2981, art. 2(d)
- F46** Words in s. 84(1) substituted (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), ss. 109(1), 110, [Sch. 8 para. 221](#); S.I. 2005/910, [art. 3\(y\)](#)
- F47** Words in s. 84(1) substituted (11.12.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 16 para. 25\(a\)](#); S.I. 2013/2981, art. 2(d)
- F48** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#)

#### Modifications etc. (not altering text)

- C25** S. 84(2)-(4) applied (21.9.2004) by [Courts Act 2003 \(c. 39\)](#), ss. 97(2), 110, [Sch. 6 para. 2\(4\)](#); S.I. 2004/2195, [art. 2](#)
- C26** S. 84(2)-(4) applied (21.9.2004) by [Courts Act 2003 \(c. 39\)](#), ss. 97(2), 110, [Sch. 6 para. 2\(4\)](#); S.I. 2004/2195, [art. 2](#)
- C27** S. 84(2)-(4) applied (21.9.2004) by [Courts Act 2003 \(c. 39\)](#), ss. 97(2), 110, [Sch. 6 para. 2\(4\)](#); S.I. 2004/2195, [art. 2](#)

#### [<sup>F49</sup>85] Power to remit fine.

- (1) Where a fine has been imposed on conviction of an offender by a magistrates' court, the court may at any time remit the whole or any part of the fine, but only if it thinks it just to do so having regard to a change of circumstances which has occurred—
- (a) where the court is considering whether to issue a warrant of commitment after the issue of such a warrant in respect of the fine has been postponed under subsection (2) of [<sup>F50</sup>section 77] above, since the relevant time as defined in subsection (4) of that section; and
  - (b) in any other case, since the date of the conviction.
- (2) Where the court remits the whole or part of the fine after a term of imprisonment has been fixed, it shall also reduce the term by an amount which bears the same proportion to the whole term as the amount remitted bears to the whole or, as the case may be, shall remit the whole term.

[ Where the court remits the whole or part of the fine after an order has been made under <sup>F51</sup>(2A) section 35(2)(a) or (b) of the Crime (Sentences) Act 1997, it shall also reduce the total number of hours or days to which the order relates by a number which bears the same proportion as the amount remitted bears to the whole sum or, as the case may be, shall revoke the order.

[ Where the court remits the whole or part of the fine after a work order has been made <sup>F52</sup>(2B) under Schedule 6 to the Courts Act 2003 (discharge of fines by unpaid work), it shall also reduce the number of hours specified in the order by a number which bears the same proportion as the amount remitted bears to the whole sum or, as the case may be, shall revoke the order.]

- (3) In calculating any reduction required by subsection (2) or [<sup>F53</sup>, (2A) or (2B)] above any fraction of a day or hour shall be left out of account.]

[ Where—  
<sup>F54</sup>(3A) (a) the court remits the whole or part of the fine, and

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- (b) the offender was ordered under section 161A of the Criminal Justice Act 2003 to pay a surcharge the amount of which was set by reference to the amount of the fine,  
the court shall determine how much the surcharge would have been if the fine had not included the amount remitted, and remit the balance of the surcharge.]
- (4) Notwithstanding the definition of “fine” in section 150(1) below, references in this section to a fine do not include any other sum adjudged to be paid on conviction, whether as a pecuniary penalty, forfeiture, compensation or otherwise.]

#### Textual Amendments

- F49** S. 85 substituted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), ss. 61(5), 123(6), [Sch. 8 para. 16](#)
- F50** Words in s. 85(1)(a) expressed to be substituted (30.9.1998) by [1998 c. 37, s. 106, Sch. 7 para.32](#); S.I. [1998/2327, art.2\(1\)\(w\)](#)
- F51** S. 85(2A)(3) substituted (1.1.1998) for s. 85(3) by [1997 c. 43, s. 55\(1\), Sch. 4 para. 10\(2\)](#); S.I. [1997/2200, art. 3\(d\)](#)
- F52** S. 85(2B) inserted (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), ss. 109(1), 110, [Sch. 8 para. 222\(2\)](#); S.I. [2005/910, art. 3\(y\)](#)
- F53** Words in s. 85(3) substituted (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), ss. 109(1), 110, [Sch. 8 para. 222\(3\)](#); S.I. [2005/910, art. 3\(y\)](#)
- F54** S. 85(3A) inserted (1.6.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), ss. [179\(2\), 185\(1\)](#) (with ss. 4, 21, 33, 42, 58, 75, 93, 179(4)); S.I. [2014/949, art. 4](#)

