



Magistrates' Courts Act 1980

1980 CHAPTER 43

An Act to consolidate certain enactments relating to the jurisdiction of, and the practice and procedure before, magistrates' courts and the functions of justices' clerks, and to matters connected therewith, with amendments to give effect to recommendations of the Law Commission. [1st August 1980]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

CRIMINAL JURISDICTION AND PROCEDURE

Jurisdiction to issue process and deal with charges

1.—(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,—

Issue of summons to accused or warrant for his arrest.

- (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.

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(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 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.—(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). PART I
Jurisdiction to deal with charges.

(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.—(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. Offences committed on boundaries, etc.

(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.

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(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

General nature
of committal
proceedings.

4.—(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.

Adjournment
of inquiry.

5.—(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.—(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.

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Discharge or
committal
for trial.

(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 1976 c. 63. 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,

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1976 c. 63.

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 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 ;

1976 c. 82.

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.

Place of trial
on indictment.

7. 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.

1971 c. 23.

Restrictions on
reports of
committal
proceedings.

8.—(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.

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(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—

(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 ;

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- (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.

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(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.—(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.—(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

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(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.

Non-
appearance of
accused:
general
provisions.

11.—(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.

1973 c. 62.

(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.

Non-
appearance of
accused: plea
of guilty.

12.—(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.

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(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.

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(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.

1881 c. 24.

Non-
appearance of
accused:
issue of
warrant.

13.—(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.

(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.—(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—

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Proceedings
invalid
where accused
did not know
of them.

- (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.—(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.

Non-
appearance of
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. 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

Non-
appearance of
both parties.

PART I

Offences triable on indictment or summarily

Certain
offences
triable either
way.

17.—(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.

Initial
procedure on
information
against adult
for offence
triable either
way.

18.—(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.—(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.

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Court to begin by considering which mode of trial appears more suitable.

(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.—(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).

Procedure where summary trial appears more suitable.

(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.

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(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.

Procedure where trial on indictment appears more suitable.

21. 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.

Certain offences triable either way to be tried summarily if value involved is small.

22.—(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

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- (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 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.—(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

Power of court, with consent of legally represented accused, to proceed in his absence.

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(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.—(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—

(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

Summary trial of information against child or young persons for indictable offence.
1933 c. 12.

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(b) he is charged jointly with a person who has attained the age of 17 and the court consider 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. 1973 c. 62.

(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). 1969 c. 54.

25.—(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. Power to change from summary trial to committal proceedings, and vice versa.

(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

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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.

(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)(b) 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.

Power to issue
summons to
accused in
certain
circumstances.

26.—(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

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- (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. 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.

Effect of dismissal of information for offence triable either way.

28. 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.

Using in summary trial evidence given in committal proceedings.

Power to remit person under 17 for trial to juvenile court

29.—(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,
- Power of magistrates' court to remit a person under 17 for trial to a juvenile court in certain circumstances.

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).

1933 c. 12.

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.

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(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

Remand for
medical
examination.

30.—(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—

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1976 c. 63.

(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.

1973 c. 14.

Powers in respect of offenders

31.—(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.

General limit on power of magistrates' court to impose imprisonment.

(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.—(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—

Penalties on summary conviction for offences triable either way.

(a) a magistrates' court shall not have power to impose imprisonment for an offence so listed if the Crown

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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 :—

1971 c. 38.

- (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) ;

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(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).

(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.

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(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.

1977 c. 45.

Maximum penalties on summary conviction in pursuance of section 22.

33.—(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.

Mitigation of penalties, etc.

34.—(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—

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(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. 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. Fixing amount of fine.

36.—(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. Restriction on fines in respect of young persons.

(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). 1969 c. 54.

37.—(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. Committal to Crown Court with a view to borstal sentence.
1961 c. 39.
1948 c. 58.

(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.

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Committal for sentence on summary trial of offence triable either way.

1967 c. 80.

1973 c. 62.

Cases where magistrates' court may remit offender to another such court for sentence.

38. 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 1973.

39.—(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.

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(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. 1968 c. 60.

(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); 1972 c. 20.

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.—(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. Restriction on amount payable under compensation order of magistrates' court.

(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. 1973 c. 62.

Miscellaneous

41. 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. Restriction on grant of bail in treason.

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Restriction on justices sitting after dealing with bail.

42.—(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.

Bail on arrest without warrant.

1976 c. 63.

43.—(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 recognizances 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.

Aiders and abettors.

44.—(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.

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(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.—(1) Any offence consisting in the incitement to commit a summary offence shall be triable only summarily. Incitement.

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

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

48. 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. Return of property taken from accused.

PART I

Taking of
finger-prints.

49.—(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.

Construction
of references
to complaint
in enactments
dealing with
offences.

50. 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.

PART II

CIVIL JURISDICTION AND PROCEDURE

Jurisdiction to issue summons and deal with complaints

Issue of
summons on
complaint.

51. Subject to the provisions of this Act, where a complaint is made to a justice of the peace acting for any petty sessions area upon which a magistrates' court acting for that area has power to make an order against any person, the justice may issue a summons directed to that person requiring him to appear before a magistrates' court acting for that area to answer to the complaint.

Jurisdiction
to deal with
complaints.

52. Where no express provision is made by any Act or the rules specifying what magistrates' courts shall have jurisdiction to hear a complaint, a magistrates' court shall have such jurisdiction if the complaint relates to anything done within the commission area for which the court is appointed or anything left

undone that ought to have been done there, or ought to have been done either there or elsewhere, or relates to any other matter arising within that area.

In this section "commission area" has the same meaning as in the Justices of the Peace Act 1979.

1979 c. 55.

Hearing of complaint

53.—(1) On the hearing of a complaint, the court shall, if Procedure the defendant appears, state to him the substance of the on hearing. complaint.

(2) The court, after hearing the evidence and the parties, shall make the order for which the complaint is made or dismiss the complaint.

(3) Where a complaint is for an order for the payment of a sum recoverable summarily as a civil debt, or for the variation of the rate of any periodical payments ordered by a magistrates' court to be made, or for such other matter as may be prescribed, the court may make the order with the consent of the defendant without hearing evidence.

54.—(1) A magistrates' court may at any time, whether before Adjournment, or after beginning to hear a complaint, adjourn the hearing, 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 hearing is to be resumed or, unless it remands the defendant under section 55 below, leave the time and place to be determined later by the court; but the hearing shall not be resumed at that time and place unless the court is satisfied that the parties have had adequate notice thereof.

55.—(1) Where at the time and place appointed for the hearing or adjourned hearing of a complaint the complainant appears Non- appearance of defendant. but the defendant does not, the court may, subject to subsection (3) below, proceed in his absence.

(2) Where the court, instead of proceeding in the absence of the defendant, adjourns, or further adjourns, the hearing, the court may, if the complaint has been substantiated on oath, and subject to the following provisions of this section, issue a warrant for his arrest.

(3) The court shall not begin to hear the complaint in the absence of the defendant or 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 him within what appears to the court to be a

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reasonable time before the hearing or adjourned hearing or the defendant has appeared on a previous occasion to answer to the complaint.

(4) Where the defendant fails to appear at an adjourned hearing, the court shall not issue a warrant under this section unless it is satisfied that he has had adequate notice of the time and place of the adjourned hearing.

(5) Where the defendant is arrested under a warrant issued under this section, the court may, on any subsequent adjournment of the hearing, but subject to the provisions of subsection (6) below, remand him.

(6) The court shall not issue a warrant or remand a defendant under this section or further remand him by virtue of section 128(3) below after he has given evidence in the proceedings.

(7) Where the court remands the defendant, the time fixed for the resumption of the hearing shall be that at which he is required to appear or be brought before the court in pursuance of the remand.

(8) A warrant under this section shall not be issued in any proceedings for the recovery or enforcement of a sum recoverable summarily as a civil debt or in proceedings in any matter of bastardy.

Non-
appearance of
complainant.

56. Where at the time and place appointed for the hearing or adjourned hearing of a complaint the defendant appears but the complainant does not, the court may dismiss the complaint or, if evidence has been received on a previous occasion, proceed in the absence of the complainant.

Non-
appearance of
both parties.

57. Where at the time and place appointed for the hearing or adjourned hearing of a complaint neither the complainant nor the defendant appears, the court may dismiss the complaint.

Civil debt

Money
recoverable
summarily as
civil debt.

58.—(1) A magistrates' court shall have power to make an order on complaint for the payment of any money recoverable summarily as a civil debt.

(2) Any sum payment of which may be ordered by a magistrates' court shall be recoverable summarily as a civil debt except—

(a) a sum recoverable on complaint for an affiliation order or order enforceable as an affiliation order ; or

(b) a sum that may be adjudged to be paid by a summary conviction or by an order enforceable as if it were a summary conviction.

Orders for periodical payment

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59.—(1) Where a magistrates' court orders money to be paid periodically by one person to another, the court may order that the payment shall be made to the clerk of the court or the clerk of any other magistrates' court. Periodical payment through justices' clerk.

(2) Where the order is an affiliation order, an order under the Guardianship of Minors Acts 1971 and 1973 or an order under Part I of the Domestic Proceedings and Magistrates' Courts Act 1978, the court shall, unless upon representations expressly made in that behalf by the applicant for the order it is satisfied that it is undesirable to do so, exercise its power under subsection (1) above.

(3) Where periodical payments under an order of any court are required to be paid to or through the clerk of a magistrates' court and any sums payable under the order are in arrear, the clerk shall, if the person for whose benefit the payment should have been made so requests in writing, and unless it appears to the clerk that it is unreasonable in the circumstances to do so, proceed in his own name for the recovery of those sums; but the said person shall have the same liability for all the costs properly incurred in or about the proceedings as if the proceedings had been taken by him.

(4) Nothing in this section shall affect any right of a person to proceed in his own name for the recovery of sums payable on his behalf under an order of any court.

60. Where a magistrates' court has made an order for the periodical payment of money, the court may, by order on complaint, revoke, revive or vary the order. Revocation, variation, etc., of orders for periodical payment.

The power to vary an order by virtue of this section shall include power to suspend the operation of any provision of that order temporarily and to revive the operation of any provision so suspended.

61.—(1) The power to make rules conferred by section 144 below shall, without prejudice to the generality of subsection (1) of that section, include power to make provision— Periodical payments payable by one person under more than one order.

(a) for enabling a person to make one complaint for the recovery of payments required to be made to him by another person under more than one periodical payments order; and

(b) for apportioning between two or more periodical payments orders, in such manner as may be prescribed by the rules, any sum paid to a clerk to a magistrates' court on any date by the person liable to make payments under the orders which is less than the total

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sum required to be paid on that date to that clerk by that person in respect of those orders (being orders one of which requires payments to be made for the benefit of a child to the person with whom the child has his home and one or more of which requires payments to be made to that person either for his own benefit or for the benefit of another child who has his home with him).

(2) In this section—

“child” means a person who has not attained the age of 18;

“periodical payments order” means an order made by a magistrates’ court, or registered in a magistrates’ court under Part II of the Maintenance Orders Act 1950 or Part I of the Maintenance Orders Act 1958, which requires the making of periodical payments,

1950 c. 37.

1958 c. 39.

and any payments required under a periodical payments order to be made to a child shall for the purposes of subsection (1) above be treated as if they were required to be made to the person with whom the child has his home.

Payments to children

Provisions as to payments required to be made to a child, etc.

62.—(1) Where—

- (a) periodical payments are required to be made, or a lump sum is required to be paid, to a child under an order made by a magistrates’ court, or
- (b) periodical payments are required to be made to a child under an order which is registered in a magistrates’ court,

any sum required under the order to be paid to the child may be paid to the person with whom the child has his home, and that person—

- (i) may proceed in his own name for the variation, revival or revocation of the order, and
- (ii) may either proceed in his own name for the recovery of any sum required to be paid under the order or request the clerk to the magistrates’ court, under subsection (3) of section 59 above, to proceed for the recovery of that sum.

(2) Where a child has a right under any enactment to apply for the revival of an order made by a magistrates’ court which provided for the making of periodical payments to or for the benefit of the child, the person with whom the child has his home may proceed in his own name for the revival of that order.

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(3) Where any person by whom periodical payments are required to be paid to a child under an order made by or registered in a magistrates' court makes a complaint for the variation or revocation of that order, the person with whom the child has his home may answer the complaint in his own name.

(4) Nothing in subsections (1) and (2) above shall affect any right of a child to proceed in his own name for the variation, revival or revocation of an order or for the recovery of any sum payable thereunder.

(5) In this section references to the person with whom a child has his home shall be construed in accordance with Part IV of the Children Act 1975, except that, in the case of any child in the care of a local authority, the local authority shall be treated for the purposes of this section as the person with whom the child has his home. 1975 c. 72.

(6) In this section any reference to an order registered in a magistrates' court is a reference to an order registered in a magistrates' court under Part II of the Maintenance Orders Act 1950 or Part I of the Maintenance Orders Act 1958. 1950 c. 37. 1958 c. 39.

(7) In this section "child" means a person who has not attained the age of 18.

Orders other than for payment of money

63.—(1) Where under any Act passed after 31st December 1879 a magistrates' court has power to require the doing of anything other than the payment of money, or to prohibit the doing of anything, any order of the court for the purpose of exercising that power may contain such provisions for the manner in which anything is to be done, for the time within which anything is to be done, or during which anything is not to be done, and generally for giving effect to the order, as the court thinks fit. Orders other than for payment of money.

(2) The court may by order made on complaint suspend or rescind any such order as aforesaid.

(3) Where any person disobeys an order of a magistrates' court made under an Act passed after 31st December 1879 to do anything other than the payment of money or to abstain from doing anything the court may—

(a) order him to pay a sum not exceeding £50 for every day during which he is in default or a sum not exceeding £1,000; or

(b) commit him to custody until he has remedied his default or for a period not exceeding 2 months;

but a person who is ordered to pay a sum for every day during which he is in default or who is committed to custody until he

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has remedied his default shall not by virtue of this section be ordered to pay more than £1,000 or be committed for more than 2 months in all for doing or abstaining from doing the same thing contrary to the order (without prejudice to the operation of this section in relation to any subsequent default).

(4) Any sum ordered to be paid under subsection (3) above shall for the purposes of this Act be treated as adjudged to be paid by a conviction of a magistrates' court.

(5) The preceding provisions of this section shall not apply to any order for the enforcement of which provision is made by any other enactment.

Costs

Power to
award costs
and
enforcement
of costs.

64.—(1) On the hearing of a complaint, a magistrates' court shall have power in its discretion to make such order as to costs—

(a) on making the order for which the complaint is made, to be paid by the defendant to the complainant ;

(b) on dismissing the complaint, to be paid by the complainant to the defendant,

as it thinks just and reasonable ; but if the complaint is for an order for the periodical payment of money, or for the revocation, revival or variation of such an order, or for the enforcement of such an order, the court may, whatever adjudication it makes, order either party to pay the whole or any part of the other's costs.

(2) The amount of any sum ordered to be paid under subsection (1) above shall be specified in the order, or order of dismissal, as the case may be.

(3) Subject to subsection (4) below, costs ordered to be paid under this section shall be enforceable as a civil debt.

(4) Any costs awarded on a complaint for an affiliation order or order enforceable as an affiliation order, or for the enforcement, variation, revocation, discharge or revival of such an order, against the person liable to make payments under the order shall be enforceable as a sum ordered to be paid by an affiliation order.

(5) The preceding provisions of this section shall have effect subject to any other Act enabling a magistrates' court to order a successful party to pay the other party's costs.

Domestic proceedings

Meaning of
domestic
proceedings.
1920 c. 33.

65.—(1) In this Act "domestic proceedings" means proceedings under any of the following enactments, that is to say—

(a) the Maintenance Orders (Facilities for Enforcement) Act 1920 ;

- (b) section 43 or section 44 of the National Assistance Act 1948 ; PART II
1948 c. 29.
- (c) section 3 of the Marriage Act 1949 ; 1949 c. 76.
- (d) the Affiliation Proceedings Act 1957 ; 1957 c. 55.
- (e) the Guardianship of Minors Acts 1971 and 1973 ;
- (f) Part I of the Maintenance Orders (Reciprocal Enforcement) Act 1972 ; 1972 c. 18.
- (g) Part II of the Children Act 1975 ; 1975 c. 72.
- (h) the Adoption Act 1976, except proceedings under section 34 of that Act ; 1976 c. 36.
- (i) section 18 or section 19 of the Supplementary Benefits Act 1976 ; 1976 c. 71.
- (j) Part I of the Domestic Proceedings and Magistrates' Courts Act 1978 ; 1978 c. 22.
- (k) section 47, 49 or 50 of the Child Care Act 1980 ; 1980 c. 5.
- (l) section 60 of this Act ;

except that, subject to subsection (2) below, it does not include—

- (i) proceedings for the enforcement of any order made, confirmed or registered under any of those enactments ;
- (ii) proceedings for the variation of any provision for the periodical payment of money contained in an order made, confirmed or registered under any of those enactments ; or
- (iii) proceedings on an information in respect of the commission of an offence under any of those enactments.

(2) The court before which there fall to be heard any of the following proceedings, that is to say—

- (a) proceedings (whether under this Act or any other enactment) for the enforcement of any order made, confirmed or registered under any of the enactments specified in paragraphs (a) to (k) of subsection (1) above ;
- (b) proceedings (whether under this Act or any other enactment) for the variation of any provision for the making of periodical payments contained in an order made, confirmed or registered under any of those enactments ;
- (c) proceedings for an attachment of earnings order to secure maintenance payments within the meaning of the Attachment of Earnings Act 1971 or for the discharge or variation of such an order ; or 1971 c. 32.
- (d) proceedings for the enforcement of a maintenance order which is registered in a magistrates' court under Part II of the Maintenance Orders Act 1950 or Part I of 1950 c. 37.

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1958 c. 39.

the Maintenance Orders Act 1958 or for the variation of the rate of payments specified by such an order,

may if it thinks fit order that those proceedings and any other proceedings being heard therewith shall, notwithstanding anything in subsection (1) above, be treated as domestic proceedings for the purposes of this Act.

(3) Where the same parties are parties—

(a) to proceedings which are domestic proceedings by virtue of subsection (1) above, and

(b) to proceedings which the court has power to treat as domestic proceedings by virtue of subsection (2) above, and the proceedings are heard together by a magistrates' court, the whole of those proceedings shall be treated as domestic proceedings for the purposes of this Act.

(4) No appeal shall lie from the making of, or refusal to make, an order under subsection (2) above.

1976 c. 36.

(5) Until the Adoption Act 1976 comes into force subsection (1) above shall have effect as if for paragraph (h) thereof there were substituted the following paragraph—

1958 c. 5
(7 & 8 Eliz. 2).
1960 c. 59.
1975 c. 72.
1980 c. 5.

“(h) the Adoption Act 1958, the Adoption Act 1960 or Part I of the Children Act 1975, except proceedings under section 42 or 43 of the Adoption Act 1958.”

(6) Until the Child Care Act 1980 comes into force subsection (1) above shall have effect as if for paragraph (k) thereof there were substituted the following paragraph—

1933 c. 12.

“(k) section 87 or section 88 of the Children and Young Persons Act 1933 or section 26 of the Children Act 1948.”

1948 c. 43.

Composition
of magistrates'
courts for
domestic
proceedings:
general.

66.—(1) Subject to the provisions of this section, a magistrates' court when hearing domestic proceedings shall be composed of not more than 3 justices of the peace, including, so far as practicable, both a man and a woman.

(2) Subsection (1) above shall not apply to a magistrates' court for an inner London petty sessions area, and, notwithstanding anything in section 67 below, for the purpose of exercising jurisdiction to hear domestic proceedings such a court shall be composed of—

(a) a metropolitan stipendiary magistrate as chairman and one or 2 lay justices who are members of the domestic court panel for that area ; or

(b) 2 or 3 lay justices who are members of that panel ;

or, if it is not practicable for such a court to be so composed, the court shall for that purpose be composed of a metropolitan stipendiary magistrate sitting alone.

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(3) Where in pursuance of subsection (2) above a magistrates' court includes lay justices it shall, so far as practicable, include both a man and a woman.

(4) In the preceding provisions of this section "lay justices" means justices of the peace for the inner London area who are not metropolitan stipendiary magistrates.

(5) In this section "inner London petty sessions area" means the City of London or any petty sessional division of the inner London area.

67.—(1) Magistrates' courts constituted in accordance with the provisions of this section and sitting for the purpose of hearing domestic proceedings shall be known as domestic courts. Domestic courts and panels.

(2) A justice shall not be qualified to sit as a member of a domestic court unless he is a member of a domestic court panel, that is to say a panel of justices specially appointed to deal with domestic proceedings.

(3) Without prejudice to the generality of the power to make rules under section 144 below relating to the procedure and practice to be followed in magistrates' courts, provision may be made by such rules with respect to any of the following matters, that is to say—

- (a) the formation and revision of domestic court panels and the eligibility of justices to be members of such panels;
- (b) the appointment of persons as chairmen of domestic courts; and
- (c) the composition of domestic courts.

(4) Any provision made by rules by virtue of subsection (3) above for the formation of domestic court panels shall include provision for the formation of at least one domestic court panel for each commission area, but provision shall not be made by the rules for the formation of more than one domestic court panel for any petty sessions area.

In this subsection "commission area" has the same meaning as in the Justices of the Peace Act 1979.

1979 c. 55.