#### Modifications etc. (not altering text)

- C28** S. 85 modified by [Road Traffic Offenders Act 1988 \(c. 53, SIF 107:1\)](#), ss. [71\(8\)](#), 92  
S. 85 restricted (3.2.1995) by [1994 c. 37, ss. 9\(4\)\(a\), 69\(2\)](#) (with s. 66(2))  
S. 85 amended (1.1.1998) by [1997 c. 43, s. 55\(2\)](#); S.I. [1997/2200, art. 2\(1\)\(m\)](#)
- C29** S. 85(1) restricted (25.8.2000) by [2000 c. 6, ss. 140\(5\)](#), 168(1)

#### [<sup>F55</sup> 85A Variation of instalments of sum adjudged to be paid by conviction.

Where under section 75 above a magistrates' court orders that a sum adjudged to be paid by a conviction shall be paid by instalments, the court, on an application made by the person liable to pay that sum, shall have power to vary that order by varying the number of instalments payable, the amount of any instalment payable, and the date on which any instalment becomes payable.]

#### Textual Amendments

- F55** S. 85A inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. [51\(1\)](#)

#### 86 Power of magistrates' court to fix day for appearance of offender at means inquiry etc.

- [<sup>F56</sup>(1) A magistrates' court which has exercised in relation to a sum adjudged to be paid by a conviction either of the powers conferred by section 75(1) above shall have power, either then or later, to fix a day on which, if the relevant condition is satisfied, the offender must appear in person before the court for either or both of the following purposes, namely—

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- (a) to enable an inquiry into his means to be made under section 82 above;
  - (b) to enable a hearing required by subsection (5) of the said section 82 to be held.
- (1A) Where the power which the court has exercised is the power to allow time for payment of a sum (“the adjudged sum”), the relevant condition is satisfied if any part of that sum remains unpaid on the day fixed by the court.
- (1B) Where the power which the court has exercised is the power to order payment by instalments, the relevant condition is satisfied if an instalment which has fallen due remains unpaid on the day fixed by the court.]
- (2) Except as provided in subsection (3) below, the power to fix a day under this section shall be exercisable only in the presence of the offender.
- (3) Where a day has been fixed under this section, the court may fix a later day in substitution for the day previously fixed, and may do so—
- (a) when composed of a single justice; and
  - (b) whether the offender is present or not.
- (4) Subject to subsection (5) below, if on the day fixed under this section—
- [<sup>F57</sup>(a) the relevant condition is satisfied; and]
  - (b) the offender fails to appear in person before the court,
- the court may issue a warrant to arrest him and bring him before the court; and [<sup>F58</sup>subsection (3)] of section 83 above shall apply in relation to a warrant issued under this section.
- (5) Where under subsection (3) above a later day has in the absence of the offender been fixed in substitution for a day previously fixed under this section, the court shall not issue a warrant under this section unless it is proved to the satisfaction of the court, on oath or in such other manner as may be prescribed, that notice in writing of the substituted day was served on the offender not less than what appears to the court to be a reasonable time before that day.

#### Textual Amendments

- F56** S. 86(1)(1A)(1B) substituted for subsection (1) by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 51\(2\)\(a\)](#)
- F57** S. 86(4)(a) substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 51\(2\)\(b\)](#)
- F58** Words in [s. 86\(4\)](#) substituted (19.2.2001) by [1999 c. 22, s. 97\(3\)](#) (with [s. 107, Sch. 14 para. 7\(2\)](#)); [S.I. 2001/168, arts. 1, 2\(a\)](#) (subject to the transitional provisions in [art. 3](#))

## 87 Enforcement of payment of fines by High Court and county court.

- (1) Subject to the provisions of subsection (2) below, payment of a sum adjudged to be paid by a conviction of a magistrates' court may be enforced by the High Court or [<sup>F59</sup>the county court] (otherwise than by issue of a [<sup>F60</sup>writ of control] or other process against goods or by imprisonment or attachment of earnings) as if the sum were due to the [<sup>F61</sup>designated officer for] the magistrates' court in pursuance of a judgment or order of the High Court or county court, as the case may be.
- [<sup>F62</sup>(1A) For the purposes of taking the step mentioned in paragraph 38(1)(e) of Schedule 5 to the Courts Act 2003, the reference in subsection (1) above to “the designated officer for the magistrates' court” shall be construed as a reference to the fines officer.]



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<sup>F63</sup>(2) .....

<sup>F64</sup>(2A) .....

(3) The [<sup>F65</sup>designated officer for the magistrates' court] shall not take proceedings by virtue of subsection (1) above to recover any sum adjudged to be paid by a conviction of the court from any person unless [<sup>F66</sup>there has been an inquiry under section 82 above into that person's means and he appeared to the court to have sufficient means to pay the sum forthwith.]

[<sup>F67</sup>(3A) The fines officer shall not, for the purposes of taking the step mentioned in paragraph 38(1)(e) of Schedule 5 to the Courts Act 2003, take proceedings by virtue of subsection (1) above to recover from any person a sum mentioned in paragraph 1 of that Schedule, unless the fines officer has made an inquiry into that person's means and he appeared to the fines officer to have sufficient means to pay the sum forthwith.]

(4) <sup>F68</sup> .....

#### Textual Amendments

**F59** Words in s. 87(1) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 52](#); [S.I. 2014/954, art. 2\(c\)](#) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

**F60** Words in s. 87(1) substituted (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 13 para. 52](#) (with s. 89); [S.I. 2014/768, art. 2\(1\)\(b\)](#)

**F61** Words in s. 87(1) substituted (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), ss. 109(1), 110, [Sch. 8 para. 223\(2\)](#); [S.I. 2005/910, art. 3\(y\)](#)

**F62** S. 87(1A) inserted (3.7.2006) by [The Collection of Fines \(Final Scheme\) Order 2006 \(S.I. 2006/1737\)](#), [art. 48\(a\)](#)

**F63** S. 87(2) omitted (1.7.1991) by virtue of [S.I. 1991/724, art. 2\(8\)](#), [Sch. Pt. I](#) (with art. 12)

**F64** S. 87(2A) omitted (1.7.1991) by virtue of [S.I. 1991/724, art. 2\(8\)](#), [Sch. Pt. I](#) (with art. 12)

**F65** Words in s. 87(3) substituted (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), ss. 109(1), 110, [Sch. 8 para. 223\(3\)](#); [S.I. 2005/910, art. 3\(y\)](#)

**F66** Words in s. 87(3) substituted (4.7.1996, with effect (1.10.1996) as mentioned in s. 50(2)(3) of the substituting Act) by [1996 c. 25, s. 50\(1\)](#) (with s. 78(1)); [S.I. 1996/2343, art. 2](#)

**F67** S. 87(3A) inserted (3.7.2006) by [The Collection of Fines \(Final Scheme\) Order 2006 \(S.I. 2006/1737\)](#), [art. 48\(b\)](#)

**F68** S. 87(4) repealed (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), ss. 109(1)(3), 110, [Sch. 8 para. 223\(4\)](#), [Sch. 10](#); [S.I. 2005/910, art. 3\(y\)\(aa\)](#)

#### Modifications etc. (not altering text)

**C30** S. 87 extended (1.7.1991) by [S.I. 1991/724, art. 2\(1\)\(j\)](#) (with art. 12)

S. 87 modified (3.2.1995) by [1994 c. 37, ss. 9\(4\)\(b\)\(6\), 69\(2\)](#) (with s. 66(2))

S. 87 applied (with modifications) (temp.) (23.2.2004 and 29.3.2004 for certain purposes, otherwise 5.4.2004 until 31.3.2006) by [The Fines Collection Regulations 2004 \(S.I. 2004/176\)](#), [regs. 1\(3\), 9](#) (with [reg. 3](#)) (as amended (30.3.2005) by [S.I. 2005/484, regs. 1\(1\)\(a\)\(2\), 2, 4, 9](#))

#### [<sup>F69</sup>87A Fines imposed on companies.

(1) Where—

(a) a magistrates' court has, or is treated by any enactment as having, adjudged a company by a conviction to pay a sum; and

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- (b) the court has issued a [<sup>F70</sup>warrant of control] under section 76(1) above for the purpose of levying the sum; and
- [<sup>F71</sup>(c) it appears on the return to the warrant that the company's money and goods are insufficient to pay the amount outstanding,]

the [<sup>F72</sup>designated officer for] the court may make an application in relation to the company under [<sup>F73</sup>section 124 of, or paragraph 12 of Schedule B1 to, the Insolvency Act 1986] (administration or winding up).

(2) <sup>F74</sup>.....]