(5) Rules made by virtue of subsection (3) above may confer powers on the Lord Chancellor with respect to any of the matters specified in the rules and may, in particular, provide for the appointment of domestic court panels by him and for the removal from a domestic court panel of any justice who, in his opinion, is unsuitable to serve on a domestic court.

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(6) Rules made by virtue of subsection (3) above may make different provision in relation to different areas for which domestic court panels are formed ; and in the application of this section to the counties of Greater Manchester, Merseyside and Lancashire for any reference in subsection (5) above to the Lord Chancellor there shall be substituted a reference to the Chancellor of the Duchy of Lancaster.

(7) A stipendiary magistrate who is a member of a domestic court panel may, notwithstanding anything in section 66(1) above, hear and determine domestic proceedings when sitting alone.

(8) Nothing in this section shall require the formation of a domestic court panel for the City of London.

Combined
domestic
court panels.

68.—(1) Where the Secretary of State considers—

(a) that a combined domestic court panel should be formed for 2 or more petty sessions areas, or

(b) that any combined domestic court panel which has been so formed should be dissolved,

he may direct the magistrates' courts committee for the area concerned to review the functioning of domestic courts in their area and on completion of the review to submit a report to the Secretary of State.

(2) Where the Secretary of State gives a direction under subsection (1) above, then—

(a) after consideration of any report submitted to him under that subsection, or

(b) if the committee fail to comply with the direction within 6 months from the giving thereof, after the expiration of that period of 6 months,

the Secretary of State may, if he thinks fit, make an order for the formation of a combined domestic court panel for the petty sessions areas concerned or, as the case may be, for the dissolution of the combined domestic court panel concerned.

(3) Where the Secretary of State proposes to make an order under subsection (2) above, he shall send a copy of the proposed order to the magistrates' courts committee for any area the whole or part of which is concerned and to any domestic court panel which is concerned.

(4) Where a copy of the proposed order is required to be sent under subsection (3) above to any committee or panel, the Secretary of State shall, before making an order, consider any representations made to him by the committee or panel within one month from the time the copy of the proposed order was sent.

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(5) An order of the Secretary of State under subsection (2) above shall be made by statutory instrument and may be revoked or varied by a subsequent order thereunder.

(6) Any order made under subsection (2) above may contain supplementary, incidental and consequential provisions.

(7) In the application of this section to the inner London area any reference to the magistrates' courts committee shall be treated as a reference to the committee of magistrates.

69.—(1) The business of magistrates' courts shall, so far as is consistent with the due dispatch of business, be arranged in such manner as may be requisite for separating the hearing and determination of domestic proceedings from other business. Sittings of magistrates' courts for domestic proceedings.

(2) In the case of domestic proceedings in a magistrates' court other than proceedings under the Adoption Act 1976, no person shall be present during the hearing and determination by the court of the proceedings except— 1976 c. 36.

- (a) officers of the court ;
- (b) parties to the case before the court, their solicitors and counsel, witnesses and other persons directly concerned in the case ;
- (c) representatives of newspapers or news agencies ;
- (d) any other person whom the court may in its discretion permit to be present, so, however, that permission shall not be withheld from a person who appears to the court to have adequate grounds for attendance.

(3) In relation to any domestic proceedings under the Adoption Act 1976, subsection (2) above shall apply with the omission of paragraphs (c) and (d).

(4) When hearing domestic proceedings, a magistrates' court may, if it thinks it necessary in the interest of the administration of justice or of public decency, direct that any persons, not being officers of the court or parties to the case, the parties' solicitors or counsel, or other persons directly concerned in the case, be excluded during the taking of any indecent evidence.

(5) The powers conferred on a magistrates' court by this section shall be in addition and without prejudice to any other powers of the court to hear proceedings in camera.

(6) Nothing in this section shall affect the exercise by a magistrates' court of the power to direct that witnesses shall be excluded until they are called for examination.

(7) Until the coming into operation of the Adoption Act 1976 this section shall have effect as if for any reference to

PART II that Act there were substituted a reference to the Adoption
 1958 c. 5 Act 1958, the Adoption Act 1960 and Part I of the Children
 (7 & 8 Eliz. 2). Act 1975.
 1960 c. 59.
 1975 c. 72.

Jurisdiction of
 magistrates'
 courts in inner
 London for
 domestic
 proceedings.

70.—(1) A relevant court for an inner London petty sessions area shall, in addition to hearing proceedings which (apart from subsection (2) below) may be heard by a relevant court for that area, have jurisdiction to hear proceedings which could be heard before a relevant court for any other such area, but shall not exercise the jurisdiction conferred by this subsection except in such cases or classes of case as may be determined by the committee of magistrates.

(2) A magistrates' court for an inner London petty sessions area shall not hear any domestic proceedings if the committee of magistrates so determine.

(3) In this section—

“relevant court” means a magistrates' court when composed for the purpose of exercising jurisdiction to hear domestic proceedings ;

“inner London petty sessions area” means the City of London or any petty sessional division of the inner London area.

Newspaper
 reports of
 domestic
 proceedings.
 1976 c. 36.

71.—(1) In the case of domestic proceedings in a magistrates' court (other than proceedings under the Adoption Act 1976) it shall not be lawful for the proprietor, editor or publisher of a newspaper or periodical to print or publish, or cause or procure to be printed or published, in it any particulars of the proceedings other than the following, that is to say—

- (a) the names, addresses and occupations of the parties and witnesses ;
- (b) the grounds of the application, and a concise statement of the charges, defences and counter-charges in support of which evidence has been given ;
- (c) submissions on any point of law arising in the course of the proceedings and the decision of the court on the submissions ;
- (d) the decision of the court, and any observations made by the court in giving it.

(2) In the case of domestic proceedings in a magistrates' court under the Adoption Act 1976, subsection (1) above shall apply with the omission of paragraphs (a) and (b) and the reference in that subsection to the particulars of the proceedings

shall, in relation to any child concerned in the proceedings, include— PART II

- (a) the name, address or school of the child,
- (b) any picture as being, or including, a picture of the child, and
- (c) any other particulars calculated to lead to the identification of the child.

(3) Any person acting in contravention of this section shall be liable on summary conviction to a fine not exceeding £500.

(4) No prosecution for an offence under this section shall be begun without the consent of the Attorney General.

(5) Nothing in this section shall prohibit the printing or publishing of any matter in a newspaper or periodical of a technical character bona fide intended for circulation among members of the legal or medical professions.

(6) Until the coming into operation of the Adoption Act 1976 c. 36. 1976 this section shall have effect as if for any reference to that Act there were substituted a reference to the Adoption Act 1958, the Adoption Act 1960 and Part I of the Children Act 1975. 1958 c. 5
(7 & 8 Eliz. 2).
1960 c. 59.
1975 c. 72.

72.—(1) Where in any domestic proceedings in which an order may be made for the payment of money by any person, or in any proceedings for the enforcement or variation of any such order, a magistrates' court has requested a probation officer to investigate the means of the parties to the proceedings, the court may direct the probation officer to report the result of his investigation to the court in accordance with the provisions of this section; but in the case of any such domestic proceedings no direction to report to the court shall be given to a probation officer under this subsection until the court has determined all issues arising in the proceedings other than the amount to be directed to be paid by such an order. Report by probation officer on means of parties.

(2) Where the court directs a probation officer under this section to report to the court the result of any such investigation as aforesaid, the court may require him—

- (a) to furnish to the court a statement in writing about his investigation; or
- (b) to make an oral statement to the court about his investigation.

(3) Where the court requires a probation officer to furnish a statement in writing under subsection (2) above—

- (a) a copy of the statement shall be given to each party to the proceedings or to his counsel or solicitor at the hearing; and

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(b) the court may, if it thinks fit, require that the statement, or such part of the statement as the court may specify, shall be read aloud at the hearing.

(4) The court may and, if requested to do so at the hearing by a party to the proceedings or his counsel or solicitor shall, require the probation officer to give evidence about his investigation, and if the officer gives such evidence, any party to the proceedings may give or call evidence with respect to any matter referred to either in the statement or in the evidence given by the officer.

(5) Any statement made by a probation officer in a statement furnished or made by him under subsection (2) above, or any evidence which he is required to give under subsection (4) above, may be received by the court as evidence, notwithstanding anything to the contrary in any enactment or rule of law relating to the admissibility of evidence.

Examination
of witnesses by
court.

73. Where in any domestic proceedings, or in any proceedings for the enforcement or variation of an order made in domestic proceedings, it appears to a magistrates' court that any party to the proceedings who is not legally represented is unable effectively to examine or cross-examine a witness, the court shall ascertain from that party what are the matters about which the witness may be able to depose or on which the witness ought to be cross-examined, as the case may be, and shall put, or cause to be put, to the witness such questions in the interests of that party as may appear to the court to be proper.

Reasons for
decisions in
domestic
proceedings.

74.—(1) The power to make rules conferred by section 144 below shall, without prejudice to the generality of subsection (1) of that section, include power to make provision for the recording by a magistrates' court, in such manner as may be prescribed by the rules, of reasons for a decision made in such domestic proceedings or class of domestic proceedings as may be so prescribed, and for making available a copy of any record made in accordance with those rules of the reasons for a decision of a magistrates' court to any person who requests a copy thereof for the purposes of an appeal against that decision or for the purpose of deciding whether or not to appeal against that decision.

(2) A copy of any record made by virtue of this section of the reasons for a decision of a magistrates' court shall, if certified by such officer of the court as may be prescribed, be admissible as evidence of those reasons.

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SATISFACTION AND ENFORCEMENT

General provisions

75.—(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. Power to dispense with immediate payment.

(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.

(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.

76.—(1) Subject to the following provisions of this Part of this Act, and to section 132 below and section 19 of the Powers of Criminal Courts Act 1973, where default is made in paying a sum adjudged to be paid by a conviction or order of a magistrates' court, the court may issue a warrant of distress for the purpose of levying the sum or issue a warrant committing the defaulter to prison. Enforcement of sums adjudged to be paid. 1973 c. 62.

(2) A warrant of commitment may be issued as aforesaid either—

(a) where it appears on the return to a warrant of distress that the money and goods of the defaulter are insufficient to satisfy the sum with the costs and charges of levying the sum ; or

(b) instead of a warrant of distress.

(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.

77.—(1) Where a magistrates' court has power to issue a warrant of distress 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. Postponement of issue of warrant.

(2) Where a magistrates' court has power to issue a warrant of commitment under this Part of this Act, it may, if it thinks

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it expedient to do so, fix a term of imprisonment and postpone the issue of the warrant until such time and on such conditions, if any, as the court thinks just.

Defect in
distress
warrant and
irregularity in
its execution.

78.—(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 the rules 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 £25.

(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 £25.

Release from
custody and
reduction of
detention on
payment.

79.—(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 distress to satisfy such a sum, then, on the payment of the sum, together with the costs and charges, if any, of the commitment and distress, 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 distress to satisfy such a sum, payment is made in accordance with the rules 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 to so much of the said sum, and the costs and charges of any distress levied to satisfy that sum, as was due at the time the period of detention was imposed.