[<sup>F75</sup>(3) In this section, “the amount outstanding” has the meaning given by paragraph 50(3) of Schedule 12 to the Tribunals, Courts and Enforcement Act 2007.]

#### Textual Amendments

- F69** S. 87A inserted (E.W.) by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 62(1), 123(6), **Sch. 8 para. 16**
- F70** Words in s. 87A(1)(b) substituted (6.4.2014) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 13 para. 53(2)** (with s. 89); S.I. 2014/768, art. 2(1)(b)
- F71** S. 87A(1)(c) substituted (6.4.2014) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 13 para. 53(3)** (with s. 89); S.I. 2014/768, art. 2(1)(b)
- F72** Words in s. 87A(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 224(2)**; S.I. 2005/910, **art. 3(y)**
- F73** Words in s. 87A(1) substituted (15.9.2003) by 2002 c. 40, ss. 248, 279, **Sch. 17 para. 2** (with s. 249(1)-(3)); S.I. 2003/2093, **art. 2**, **Sch. 1**(subject to arts. 3-8 (as amended by S.I. 2003/2332, art. 2))
- F74** S. 87A(2) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, **Sch. 8 para. 224(3)**, **Sch. 10**; S.I. 2005/910, **art. 3(y)(aa)**
- F75** S. 87A(3) inserted (6.4.2014) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 13 para. 53(4)** (with s. 89); S.I. 2014/768, art. 2(1)(b)

## 88 Supervision pending payment.

- (1) Where any person is adjudged to pay a sum by a summary conviction and the convicting court does not commit him to prison forthwith in default of payment, the court may, either on the occasion of the conviction or on a subsequent occasion, order him to be placed under the supervision of such person as the court may from time to time appoint.
- (2) An order placing a person under supervision in respect of any sum shall remain in force so long as he remains liable to pay the sum or any part of it unless the order ceases to have effect or is discharged under subsection (3) below.
- (3) An order under this section shall cease to have effect on the making of a transfer of fine order under section 89 below with respect to the sum adjudged to be paid and may be discharged by the court that made it, without prejudice in either case to the making of a new order.
- (4) Where a person under 21 years old has been adjudged to pay a sum by a summary conviction and the convicting court does not commit him to [<sup>F76</sup>detention under][<sup>F77</sup>section 108 of the Powers of Criminal Courts (Sentencing) Act 2000]forthwith in default of payment, the court shall not commit him to [<sup>F78</sup>such detention]in default of payment of the sum, or for want of sufficient [<sup>F79</sup>goods] to satisfy the sum, unless he has been placed under supervision in respect of the sum

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or the court is satisfied that it is undesirable or impracticable to place him under supervision.

- (5) Where a court, being satisfied as aforesaid, commits a person under 21 years old to [F80 such detention] without an order under this section having been made, the court shall state the grounds on which it is so satisfied in the warrant of commitment.
- (6) Where an order placing a person under supervision with respect to a sum is in force, a magistrates' court shall not commit him to prison in default of payment of the sum, or for want of sufficient [F81 goods] to satisfy the sum, unless the court has before committing him taken such steps as may be reasonably practicable to obtain from the person appointed for his supervision an oral or written report on the offender's conduct and means and has considered any report so obtained, in addition, in a case where an inquiry is required by section 82 above, to that inquiry.

#### Textual Amendments

- F76** Words substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 77, [Sch. 14 para. 53\(a\)\(i\)](#)
- F77** Words in s. 88(4) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), [Sch. 9 para. 68](#)
- F78** Words substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 77, [Sch. 14 para. 53\(a\)\(ii\)](#)
- F79** Word in s. 88(4) substituted (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 13 para. 54](#) (with s. 89); S.I. 2014/768, art. 2(1)(b)
- F80** Words substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 77, [Sch. 14 para. 53\(b\)](#)
- F81** Word in s. 88(6) substituted (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 13 para. 54](#) (with s. 89); S.I. 2014/768, art. 2(1)(b)

## 89 Transfer of fine order.

- (1) Where a magistrates' court [F82 in a local justice area] has, or is treated by any enactment as having, adjudged a person by a conviction to pay a sum and it appears to the court [F83, or where that sum is the subject of a collection order, it appears to the court or the fines officer as the case may be,] that the person is residing [F84 in England and Wales], the court [F85 or the fines officer, as the case may be,] may make a transfer of fine order, that is to say, an order making payments enforceable in [F86 another local justice area] and that area shall be specified in the order.
- [F87(2) As from the date on which a transfer of fine order is made with respect to any sum, all functions under this Part of this Act or under Schedule 5 to the Courts Act 2003 relating to that sum which, if no order had been made, would have been exercisable by any court or person mentioned in column 1 of the Table below shall be exercisable by the court or person mentioned in the corresponding entry in column 2, and not otherwise.