(3) In calculating the reduction required under subsection (2) above any fraction of a day shall be left out of account. PART III

80.—(1) Where a magistrates' court has adjudged a person to pay a sum by a conviction or has ordered the enforcement of a sum due from a person under an affiliation order or an order enforceable as an affiliation order, the court may order him to be searched. Application of money found on defaulter to satisfy sum adjudged.

(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 distress 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.

Sums adjudged to be paid by a conviction

81.—(1) Where a magistrates' court would, but for the statutory restrictions upon the imprisonment of young offenders, have power to commit to prison a person under the age of 17 for a default consisting in failure to pay, or want of sufficient distress to satisfy, a sum adjudged to be paid by a conviction, the court may, subject to the following provisions of this section, make— Enforcement of fines imposed on young offenders.

- (a) 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
- (b) 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—

- (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.

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(3) None of the following orders, namely—

1948 c. 58.

(a) an order under section 19(1) of the Criminal Justice Act 1948 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 the age of 17 years consisting in failure to pay, or want of sufficient distress 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 the age of 17, means a person appointed, according to law, to be his guardian by deed or will, or by order of a court of competent jurisdiction;

1961 c. 39.

“the statutory restrictions upon the imprisonment of young offenders” has the meaning given by section 39(1) of the Criminal Justice Act 1961;

1973 c. 62.

“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 section 35 of the Powers of Criminal Courts Act 1973 (compensation orders) as applied by section 3(6) of the Children and Young Persons Act 1969.

1969 c. 54.

82.—(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—

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Restriction
on power to
impose
imprisonment
for default.

- (a) in the case of an offence punishable with imprisonment, he appears to the court to have sufficient means to pay the sum forthwith ;
- (b) 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
- (c) on the occasion of that conviction the court sentences him to immediate imprisonment or detention in a detention centre for that or another offence or he is already serving a term of imprisonment or detention in a detention centre.

(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 distress to satisfy such a sum unless—

- (a) he is already serving a term of imprisonment or detention in a detention centre ; or
- (b) the court has since the conviction inquired into his means in his presence on at least one occasion.

(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

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(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.

(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 a term of imprisonment 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.

(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.

Process for securing attendance of offender for purposes of section 82.

83.—(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 under this section 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.

(4) Notwithstanding anything in section 125 below, a warrant under this section shall cease to have effect when the sum in respect of which the warrant is issued is paid to the police officer holding the warrant.

Power to require statement of means.

84.—(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 for the same petty sessions 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 means 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 £50.

(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 £100 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.

85.—(1) Where a fine has been imposed on conviction of an offender by a magistrates' court, the court may, on inquiring into his means or at a hearing under section 82(5) above, remit the whole or any part of the fine if the court thinks it just to do so having regard to any change in his circumstances since the conviction, and 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 fine or, as the case may be, shall remit the whole term. Power to remit fine.

In calculating the reduction in a term of imprisonment required by this subsection any fraction of a day shall be left out of account.

(2) 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.

86.—(1) Where under section 75(1) above a magistrates' court allows time for payment of a sum adjudged to be paid by a conviction of the court ("the adjudged sum"), the court may on that or any subsequent occasion fix a day on which, if any part of that sum remains unpaid on that day, the offender must appear in person before the court for either or both of the following purposes, namely— Power of magistrates' court to fix day for appearance of offender at means inquiry etc.

(a) to enable an inquiry into his means to be made under section 82 above;

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(b) to enable a hearing required by subsection (5) of the said section 82 to be held.

(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—

(a) any part of the adjudged sum remains unpaid ; 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 subsections (3) and (4) 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.

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

87.—(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 a county court (otherwise than by issue of a writ of fieri facias or other process against goods or by imprisonment or attachment of earnings) as if the sum were due to the clerk of the magistrates' court in pursuance of a judgment or order of the High Court or county court, as the case may be.

(2) Subsection (1) above shall not be construed as authorising the enforcement by a county court of payment of a fine exceeding the limit for the time being in force under section 40 of the County Courts Act 1959 on the amount of any penalty recoverable by statute in a county court.

1959 c. 22.

(3) The clerk of 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 authorised to do so by the court after an inquiry under section 82 above into that person's means.

(4) Any expenses incurred by the clerk of a magistrates' court in recovering any such sum shall be treated for the purposes of Part VI of the Justices of the Peace Act 1979 as expenses of the magistrates' courts committee. PART III

88.—(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. Supervision pending payment.

(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 prison forthwith in default of payment, the court shall not commit him to prison in default of payment of the sum, or for want of sufficient distress to satisfy the sum, unless he has been placed under supervision in respect of the sum 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 prison 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 distress 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.

89.—(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 that the person is residing Transfer of fine order.

PART III in any petty sessions area other than that for which the court acted, the court may make a transfer of fine order, that is to say, an order making payment enforceable in the petty sessions area in which it appears to the court that he is residing; and that area shall be specified in the order.

(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 relating to that sum which, if no such order had been made, would have been exercisable by the court which made the order, or the clerk of that court, shall be exercisable by a court acting for the petty sessions area specified in the order, or the clerk of that court, as the case may be, and not otherwise.

(3) Where it appears to a court by which functions in relation to any sum are for the time being exercisable by virtue of a transfer of fine order that the person liable to pay the sum is residing in a petty sessions area other than that for which the court is acting, the court 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.

Transfer of
fines to
Scotland or
Northern
Ireland.

90.—(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 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 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 the court which made the order or by the clerk of that court shall cease to be so exercisable.

91.—(1) Where a transfer of fine order under section 403 of the Criminal Procedure (Scotland) Act 1975 or section 104A of the Magistrates' Courts Act (Northern Ireland) 1964 provides that payment of a sum shall be enforceable in a specified petty sessions area in England and Wales, a magistrates' court acting for that area, and the clerk of that court, shall, subject to the provisions of this section, have all the like functions under this Part of this Act 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, 1964 in respect of the sum before the making of the transfer of fine order had been made by that court.

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Transfer of
fines from
Scotland or
Northern
Ireland.
1975 c. 21.
1964 c. 21
(N.I.).

(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 Criminal Procedure (Scotland) Act 1975.

(3) Where a transfer of fine order under section 403 of the Criminal Procedure (Scotland) Act 1975 or section 104A of the Magistrates' Courts Act (Northern Ireland) 1964 provides for the enforcement in a petty sessions area in England and Wales of a fine originally imposed by the Crown Court, a magistrates' court acting for that area shall have all the like functions under this Part of this Act, 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 section 32(1) of the Powers of Criminal Courts Act 1973, and as if any order made under the said Act of 1975 or, as the case may be, 1964 in respect of the fine before the making of the transfer of fine order had been made by that court.

1973 c. 62.

Sums adjudged to be paid by an order

92.—(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—

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power to
impose
imprisonment
for default.

(a) a magistrates' court maintenance order ;

(b) an order under section 32 of the Legal Aid Act 1974 (contribution by legally assisted person to cost of his defence in a criminal case) ; or

(c) an order for the payment of any of the taxes, contributions, premiums or liabilities specified in Schedule 4 to the 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

1974 c. 4.

1970 c. 31.

PART III 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) In this section—

“magistrates’ court maintenance order” means a maintenance order enforceable by a magistrates’ court ;

1970 c. 31.

“maintenance order” means any order specified in Schedule 8 to the Administration of Justice Act 1970 and includes such an order which has been discharged, if any arrears are recoverable thereunder.

Complaint
for arrears.

93.—(1) Where default is made in paying a sum ordered to be paid by an affiliation order or order enforceable as an affiliation order, the court shall not enforce payment of the sum under section 76 above except by an order made on complaint.

(2) A complaint under this section shall be made not earlier than the fifteenth day after the making of the order for the enforcement of which it is made ; but subject to this such a complaint may be made at any time notwithstanding anything in this or any other Act.

(3) In relation to complaints under this section, section 55 above shall not apply and section 56 above shall have effect as if the words “if evidence has been received on a previous occasion” were omitted.

(4) Where at the time and place appointed for the hearing or adjourned hearing of a complaint under this section the complainant appears but the defendant does not, the court may proceed in his absence ; but the court shall not begin to hear the complaint in the absence of the defendant 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 him within what appears to the court to be a reasonable time before the hearing or adjourned hearing or the defendant has appeared on a previous occasion to answer the complaint.

(5) If a complaint under this section is substantiated on oath, any justice of the peace acting for the same petty sessions area as a court having jurisdiction to hear the complaint may issue a warrant for the defendant’s arrest, whether or not a summons has been previously issued.

(6) A magistrates’ court shall not impose imprisonment in respect of a default to which a complaint under this section relates unless the court has inquired in the presence of the defendant whether the default was due to the defendant’s wilful refusal or culpable neglect, and shall not impose imprisonment

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as aforesaid if it is of opinion that the default was not so due ; and, without prejudice to the preceding provisions of this subsection, a magistrates' court shall not impose imprisonment as aforesaid—

- (a) in a case in which the court has power to make an attachment of earnings order unless the court is of opinion that it is inappropriate to make such an order ;
- (b) in any case, in the absence of the defendant.

(7) Notwithstanding anything in section 76(3) above, the period for which a defendant may be committed to prison under a warrant of commitment issued in pursuance of a complaint under this section shall not exceed 6 weeks.

(8) The imprisonment or other detention of a defendant under a warrant of commitment issued as aforesaid shall not operate to discharge the defendant from his liability to pay the sum in respect of which the warrant was issued.

94. Where a person is committed to custody under this Part of this Act for failure to pay a sum due under an affiliation order or order enforceable as an affiliation order, then, unless the court that commits him otherwise directs, no arrears shall accrue under the order while he is in custody. Effect of committal on arrears.

95. On the hearing of a complaint for the enforcement, revocation, revival, variation or discharge of an affiliation order or an order enforceable as an affiliation order, the court may remit the whole or any part of the sum due under the order. Power to remit arrears.

96.—(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 distress 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. Civil debt: complaint for non-payment.

(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.

PART IV

WITNESSES AND EVIDENCE

Procuring attendance of witness

Summons to witness and warrant for his arrest.

97.—(1) Where a justice of the peace for any county, any London commission area or the City of London is satisfied that any person in England or Wales is likely to be able to give material evidence, or produce any document or thing likely to be material evidence, at an inquiry into an indictable offence by a magistrates' court for that county, that London commission area or the City (as the case may be) or at the summary trial of an information or hearing of a complaint by such a court and that that person will not voluntarily attend as a witness or will not voluntarily produce the document or thing, the justice shall issue a summons directed to that person requiring him to attend before the court at the time and place appointed in the summons to give evidence or to produce the document or thing.