TABLE

<i>Column 1</i>	<i>Column 2</i>
(A) The court which made the order. (B) A court acting in the same local justice area as was the fines officer who made the	In either case, a court acting in the local justice area specified in the order.

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The designated officer for the court mentioned in the row above.

The designated officer for the court mentioned in the row above.

(A) The fines officer who made the order.

(B) A fines officer acting in the same local justice area as was the court which made the order.

In either case, a fines officer acting in the local justice area specified in the order.]

[<sup>F88</sup>(2A) The functions of the court to which subsection (2) above relates shall be deemed to include the court's [<sup>F89</sup>under this Part of this Act] power to apply to the Secretary of State under any regulations made by him under section 24(1)(a) of the <sup>M3</sup>Criminal Justice Act 1991 (power to deduct fines etc from [<sup>F90</sup>universal credit and] income support).]

[<sup>F91</sup>(3) A court [<sup>F92</sup>or a fines officer, as the case may be, by which or whom] functions in relation to any sum are for the time being exercisable by virtue of a transfer of fine order may make a further transfer of fine order with respect to that sum.]

(4) In this section and sections 90 and 91 below, references to this Part of this Act do not include references to section 81(1) above.

#### Textual Amendments

- F82** Words in s. 89(1) inserted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 225(2)(a)**; S.I. 2005/910, **art. 3(y)**
- F83** Words in s. 89(1) inserted (3.7.2006) by The Collection of Fines (Final Scheme) Order 2006 (S.I. 2006/1737), **art. 49(a)(i)**
- F84** Words in s. 89(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 225(2)(b)**; S.I. 2005/910, **art. 3(y)**
- F85** Words in s. 89(1) inserted (3.7.2006) by The Collection of Fines (Final Scheme) Order 2006 (S.I. 2006/1737), **art. 49(a)(ii)**
- F86** Words in s. 89(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 225(2)(c)**; S.I. 2005/910, **art. 3(y)**
- F87** S. 89(2) substituted (3.7.2006) by The Collection of Fines (Final Scheme) Order 2006 (S.I. 2006/1737), **art. 49(b)**
- F88** S. 89(2A) inserted (3.2.1995) by 1994 c. 33, **s. 47(1)**; S.I. 1995/127, art. 2(1), **Sch. 1**
- F89** Words in s. 89(2A) inserted (3.7.2006) by The Collection of Fines (Final Scheme) Order 2006 (S.I. 2006/1737), **art. 49(c)**
- F90** Words in s. 89(2A) inserted (29.4.2013) by The Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations 2013 (S.I. 2013/630), regs. 1(2), **4(2)**
- F91** S. 89(3) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 225(4)**; S.I. 2005/910, **art. 3(y)**
- F92** Words in s. 89(3) substituted (3.7.2006) by The Collection of Fines (Final Scheme) Order 2006 (S.I. 2006/1737), **art. 49(d)**

#### Modifications etc. (not altering text)

- C31** S. 89 applied (with modifications) (temp.) (23.2.2004 and 29.3.2004 for certain purposes, otherwise 5.4.2004 until 31.3.2006) by The Fines Collection Regulations 2004 (S.I. 2004/176), regs. 1(3), **6(a)** (with **reg. 3**) (as amended (30.3.2005) by S.I. 2005/484, regs. 1(1)(a)(2), 2, 4, 6)

#### Marginal Citations

- M3** 1991 c. 53.

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## 90 Transfer of fines to Scotland or Northern Ireland.