(2) If a justice of the peace is satisfied by evidence on oath of the matters mentioned in subsection (1) above, and also that it is probable that a summons under that subsection would not procure the attendance of the person in question, the justice may instead of issuing a summons issue a warrant to arrest that person and bring him before such a court as aforesaid at a time and place specified in the warrant; but a warrant shall not be issued under this subsection where the attendance is required for the hearing of a complaint.

(3) On the failure of any person to attend before a magistrates' court in answer to a summons under this section, if—

- (a) the court is satisfied by evidence on oath that he is likely to be able to give material evidence or produce any document or thing likely to be material evidence in the proceedings; and
- (b) it is proved on oath, or in such other manner as may be prescribed, that he has been duly served with the summons, and that a reasonable sum has been paid or tendered to him for costs and expenses; and
- (c) it appears to the court that there is no just excuse for the failure,

the court may issue a warrant to arrest him and bring him before the court at a time and place specified in the warrant.

(4) If any person attending or brought before a magistrates' court refuses without just excuse to be sworn or give evidence, or to produce any document or thing, the court may commit him to custody until the expiration of such period not exceeding 7 days as may be specified in the warrant or until he sooner gives evidence or produces the document or thing.

Evidence generally

PART IV

98. Subject to the provisions of any enactment or rule of law authorising the reception of unsworn evidence, evidence given before a magistrates' court shall be given on oath.

99. Where a magistrates' court has ordered one person to pay to another any sum of money, and proceedings are taken before that or any other magistrates' court to enforce payment of that sum, then—

- (a) if the person to whom the sum is ordered to be paid is a clerk of a magistrates' court, a certificate purporting to be signed by the clerk that the sum has not been paid to him ; and
- (b) in any other case a document purporting to be a statutory declaration by the person to whom the sum is ordered to be paid that the sum has not been paid to him,

shall be admissible as evidence that the sum has not been paid to him, unless the court requires the clerk or other person to be called as a witness.

100. A statement in writing to the effect that wages of any amount have been paid to a person during any period, purporting to be signed by or on behalf of his employer, shall be evidence of the facts therein stated in any proceedings taken before a magistrates' court—

- (a) for enforcing payment by the person to whom the wages are stated to have been paid of a sum adjudged to be paid by a summary conviction or order ; or
- (b) on any application made by or against that person for the making of an order in any matter of bastardy or an order enforceable as an affiliation order, or for the variation, revocation, discharge or revival of such an order.

101. Where the defendant to an information or complaint relies for his defence on any exception, exemption, proviso, excuse or qualification, whether or not it accompanies the description of the offence or matter of complaint in the enactment creating the offence or on which the complaint is founded, the burden of proving the exception, exemption, proviso, excuse or qualification shall be on him ; and this notwithstanding that the information or complaint contains an allegation negating the exception, exemption, proviso, excuse or qualification.

PART IV

Evidence in criminal cases

Written
statements
before
examining
justices.

102.—(1) In committal proceedings a written statement by any person shall, if the conditions mentioned in subsection (2) below are satisfied, be admissible as evidence to the like extent as oral evidence to the like effect by that person.

(2) The said conditions are—

- (a) the statement purports to be signed by the person who made it ;
- (b) the statement contains a declaration by that person to the effect that it is true to the best of his knowledge and belief and that he made the statement knowing that, if it were tendered in evidence, he would be liable to prosecution if he wilfully stated in it anything which he knew to be false or did not believe to be true ;
- (c) before the statement is tendered in evidence, a copy of the statement is given, by or on behalf of the party proposing to tender it, to each of the other parties to the proceedings ; and
- (d) none of the other parties, before the statement is tendered in evidence at the committal proceedings, objects to the statement being so tendered under this section.

(3) The following provisions shall also have effect in relation to any written statement tendered in evidence under this section, that is to say—

- (a) if the statement is made by a person under 21 years old, it shall give his age ;
- (b) it is not practicable for examining justices to take the statement to be read to him before he signs it and shall be accompanied by a declaration by the person who so read the statement to the effect that it was so read ; and
- (c) if it refers to any other document as an exhibit, the copy given to any other party to the proceedings under subsection (2)(c) above shall be accompanied by a copy of that document or by such information as may be necessary in order to enable the party to whom it is given to inspect that document or a copy thereof.

(4) Notwithstanding that a written statement made by any person may be admissible in committal proceedings by virtue of this section, the court before which the proceedings are held may, of its own motion or on the application of any party to the proceedings, require that person to attend before the court and give evidence.

(5) So much of any statement as is admitted in evidence by virtue of this section shall, unless the court commits the accused

for trial by virtue of section 6(2) above or the court otherwise directs, be read aloud at the hearing, and where the court so directs an account shall be given orally of so much of any statement as is not read aloud.

PART IV

(6) Any document or object referred to as an exhibit and identified in a written statement tendered in evidence under this section shall be treated as if it had been produced as an exhibit and identified in court by the maker of the statement.

(7) Subsection (3) of section 13 of the Criminal Justice Act 1925 c. 86. 1925 (reading of deposition as evidence at the trial) shall apply to any written statement tendered in evidence in committal proceedings under this section as it applies to a deposition taken in such proceedings, but in its application to any such statement that subsection shall have effect as if paragraph (b) thereof were omitted.

(8) In section 2(2) of the Administration of Justice (Miscellaneous Provisions) Act 1933 c. 36. 1933 (procedure for preferring bills of indictment) the reference in proviso (i) to facts disclosed in any deposition taken before a justice in the presence of the accused shall be construed as including a reference to facts disclosed in any such written statement as aforesaid.

(9) Section 28 above shall not apply to any such statement as aforesaid.

(10) A person whose written statement is tendered in evidence in committal proceedings under this section shall be treated for the purposes of section 1 of the Criminal Procedure (Attendance of Witnesses) Act 1965 c. 69. 1965 (witness orders) as a witness who has been examined by the court.

103.—(1) In any proceedings before a magistrates' court inquiring into a sexual offence as examining justices—

(a) a child shall not be called as a witness for the prosecution; but
(b) any statement made in writing by or taken in writing from the child shall be admissible in evidence of any matter of which his oral testimony would be admissible, except in a case where the application of this subsection is excluded under subsection (2) below.

Evidence of children in committal proceedings for sexual offences.

(2) Subsection (1) above shall not apply—

- (a) where at or before the time when such a statement is tendered in evidence the defence objects to the application of that subsection; or
- (b) where the prosecution requires the attendance of the child for the purpose of establishing the identity of any person; or

PART IV

(c) where the court is satisfied that it has not been possible to obtain from the child a statement that may be given in evidence under this section ; or

(d) where the inquiry into the offence takes place after the court has discontinued to try it summarily and the child has given evidence in the summary trial.

(3) Section 28 above shall not apply to any statement admitted in pursuance of subsection (1) above.

1933 c. 12.

1956 c. 69.

1960 c. 33.

1978 c. 37.

(4) In this section "child" has the same meaning as in the Children and Young Persons Act 1933 and "sexual offence" means any offence under the Sexual Offences Act 1956 or the Indecency with Children Act 1960 or section 1(1)(a) of the Protection of Children Act 1978, or any attempt to commit such an offence.

Proof of
previous
convictions.

104. Where a person is convicted of a summary offence by a magistrates' court, other than a juvenile court, and—

(a) it is proved to the satisfaction of the court, on oath or in such other manner as may be prescribed, that not less than 7 days previously a notice was served on the accused in the prescribed form and manner specifying any alleged previous conviction of the accused of a summary offence proposed to be brought to the notice of the court in the event of his conviction of the offence charged ; and

(b) the accused is not present in person before the court, the court may take account of any such previous conviction so specified as if the accused had appeared and admitted it.

Deposition
of person
dangerously
ill.

105.—(1) Where a person appears to a justice of the peace to be able and willing to give material information relating to an indictable offence or to any person accused of an indictable offence, and—

(a) the justice is satisfied, on a representation made by a duly qualified medical practitioner, that the person able and willing to make the statement is dangerously ill and unlikely to recover ; and

(b) it is not practicable for examining justices to take the evidence of the sick person in accordance with the provisions of this Act and the rules,

the justice may take in writing the deposition of the sick person on oath.

(2) A deposition taken under this section may be given in evidence before examining justices inquiring into an information against the offender or in respect of the offence to which the

deposition relates, but subject to the same conditions as apply, PART IV
 under section 6 of the Criminal Law Amendment Act 1867, to 1867 c. 35.
 its being given in evidence upon the trial of the offender or
 offence.

Offences

106.—(1) If any person in a written statement tendered in False
 evidence in criminal proceedings by virtue of section 102 above written
 wilfully makes a statement material in those proceedings which statements
 he knows to be false or does not believe to be true, he shall tendered in
 be liable on conviction on indictment to imprisonment for a evidence.
 term not exceeding 2 years or a fine or both.

(2) The Perjury Act 1911 shall have effect as if this section 1911 c. 6
 were contained in that Act.

107. If, in any solemn declaration, certificate or other writing False
 made or given for the purpose of its being used in pursuance statements in
 of the rules as evidence of the service of any document or the declaration
 handwriting or seal of any person, a person makes a statement proving
 that he knows to be false in a material particular, or recklessly service, etc.
 makes any statement that is false in a material particular, he
 shall be liable on summary conviction to imprisonment for a
 term not exceeding 6 months or a fine not exceeding £100 or
 both.

PART V

APPEAL AND CASE STATED

Appeal

108.—(1) A person convicted by a magistrates' court may Right of
 appeal to the Crown Court—
appeal to the
Crown Court.

(a) if he pleaded guilty, against his sentence ;

(b) if he did not, against the conviction or sentence.

(2) A person sentenced by a magistrates' court for an offence
 in respect of which a probation order or an order for condi-
 tional discharge has been previously made may appeal to the
 Crown Court against the sentence.

(3) In this section "sentence" includes any order made on
 conviction by a magistrates' court, not being—

(a) a probation order or an order for conditional discharge ;

(b) an order for the payment of costs ;

(c) an order under section 2 of the Protection of Animals 1911 c. 27.
 Act 1911 (which enables a court to order the destruc-
 tion of an animal) ; or

(d) an order made in pursuance of any enactment under
 which the court has no discretion as to the making of
 the order or its terms.

PART V
Abandonment
of appeal.

109.—(1) Where notice to abandon an appeal has been duly given by the appellant—

- (a) the court against whose decision the appeal was brought may issue process for enforcing that decision, subject to anything already suffered or done under it by the appellant; and
- (b) the said court may, on the application of the other party to the appeal, order the appellant to pay to that party such costs as appear to the court to be just and reasonable in respect of expenses properly incurred by that party in connection with the appeal before notice of the abandonment was given to that party.

(2) In this section “appeal” means an appeal from a magistrates’ court to the Crown Court, and the reference to a notice to abandon an appeal is a reference to a notice shown to the satisfaction of the magistrates’ court to have been given in accordance with Crown Court rules.

Enforcement
of decision
of the Crown
Court.

110. After the determination by the Crown Court of an appeal from a magistrates’ court the decision appealed against as confirmed or varied by the Crown Court, or any decision of the Crown Court substituted for the decision appealed against, may, without prejudice to the powers of the Crown Court to enforce the decision, be enforced—

- (a) by the issue by the court by which the decision appealed against was given of any process that it could have issued if it had decided the case as the Crown Court decided it;
- (b) so far as the nature of any process already issued to enforce the decision appealed against permits, by that process;

and the decision of the Crown Court shall have effect as if it had been made by the magistrates’ court against whose decision the appeal is brought.

Case stated

Statement of
case by
magistrates’
court.

111.—(1) Any person who was a party to any proceeding before a magistrates’ court or is aggrieved by the conviction, order, determination or other proceeding of the court may question the proceeding on the ground that it is wrong in law or is in excess of jurisdiction by applying to the justices composing the court to state a case for the opinion of the High Court on the question of law or jurisdiction involved; but a person shall not make an application under this section in respect of a decision against which he has a right of appeal to the High Court or which by virtue of any enactment passed after 31st December 1879 is final.

(2) An application under subsection (1) above shall be made within 21 days after the day on which the decision of the magistrates' court was given.

(3) For the purpose of subsection (2) above, the day on which the decision of the magistrates' court is given shall, where the court has adjourned the trial of an information after conviction, be the day on which the court sentences or otherwise deals with the offender.

(4) On the making of an application under this section in respect of a decision any right of the applicant to appeal against the decision to the Crown Court shall cease.

(5) If the justices are of opinion that an application under this section is frivolous, they may refuse to state a case, and, if the applicant so requires, shall give him a certificate stating that the application has been refused; but the justices shall not refuse to state a case if the application is made by or under the direction of the Attorney General.

(6) Where justices refuse to state a case, the High Court may, on the application of the person who applied for the case to be stated, make an order of mandamus requiring the justices to state a case.

112. Any conviction, order, determination or other proceeding of a magistrates' court varied by the High Court on an appeal by case stated, and any judgment or order of the High Court on such an appeal, may be enforced as if it were a decision of the magistrates' court from which the appeal was brought.

Effect of decision of High Court on case stated by magistrates' court.

Supplemental provisions as to appeal and case stated

113.—(1) Where a person has given notice of appeal to the Crown Court against the decision of a magistrates' court or has applied to a magistrates' court to state a case for the opinion of the High Court, then, if he is in custody, the magistrates' court may grant him bail.

Bail on appeal or case stated.

(2) If a person is granted bail under subsection (1) above, the time and place at which he is to appear (except in the event of the determination in respect of which the case is stated being reversed by the High Court) shall be—

- (a) if he has given notice of appeal, the Crown Court at the time appointed for the hearing of the appeal;
- (b) if he has applied for the statement of a case, the magistrates' court at such time within 10 days after the judgment of the High Court has been given as may be specified by the magistrates' court;

and any recognizance that may be taken from him or from any surety for him shall be conditioned accordingly.

PART V

(3) Subsection (1) above shall not apply where the accused has been committed to the Crown Court for sentence under section 37 or 38 above.

1948 c. 58.

(4) Section 37(6) of the Criminal Justice Act 1948 (which relates to the currency of a sentence while a person is released on bail by the High Court) shall apply to a person released on bail by a magistrates' court under this section pending the hearing of a case stated as it applies to a person released on bail by the High Court under section 22 of the Criminal Justice Act 1967.

1967 c. 80.

Recognizances
and fees on
case stated.

114. Justices to whom application has been made to state a case for the opinion of the High Court on any proceeding of a magistrates' court shall not be required to state the case until the applicant has entered into a recognizance, with or without sureties, before the magistrates' court, conditioned to prosecute the appeal without delay and to submit to the judgment of the High Court and pay such costs as that Court may award; and (except in any criminal matter) the clerk of a magistrates' court shall not be required to deliver the case to the applicant until the applicant has paid him the fees payable for the case and for the recognizances.

PART VI

RECOGNIZANCES

Recognizances to keep the peace or be of good behaviour

Binding over
to keep the
peace or be of
good
behaviour.

115.—(1) The power of a magistrates' court on the complaint of any person to adjudge any other person to enter into a recognizance, with or without sureties, to keep the peace or to be of good behaviour towards the complainant shall be exercised by order on complaint.

(2) Where a complaint is made under this section, the power of the court to remand the defendant under subsection (5) of section 55 above shall not be subject to the restrictions imposed by subsection (6) of that section.

(3) If any person ordered by a magistrates' court under subsection (1) above to enter into a recognizance, with or without sureties, to keep the peace or to be of good behaviour fails to comply with the order, the court may commit him to custody for a period not exceeding 6 months or until he sooner complies with the order.

116.—(1) On complaint being made to a justice of the peace for any area to which this section applies by a surety to a recognizance to keep the peace or to be of good behaviour entered into before a magistrates' court that the person bound by the recognizance as principal has been, or is about to be, guilty of conduct constituting a breach of the conditions of the recognizance, the justice may, if the complaint alleges that the principal is, or is believed to be, in that area, or if the recognizance was entered into before a magistrates' court for that area, issue a warrant to arrest the principal and bring him before a magistrates' court for that area or a summons requiring the principal to appear before such a court; but the justice shall not issue a warrant unless the complaint is in writing and substantiated on oath.

PART VI
Discharge of
recognizance
to keep the
peace or be
of good
behaviour on
complaint of
surety.

(2) The magistrates' court before which the principal appears or is brought in pursuance of such a summons or warrant as aforesaid may, unless it adjudges the recognizance to be forfeited, order the recognizance to be discharged and order the principal to enter into a new recognizance, with or without sureties, to keep the peace or to be of good behaviour.

(3) The areas to which this section applies are any county, any London commission area and the City of London.

Other provisions

117.—(1) A justice of the peace on issuing a warrant for the arrest of any person may grant him bail by endorsing the warrant for bail, that is to say, by endorsing the warrant with a direction in accordance with subsection (2) below.

Warrant
endorsed for
bail.

(2) A direction for bail endorsed on a warrant under subsection (1) above shall—

- (a) in the case of bail in criminal proceedings, state that the person arrested is to be released on bail subject to a duty to appear before such magistrates' court and at such time as may be specified in the endorsement;
- (b) in the case of bail otherwise than in criminal proceedings, state that the person arrested is to be released on bail on his entering into such a recognizance (with or without sureties) conditioned for his appearance before a magistrates' court as may be specified in the endorsement;

and the endorsement shall fix the amounts in which any sureties and, in a case falling within paragraph (b) above, that person is or are to be bound.

PART VI

(3) Where a warrant has been endorsed for bail under subsection (1) above, then, on the person referred to in the warrant being taken to a police station on arrest under the warrant, the officer in charge of the police station shall (subject to his approving any surety tendered in compliance with the endorsement) release him from custody as directed in the endorsement.

Varying or
dispensing
with
requirement
as to sureties.

118.—(1) Subject to subsection (2) below, where a magistrates' court has committed a person to custody in default of finding sureties, the court may, on application by or on behalf of the person committed, and after hearing fresh evidence, reduce the amount in which it is proposed that any surety should be bound or dispense with any of the sureties or otherwise deal with the case as it thinks just.

(2) Subsection (1) above does not apply in relation to a person granted bail in criminal proceedings.

Postponement
of taking
recognizance.

119.—(1) Where a magistrates' court has power to take any recognizance, the court may, instead of taking it, fix the amount in which the principal and his sureties, if any, are to be bound; and thereafter the recognizance may be taken by any such person as may be prescribed.

(2) Where, in pursuance of this section, a recognizance is entered into otherwise than before the court that fixed the amount of it, the same consequences shall follow as if it had been entered into before that court; and references in this or any other Act to the court before which a recognizance was entered into shall be construed accordingly.

(3) Nothing in this section shall enable a magistrates' court to alter the amount of a recognizance fixed by the High Court.

Forfeiture of
recognizance.

120.—(1) Where a recognizance to keep the peace or to be of good behaviour has been entered into before a magistrates' court or any recognizance is conditioned for the appearance of a person before a magistrates' court or for his doing any other thing connected with a proceeding before a magistrates' court, and the recognizance appears to the court to be forfeited, the court may, subject to subsection (2) below, declare the recognizance to be forfeited and adjudge the persons bound thereby, whether as principal or sureties, or any of them, to pay the sum in which they are respectively bound.

(2) Where a recognizance is conditioned to keep the peace or to be of good behaviour, the court shall not declare it forfeited except by order made on complaint.

(3) The court which declares the recognizance to be forfeited may, instead of adjudging any person to pay the whole sum in which he is bound, adjudge him to pay part only of the sum or remit the sum.

(4) Payment of any sum adjudged to be paid under this section, including any costs awarded against the defendant, may be enforced, and any such sum shall be applied, as if it were a fine and as if the adjudication were a summary conviction of an offence not punishable with imprisonment and so much of section 85(1) above as empowers a court to remit fines shall not apply to the sum but so much thereof as relates to remission after a term of imprisonment has been imposed shall so apply; but at any time before the issue of a warrant of commitment to enforce payment of the sum, or before the sale of goods under a warrant of distress to satisfy the sum, the court may remit the whole or any part of the sum either absolutely or on such conditions as the court thinks just.

(5) A recognizance such as is mentioned in this section shall not be enforced otherwise than in accordance with this section, and accordingly shall not be transmitted to the Crown Court nor shall its forfeiture be certified to that Court.

PART VII

MISCELLANEOUS AND SUPPLEMENTARY

Constitution and place of sitting of magistrates' courts

121.—(1) A magistrates' court shall not try an information summarily or hear a complaint except when composed of at least 2 justices unless the trial or hearing is one that by virtue of any enactment may take place before a single justice.

Constitution and place of sitting of court.

(2) A magistrates' court shall not hold an inquiry into the means of an offender for the purposes of section 82 above except when composed of at least 2 justices.

(3) A magistrates' court shall not—

- (a) try summarily an information for an indictable offence or hear a complaint except when sitting in a petty-sessional court-house;
- (b) try an information for a summary offence or hold an inquiry into the means of an offender for the purposes of section 82 above, or impose imprisonment, except when sitting in a petty-sessional court-house or an occasional court-house.

(4) Subject to the provisions of any enactment to the contrary, where a magistrates' court is required by this section to sit in a petty-sessional or occasional court-house, it shall sit in open court.

PART VII

(5) A magistrates' court composed of a single justice, or sitting in an occasional court-house, shall not impose imprisonment for a period exceeding 14 days or order a person to pay more than £1.

(6) Subject to the provisions of subsection (7) below, the justices composing the court before which any proceedings take place shall be present during the whole of the proceedings; but, if during the course of the proceedings any justice absents himself, he shall cease to act further therein and, if the remaining justices are enough to satisfy the requirements of the preceding provisions of this section, the proceedings may continue before a court composed of those justices.