- (1) Where a magistrates' court has, or is treated by any enactment as having, adjudged a person by a conviction to pay a sum, and it appears to the court [<sup>F93</sup>(or where that sum is the subject of a collection order, it appears to the court or the fines officer as the case may be)] that he is residing—
- (a) within the jurisdiction of a court of summary jurisdiction in Scotland, or
  - (b) in any petty sessions district in Northern Ireland,
- the court [<sup>F94</sup>(or the fines officer as the case may be)] may order that payment of the sum shall be enforceable by that court of summary jurisdiction or, as the case may be, in that petty sessions district.
- (2) An order under this section shall specify the court of summary jurisdiction by which or petty sessions district in which payment of the sum in question is to be enforceable; and if—
- (a) that sum is more than £100 or is a fine originally imposed by the Crown Court or the sheriff court, and
  - (b) payment is to be enforceable in Scotland,
- the court to be so specified shall be the sheriff court.
- (3) Where an order is made under this section with respect to any sum, any functions under this Part of this Act relating to that sum which, if no such order had been made, would have been exercisable by [<sup>F95</sup>a magistrates' court in England and Wales or by the designated officer for that court, or by a fines officer] shall cease to be so exercisable.
- [<sup>F96</sup>(3A) The functions of the court [<sup>F97</sup>under this Part of this Act] which shall cease to be exercisable by virtue of subsection (3) above shall be deemed to include the court's power to apply to the Secretary of State under regulations made by him under section 24(1)(a) of the Criminal Justice Act 1991 (power to deduct fines from [<sup>F98</sup>universal credit and] income support).]

### Textual Amendments

- F93** Words in s. 90(1) inserted (3.7.2006) by [The Collection of Fines \(Final Scheme\) Order 2006 \(S.I. 2006/1737\)](#), [art. 50\(a\)\(i\)](#)
- F94** Words in s. 90(1) inserted (3.7.2006) by [The Collection of Fines \(Final Scheme\) Order 2006 \(S.I. 2006/1737\)](#), [art. 50\(a\)\(ii\)](#)
- F95** Words in s. 90(3) substituted (3.7.2006) by [The Collection of Fines \(Final Scheme\) Order 2006 \(S.I. 2006/1737\)](#), [art. 50\(b\)](#)
- F96** S. 90(3A) inserted (E.W.) (3.2.1995) by 1994 c. 33, [s. 47\(2\)](#); S.I. 1995/127, [art. 2\(1\)](#), [Sch. 1](#)
- F97** Words in s. 90(3A) inserted (3.7.2006) by [The Collection of Fines \(Final Scheme\) Order 2006 \(S.I. 2006/1737\)](#), [art. 50\(b\)](#)
- F98** Words in s. 90(3A) inserted (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), [regs. 1\(2\)](#), [4\(3\)](#)

### Modifications etc. (not altering text)

- C32** S. 90 applied (with modifications) (temp.) (23.2.2004 and 29.3.2004 for certain purposes, otherwise 5.4.2004 until 31.3.2006) by [The Fines Collection Regulations 2004 \(S.I. 2004/176\)](#), [regs. 1\(3\)](#), [6\(b\)](#) (with [reg. 3](#)) (as amended (30.3.2005) by S.I. 2005/484, [regs. 1\(1\)\(a\)\(2\)](#), [2](#), [4](#), [6\(3\)](#))
- C33** S. 90(1) modified (1.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 86](#), [153](#); S.I. 2009/2606, [art. 2\(g\)](#)

*Status: Point in time view as at 06/03/2015.*

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## 91 Transfer of fines from Scotland or Northern Ireland.

- (1) Where a transfer of fine order under section 403 of the <sup>M4</sup>Criminal Procedure (Scotland) Act 1975 or [<sup>F99</sup>Article 95 of the Magistrates' Courts (Northern Ireland) Order 1981] provides that payment of a sum shall be enforceable [<sup>F100</sup>by a magistrates' court in England and Wales, a magistrates' court [<sup>F101</sup>(or a fines officer as the case may be)] acting in the area in which the person subject to the order resides,] and the [<sup>F102</sup>designated officer for] that court, shall, subject to the provisions of this section, have all the like functions under this Part of this Act [<sup>F103</sup>(or under Schedule 5 to the Courts Act 2003 as the case may be)] in respect of the sum (including power to make an order under section 89 or section 90 above) as if the sum were a sum adjudged to be paid by a conviction of that court and as if any order made under the said Act of 1975 or, as the case may be, [<sup>F104</sup>the said Order of 1981] in respect of the sum before the making of the transfer of fine order had been made by that court.
- (2) For the purpose of determining the period of imprisonment which may be imposed under this Act in default of payment of a fine originally imposed by a court in Scotland, Schedule 4 to this Act shall have effect as if for the Table set out in paragraph 1 there were substituted the Table set out in section 407 of the <sup>M5</sup>Criminal Procedure (Scotland) Act 1975.
- (3) Where a transfer of fine order under section 403 of the <sup>M6</sup>Criminal Procedure (Scotland) Act 1975 or [<sup>F105</sup>Article 95 of the Magistrates' Courts (Northern Ireland) Order 1981] provides for the enforcement [<sup>F106</sup>by a magistrates' court] in England and Wales of a fine originally imposed by the Crown Court, a magistrates' court [<sup>F107</sup>(or a fines officer as the case may be)] [<sup>F108</sup>acting in the area in which the person subject to the order resides] shall have all the like functions under this Part of this Act [<sup>F109</sup>(or under Schedule 5 to the Courts Act 2003 as the case may be)] , exercisable subject to the like restrictions, as if it were the magistrates' court by which payment of the fine fell to be enforced by virtue of [<sup>F110</sup>section 140(1) of the <sup>M7</sup>Powers of Criminal Courts (Sentencing) Act 2000] [<sup>F111</sup>(or as if he were a fines officer acting in the same local justice area as that court as the case may be)] , and as if any order made under the said Act of 1975 or, as the case may be, [<sup>F112</sup>the said Order of 1981] in respect of the fine before the making of the transfer of fine order had been made by that court.