(7) Where the trial of an information is adjourned after the accused has been convicted and before he is sentenced or otherwise dealt with, the court which sentences or deals with him need not be composed of the same justices as that which convicted him; but, where among the justices composing the court which sentences or deals with an offender there are any who were not sitting when he was convicted, the court which sentences or deals with the offender shall before doing so make such inquiry into the facts and circumstances of the case as will enable the justices who were not sitting when the offender was convicted to be fully acquainted with those facts and circumstances.

(8) This section shall have effect subject to the provisions of this Act relating to domestic proceedings.

Appearance by counsel or solicitor

Appearance
by counsel or
solicitor.

122.—(1) A party to any proceedings before a magistrates' court may be represented by counsel or solicitor.

(2) Subject to subsection (3) below, an absent party so represented shall be deemed not to be absent.

(3) Appearance of a party by counsel or solicitor shall not satisfy any provision of any enactment or any condition of a recognizance expressly requiring his presence.

Process

Defect in
process.

123.—(1) No objection shall be allowed to any information or complaint, or to any summons or warrant to procure the presence of the defendant, for any defect in it in substance or in form, or for any variance between it and the evidence adduced on behalf of the prosecutor or complainant at the hearing of the information or complaint.

(2) If it appears to a magistrates' court that any variance between a summons or warrant and the evidence adduced on behalf of the prosecutor or complainant is such that the defendant

has been misled by the variance, the court shall, on the application of the defendant, adjourn the hearing. PART VII

124. A warrant or summons issued by a justice of the peace shall not cease to have effect by reason of his death or his ceasing to be a justice. Process valid notwithstanding death, etc., of justice.

125.—(1) A warrant of arrest issued by a justice of the peace shall remain in force until it is executed or withdrawn. Warrants.

(2) A warrant of arrest, warrant of commitment, warrant of distress or search warrant issued by a justice of the peace may be executed anywhere in England and Wales by any person to whom it is directed or by any constable acting within his police area.

This subsection does not apply to a warrant of commitment or a warrant of distress issued under Part VI of the General Rate Act 1967.

(3) A warrant to arrest a person charged with an offence may be executed by a constable notwithstanding that it is not in his possession at the time; but the warrant shall, on the demand of the person arrested, be shown to him as soon as practicable.

126. Sections 12 to 14 of the Indictable Offences Act 1848 (which relate, among other things, to the execution in Scotland, Northern Ireland, the Isle of Man and the Channel Islands of warrants of arrest for the offences referred to in those sections) shall, so far as applicable, apply to— Execution of certain warrants outside England and Wales.

- (a) warrants of arrest issued under section 1 above for offences other than those referred to in the said sections 12 to 14;
- (b) warrants of arrest issued under section 13 above;
- (c) warrants of arrest issued under section 97 above other than warrants issued in bastardy proceedings to arrest a witness; and
- (d) warrants of commitment issued under this Act.

Limitation of time

127.—(1) Except as otherwise expressly provided by any enactment and subject to subsection (2) below, a magistrates' court shall not try an information or hear a complaint unless the information was laid, or the complaint made, within 6 months from the time when the offence was committed, or the matter of complaint arose. Limitation of time.

PART VII

(2) Nothing in—

- (a) subsection (1) above ; or
- (b) subject to subsection (4) below, any other enactment (however framed or worded) which, as regards any offence to which it applies, would but for this section impose a time-limit on the power of a magistrates' court to try an information summarily or impose a limitation on the time for taking summary proceedings,

shall apply in relation to any indictable offence.

(3) Without prejudice to the generality of paragraph (b) of subsection (2) above, that paragraph includes enactments which impose a time-limit that applies only in certain circumstances (for example, where the proceedings are not instituted by or with the consent of the Director of Public Prosecutions or some other specified authority).

(4) Where, as regards any indictable offence, there is imposed by any enactment (however framed or worded, and whether falling within subsection (2) (b) above or not) a limitation on the time for taking proceedings on indictment for that offence no summary proceedings for that offence shall be taken after the latest time for taking proceedings on indictment.

Remand

Remand in custody or on bail.
1976 c. 63.

128.—(1) Where a magistrates' court has power to remand any person, then, subject to section 4 of the Bail Act 1976 and to any other enactment modifying that power, the court may—

- (a) remand him in custody, that is to say, commit him to custody to be brought before the court at the end of the period of remand or at such earlier time as the court may require ; or
- (b) where it is inquiring into or trying an offence alleged to have been committed by that person or has convicted him of an offence, remand him on bail in accordance with the Bail Act 1976, that is to say, by directing him to appear as provided in subsection (4) below ; or
- (c) except in a case falling within paragraph (b) above, remand him on bail by taking from him a recognizance (with or without sureties) conditioned as provided in that subsection ;

and may, in a case falling within paragraph (c) above, instead of taking recognizances in accordance with that paragraph, fix the amount of the recognizances with a view to their being taken subsequently in accordance with section 119 above.

(2) Where the court fixes the amount of a recognizance under subsection (1) above or section 8(3) of the Bail Act 1976 with a view to its being taken subsequently the court shall in the meantime commit the person so remanded to custody in accordance with paragraph (a) of the said subsection (1). PART VII
1976 c. 63.

(3) Where a person is brought before the court after remand, the court may further remand him.

(4) Where a person is remanded on bail under subsection (1) above the court may, where it remands him on bail in accordance with the Bail Act 1976 direct him to appear or, in any other case, direct that his recognizance be conditioned for his appearance—

(a) before that court at the end of the period of remand ;
or

(b) at every time and place to which during the course of the proceedings the hearing may be from time to time adjourned ;

and, where it remands him on bail conditionally on his providing a surety during an inquiry into an offence alleged to have been committed by him, may direct that the recognizance of the surety be conditioned to secure that the person so bailed appears—

(c) at every time and place to which during the course of the proceedings the hearing may be from time to time adjourned and also before the Crown Court in the event of the person so bailed being committed for trial there.

(5) Where a person is directed to appear or a recognizance is conditioned for a person's appearance in accordance with paragraph (b) or (c) of subsection (4) above, the fixing at any time of the time for him next to appear shall be deemed to be a remand ; but nothing in this subsection or subsection (4) above shall deprive the court of power at any subsequent hearing to remand him afresh.

(6) Subject to the provisions of section 129 below, a magistrates' court shall not remand a person for a period exceeding 8 clear days, except that—

(a) if the court remands him on bail, it may remand him for a longer period if he and the other party consent ;

(b) where the court adjourns a trial under section 10(3) or 30 above, the court may remand him for the period of the adjournment ;

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(c) where a person is charged with an offence triable either way, then, if it falls to the court to try the case summarily but the court is not at the time so constituted, and sitting in such a place, as will enable it to proceed with the trial, the court may remand him until the next occasion on which it will be practicable for the court to be so constituted, and to sit in such a place, as aforesaid, notwithstanding that the remand is for a period exceeding 8 clear days.

(7) A magistrates' court having power to remand a person in custody may, if the remand is for a period not exceeding 3 clear days, commit him to the custody of a constable.

Further
remand.

129.—(1) If a magistrates' court is satisfied that any person who has been remanded is unable by reason of illness or accident to appear or be brought before the court at the expiration of the period for which he was remanded, the court may, in his absence, remand him for a further time; and section 128(6) above shall not apply.

(2) Notwithstanding anything in section 128(1) above, the power of a court under subsection (1) above to remand a person on bail for a further time—

(a) where he was granted bail in criminal proceedings, includes power to enlarge the recognizance of any surety for him to a later time;

(b) where he was granted bail otherwise than in criminal proceedings, may be exercised by enlarging his recognizance and those of any sureties for him to a later time.

(3) Where a person remanded on bail is bound to appear before a magistrates' court at any time and the court has no power to remand him under subsection (1) above, the court may in his absence—

(a) where he was granted bail in criminal proceedings, appoint a later time as the time at which he is to appear and enlarge the recognizances of any sureties for him to that time;

(b) where he was granted bail otherwise than in criminal proceedings, enlarge his recognizance and those of any sureties for him to a later time;

and the appointment of the time or the enlargement of his recognizance shall be deemed to be a further remand.

(4) Where a magistrates' court commits a person for trial on bail and the recognizance of any surety for him has been conditioned in accordance with paragraph (a) of subsection (4) of section 128 above the court may, in the absence of the surety,

enlarge his recognizance so that he is bound to secure that the person so committed for trial appears also before the Crown Court.

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130.—(1) A magistrates' court adjourning a case under section 5, 10(1) or 18(4) above, and remanding the accused in custody, may, if he has attained the age of 17, order that he be brought up for any subsequent remands before an alternate magistrates' court nearer to the prison where he is to be confined while on remand. Transfer of remand hearings.

(2) The order shall require the accused to be brought before the alternate court at the end of the period of remand or at such earlier time as the alternate court may require.

(3) While the order is in force, the alternate court shall, to the exclusion of the court which made the order, have all the powers in relation to further remand (whether in custody or on bail) and the grant of legal aid which that court would have had but for the order.

(4) The alternate court may, on remanding the accused in custody, require him to be brought before the court which made the order at the end of the period of remand or at such earlier time as that court may require; and, if the alternate court does so, or the accused is released on bail, the order under subsection (1) above shall cease to be in force.

(5) Schedule 5 to this Act shall have effect to supplement this section.

131.—(1) When a magistrates' court remands an accused person in custody and he is already detained under a custodial sentence, the period for which he is remanded may be up to 28 clear days. Remand of accused already in custody.

(2) But the court shall inquire as to the expected date of his release from that detention; and if it appears that it will be before 28 clear days have expired, he shall not be remanded in custody for more than 8 clear days or (if longer) a period ending with that date.

(3) So long as he is detained under a custodial sentence, an application for him to be further remanded in custody may be made and determined without his appearance in court, provided that he is represented by counsel or a solicitor who signifies the accused's consent to the application being heard in his absence.

Restrictions on imprisonment

132. A magistrates' court shall not impose imprisonment for less than 5 days. Minimum term.

PART VII
Consecutive
terms of
imprisonment.

133.—(1) A magistrates' court imposing imprisonment on any person may order that the term of imprisonment shall commence on the expiration of any other term of imprisonment imposed by that or any other court; but where a magistrates' court imposes two or more terms of imprisonment to run consecutively the aggregate of such terms shall not, subject to the provisions of this section, exceed 6 months.

(2) If two or more of the terms imposed by the court are imposed in respect of an offence triable either way which was tried summarily otherwise than in pursuance of section 22(2) above, the aggregate of the terms so imposed and any other terms imposed by the court may exceed 6 months but shall not, subject to the following provisions of this section, exceed 12 months.

(3) The limitations imposed by the preceding subsections shall not operate to reduce the aggregate of the terms that the court may impose in respect of any offences below the term which the court has power to impose in respect of any one of those offences.