### Textual Amendments

- F99** Words substituted by S.I. 1981/1675 (N.I. 26), art. 170(2), **Sch. 6 Pt. I para. 59(a)(i)**
- F100** Words in s. 91(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 227(2)(a)**; S.I. 2005/910, **art. 3(y)**
- F101** Words in s. 91(1) inserted (3.7.2006) by The Collection of Fines (Final Scheme) Order 2006 (S.I. 2006/1737), **art. 51(a)(i)**
- F102** Words in s. 91(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 227(2)(b)**; S.I. 2005/910, **art. 3(y)**
- F103** Words in s. 91(1) inserted (3.7.2006) by The Collection of Fines (Final Scheme) Order 2006 (S.I. 2006/1737), **art. 51(a)(ii)**
- F104** Words substituted by S.I. 1981/1675 (N.I. 26), art. 170(2), **Sch. 6 Pt. I para. 59(a)(ii)**
- F105** Words substituted by S.I. 1981/1675 (N.I. 26), art. 170(2), **Sch. 6 para. 59(b)(i)**
- F106** Words in s. 91(3) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 227(3)(a)**; S.I. 2005/910, **art. 3(y)**
- F107** Words in s. 91(3) inserted (3.7.2006) by The Collection of Fines (Final Scheme) Order 2006 (S.I. 2006/1737), **art. 51(b)(i)**
- F108** Words in s. 91(3) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 227(3)(b)**; S.I. 2005/910, **art. 3(y)**

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- F109** Words in s. 91(3) inserted (3.7.2006) by The Collection of Fines (Final Scheme) Order 2006 (S.I. 2006/1737), **art. 51(b)(ii)**
- F110** Words in s. 91(3) substituted (28.5.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 69**
- F111** Words in s. 91(3) inserted (3.7.2006) by The Collection of Fines (Final Scheme) Order 2006 (S.I. 2006/1737), **art. 51(b)(iii)**
- F112** Words substituted by S.I. 1981/1675 (N.I. 26), art. 170(2), **Sch. 6 Pt. I para. 56(b)(ii)**

**Modifications etc. (not altering text)**

- C34** S. 91 amended by Criminal Justice (Scotland) Act 1980 (c. 62, SIF 39:1), **s. 66**  
S. 91 modified (S.) (1.4.1996) by 1995 c. 43, **ss. 14(1), 50(2)** and by 1995 c. 46, **ss. 252(1), 309(2)** (with s. 24(2))  
S. 91 amended (S.) (*prosp.*) by 1995 c. 20, **ss. 70(2), 80(1)** (with s. 113(1)) (which amending Act was repealed (S.) (1.4.1996) by 1995 c. 40, **ss. 3(1), 6(1), 7(2), Sch. 3 para. 16(3), Sch. 5**)
- C35** S. 91 applied (with modifications) (temp.) (23.2.2004 and 29.3.2004 for certain purposes, otherwise 5.4.2004 until 31.3.2006) by The Fines Collection Regulations 2004 (S.I. 2004/176), **regs. 1(3), 6(c)** (with **reg. 3**) (as amended (30.3.2005) by S.I. 2005/484, **regs. 1(1)(a)(2), 2, 4, 6(3)**)

**Marginal Citations**

- M4** 1975 c. 21.  
**M5** 1975 c. 21.  
**M6** 1975 c. 21.  
**M7** 2000 c. 6.

*Sums adjudged to be paid by an order*

**92 Restriction on power to impose imprisonment for default.**

- (1) A magistrates' court shall not exercise its power under section 76 above to issue a warrant to commit to prison a person who makes default in paying a sum adjudged to be paid by an order of such a court except where the default is under—
- <sup>F113</sup>(a) .....
- (b) an order [<sup>F114</sup>made by a court under regulations under section 23 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (payment by individual in respect of legal aid)] ; or
- (c) an order for the payment of any of the taxes, contributions, premiums or liabilities specified in Schedule 4 to the <sup>M8</sup>Administration of Justice Act 1970.
- (2) This section does not affect the power of a magistrates' court to issue such a warrant as aforesaid in the case of default in paying a sum adjudged to be paid by a conviction, or treated (by any enactment relating to the collection or enforcement of fines, costs, compensation or forfeited recognizances) as so adjudged to be paid.
- (3) ..... <sup>F115</sup>

**Textual Amendments**

- F113** S. 92(1)(a) omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 10 para. 49(a)**; S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

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**F114** Words in s. 92(1)(b) substituted (1.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 5 para. 16**; S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)

**F115** S. 92(3) repealed by [Family Law Reform Act 1987 \(c. 42, SIF 49:7\)](#), s. 33(2)(4), Sch. 3 paras. 1, 6, **Sch. 4**

**Marginal Citations**

**M8** 1970 c. 31.

**FII693 Complaint for arrears.**

.....

**Textual Amendments**

**F116** Ss. 93-95 omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 10 para. 49(a)**; S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

**FII694 Effect of committal on arrears.**

.....

**Textual Amendments**

**F116** Ss. 93-95 omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 10 para. 49(a)**; S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

**FII694A Interest on arrears.**

.....

**Textual Amendments**

**F116** Ss. 93-95 omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 10 para. 49(a)**; S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

**FII695 Remission of arrears and manner in which arrears to be paid.**

.....

**Textual Amendments**

**F116** Ss. 93-95 omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 10 para. 49(a)**; S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)



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## 96 Civil debt: complaint for non-payment.

- (1) A magistrates' court shall not commit any person to prison or other detention in default of payment of a sum enforceable as a civil debt or for want of sufficient [<sup>F117</sup>goods] to satisfy such a sum except by an order made on complaint and on proof to the satisfaction of the court that that person has, or has had since the date on which the sum was adjudged to be paid, the means to pay the sum or any instalment of it on which he has defaulted, and refuses or neglects or, as the case may be, has refused or neglected to pay it.
- (2) A complaint under this section may be made at any time notwithstanding anything in this or any other Act.
- (3) Where on any such complaint the defendant is committed to custody, such costs incurred by the complainant in proceedings for the enforcement of the sum as the court may direct shall be included in the sum on payment of which the defendant may be released from custody.

### Textual Amendments

**F117** Word in s. 96(1) substituted (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 13 para. 55](#) (with s. 89); S.I. 2014/768, art. 2(1)(b)

## [<sup>F118</sup>96A Application of Part III to persons aged 17 to 20.

This Part of this Act shall have effect in relation to a person [<sup>F119</sup>aged 18] or over but less than 21 as if any reference to committing a person to prison, or fixing a term of imprisonment for a default, were a reference to committing the person to, or, as the case may be, to fixing a term of, detention under [<sup>F120</sup>section 108 of the <sup>M9</sup>Powers of Criminal Courts (Sentencing) Act 2000]; and any reference to warrants of commitment, or to periods of imprisonment imposed for default, shall be construed accordingly.]

### Textual Amendments

**F118** S. 96A inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 77, [Sch. 14 para. 54](#)

**F119** Words in s. 96A substituted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), ss. 68, 101(1), [Sch. 8 para. 6\(3\)](#), [Sch. 12 para. 22\(1\)](#); S.I. 1992/333, art. 2(2), [Sch. 2](#)

**F120** Words in s. 96A substituted (28.5.2000) by [2000 c. 6, ss. 165, 168\(1\)](#), [Sch. 9 para. 70](#) (which [Sch. 9 para. 70](#) of the amending Act is repealed (*prosp.*) by [2000 c. 43, ss. 74, 75, 80\(1\)](#), [Sch. 7 Pt. II para. 203\(2\)](#), [Sch. 8](#))

### Marginal Citations

**M9** [2000 c. 6.](#)

**Status:**

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**Changes to legislation:**

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