(4) Where a person has been sentenced by a magistrates' court to imprisonment and a fine for the same offence, a period of imprisonment imposed for non-payment of the fine, or for want of sufficient distress to satisfy the fine, shall not be subject to the limitations imposed by the preceding subsections.

(5) For the purposes of this section a term of imprisonment shall be deemed to be imposed in respect of an offence if it is imposed as a sentence or in default of payment of a sum adjudged to be paid by the conviction or for want of sufficient distress to satisfy such a sum.

Detention for short periods

Detention in
police cells,
etc.

134.—(1) A magistrates' court having power to impose imprisonment on any person may instead of doing so order him to be detained for any period not exceeding 4 days in a place certified by the Secretary of State to be suitable for the purpose.

(2) The Secretary of State may certify under this section any police cells, bridewell or similar place provided by him and, on the application of any other police authority, any such place provided by that authority.

(3) A woman or girl shall not be detained in any such place except under the supervision of women.

1978 c. 30.

Section 6(b) of the Interpretation Act 1978 (feminine includes masculine) does not apply for the purposes of this subsection.

(4) The Secretary of State may make regulations for the inspection of places certified by him under this section, for the treatment of persons detained in them and generally for the purpose of carrying this section into effect.

(5) Any expenses incurred in the maintenance of persons detained under this section shall be defrayed out of moneys provided by Parliament.

(6) In this section "maintenance" has the same meaning in relation to a person detained under this section as it has under section 53 of the Prison Act 1952 in relation to a prisoner. 1952 c. 52.

(7) Subsection (2) above shall, in its application to the City of London, have effect as if for the references therein to the police authority there were substituted references to the Commissioner of Police for the City of London.

135.—(1) A magistrates' court that has power to commit to prison a person convicted of an offence, or would have that power but for section 82 or 88 above, may order him to be detained within the precincts of the court-house or at any police station until such hour, not later than 8 o'clock in the evening of the day on which the order is made, as the court may direct, and, if it does so, shall not, where it has power to commit him to prison, exercise that power. Detention of offender for one day in court-house or police station.

(2) A court shall not make such an order under this section as will deprive the offender of a reasonable opportunity of returning to his abode on the day of the order.

136.—(1) A magistrates' court that has power to commit to prison a person in default of payment of a sum adjudged to be paid by a summary conviction, or would have that power but for section 82 or 88 above, may issue a warrant for his detention in a police station, and, if it does so, shall not, where it has power to commit him to prison, exercise that power. Committal to custody overnight at police station for non-payment of sum adjudged by conviction.

(2) A warrant under this section, unless the sum adjudged to be paid by the conviction is sooner paid,—

(a) shall authorise any police constable to arrest the defaulter and take him to a police station, and

(b) shall require the officer in charge of the station to detain him there until 8 o'clock in the morning of the day following that on which he is arrested, or, if he is arrested between midnight and 8 o'clock in the morning, until 8 o'clock in the morning of the day on which he is arrested.

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(3) Notwithstanding subsection (2)(b) above, the officer may release the defaulter at any time within 4 hours before 8 o'clock in the morning if the officer thinks it expedient to do so in order to enable him to go to his work or for any other reason appearing to the officer to be sufficient.

Fees, fines, forfeitures, etc.

Fees.

137.—(1) Subject to the provisions of this section, the court fees set out in Part I of Schedule 6 to this Act, and no others, shall be chargeable by clerks of magistrates' courts; and any enactment providing for the payment of any fees for the payment of which provision is made in the said Part I shall have effect accordingly.

(2) No fee shall be chargeable by a clerk of a magistrates' court in respect of any matter specified in Part II of the said Schedule.

(3) Nothing in this section shall affect the fees chargeable in respect of the matters specified in Part III of the said Schedule.

(4) The Secretary of State may from time to time by order make such variations in Part I of the said Schedule as may seem to him proper.

(5) The power to make an order under subsection (4) above shall be exercisable by statutory instrument; and a draft of any such statutory instrument shall be laid before Parliament.

(6) This section shall apply to magistrates' courts held by metropolitan stipendiary magistrates as it applies to other magistrates' courts.

Remission of fees.

138. A magistrates' court may on the ground of poverty or for other reasonable cause remit in whole or in part any fee payable in proceedings before the court.

Disposal of sums adjudged to be paid by conviction.

139. A clerk of a magistrates' court shall apply moneys received by him on account of a sum adjudged to be paid by a summary conviction as follows—

- (a) in the first place in payment of any compensation adjudged by the conviction to be paid to any person;
- (b) in the second place in payment of any costs so adjudged to be paid to the prosecutor; and
- (c) the balance to the fund to which, or the person to whom, he is required to pay the sum by section 61 of the Justices of the Peace Act 1979 or any other enactment relating to the sum.

140. Subject to any enactment relating to customs or excise, anything other than money forfeited on a conviction by a magistrates' court or the forfeiture of which may be enforced by a magistrates' court shall be sold or otherwise disposed of in such manner as the court may direct; and the proceeds shall be applied as if they were a fine imposed under the enactment on which the proceedings for the forfeiture are founded.

PART VII
Disposal of
non-pecuniary
forfeitures.

Clerks to justices

141.—(1) Any reference in this Act to a clerk of any magistrates' court shall be construed as a reference to the clerk to the justices for the petty sessions area for which the court is acting, or was acting at the relevant time.

(2) Where there is more than one clerk to the justices for any petty sessions area, anything that this Act requires or authorises to be done by or to the clerk to the justices shall or may be done by or to any of the clerks or by or to such of the clerks as the magistrates' courts committee having power over the appointment of clerks to justices for that area generally or in any particular case or cases may direct.

(3) Subsections (1) and (2) above shall apply to the justices' clerks for the inner London area as if the reference in subsection (2) to the magistrates' courts committee were a reference to the committee of magistrates.

Power to rectify mistakes etc.

142.—(1) Subject to subsection (4) below, a magistrates' court may vary or rescind a sentence or other order imposed or made by it when dealing with an offender; and it is hereby declared that this power extends to replacing a sentence or order which for any reason appears to be invalid by another which the court has power to impose or make.

Power of
magistrates'
court to
re-open cases
to rectify
mistakes etc.

(2) Where a person is found guilty by a magistrates' court in a case in which he has pleaded not guilty or the court has proceeded in his absence under section 11(1) above, and it subsequently appears to the court that it would be in the interests of justice that the case should be heard again by different justices, the court may, subject to subsection (4) below, so direct.

(3) Where a court gives a direction under subsection (2) above—

(a) the finding of guilty and any sentence or other order imposed or made in consequence thereof shall be of no effect; and

(b) section 10(4) above shall apply as if the trial of the person in question had been adjourned.

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(4) The powers conferred by subsections (1) and (2) above shall be exercisable only within the period of 28 days beginning with the day on which the sentence or order was imposed or made or the person was found guilty, as the case may be, and only—

- (a) by a court constituted in the same manner as the court by which the sentence or order was imposed or made or, as the case may be, by which the person in question was found guilty, or
- (b) where that court comprised 3 or more justices of the peace, by a court which consists of or comprises a majority of those justices.

(5) Where a sentence or order is varied under subsection (1) above, the sentence or other order, as so varied, shall take effect from the beginning of the day on which it was originally imposed or made, unless the court otherwise directs.

Power to alter sums specified in certain provisions

Power to
alter sums
specified in
certain
provisions.

143.—(1) If it appears to the Secretary of State that there has been a change in the value of money since the last occasion when the sum or sums specified in a provision mentioned in subsection (2) below were fixed, he may by order substitute for the sum or sums for the time being specified in that provision such other sum or sums as appear to him justified by the change.

(2) The said provisions are—

- (a) section 22(1) above ;
- (b) the definition of “ the prescribed sum ” in section 32(9) above ;
- (c) paragraph (a) of section 33(1) above ;
- (d) section 40(1) above ;
- (e) the Table in paragraph 1 of Schedule 4 to this Act.

(3) A sum specified in a provision mentioned in subsection (2) above (a “ relevant provision ”) may have been fixed as mentioned in subsection (1) above—

- (a) by the coming into force of a provision of the Criminal Law Act 1977 (being a provision re-enacted in the relevant provision concerned or a provision amending a provision of another Act so re-enacted), or
- (b) by an order made under subsection (1) above in respect of the relevant provision concerned.

(4) Where it appears to the Secretary of State that the difference between a sum to which subsection (5) below applies and the prescribed sum (within the meaning of section 32 above) has

been or would be altered or eliminated by an order made or proposed to be made under subsection (1) above, he may by order amend the enactment specifying the first-mentioned sum so as to substitute for that sum such other sum as appears to him to be justified by a change in the value of money appearing to him to have taken place between—

- (a) the last occasion on which the sum in question was fixed ; and
- (b) the making of the order or proposed order under subsection (1) above.

(5) This subsection applies to any sum specified in any enactment contained in any Act passed before, or in the same Session as, the Criminal Law Act 1977 as—

1977 c. 45.

- (a) the maximum fine which may be imposed on summary conviction of an offence triable either way ; or
 - (b) the maximum fine which, in the exercise of any power by subordinate instrument to impose penal provisions, may be authorised on summary conviction in respect of an offence triable either way.
- (6) An order under subsection (1) or (4) above—
- (a) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament and may be revoked by a subsequent order thereunder ; and
 - (b) shall not affect the punishment for an offence committed before that order comes into force.

Rules

144.—(1) The Lord Chancellor may appoint a rule committee Rule for magistrates' courts, and may on the advice of or after con- committee and sultation with the rule committee make rules for regulating and rules of prescribing the procedure and practice to be followed in magi- procedure. strates' courts and by justices' clerks.

(2) The rule committee shall consist of the Lord Chief Justice, the President of the Family Division of the High Court, the chief metropolitan stipendiary magistrate and such number of other persons appointed by the Lord Chancellor as he may determine.

(3) Among the members of the committee appointed by the Lord Chancellor there shall be at least one justices' clerk, one practising barrister and one practising solicitor of the Supreme Court.

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(4) The power to make rules conferred by this section shall be exercisable by statutory instrument which shall be subject to annulment by resolution of either House of Parliament.

(5) In this section the expression "justices' clerk" means a clerk to the justices for a petty sessions area.

Rules:
supplementary
provisions.

145.—(1) The power to make rules conferred by section 144 above shall, without prejudice to the generality of subsection (1) of that section, include power to make provision—

- (a) as to the practice and procedure of justices in exercising functions preliminary or incidental to proceedings before a magistrates' court ;
- (b) as to the service and execution of process issued by or for the purposes of a magistrates' court, including the service and execution in England and Wales of process issued in other parts of the United Kingdom ;
- (c) as to the keeping of records of proceedings before magistrates' courts and the manner in which things done in the course of, or as preliminary or incidental to, any such proceedings, or any proceedings on appeal from a magistrates' court to the Crown Court, may be proved in any legal proceedings ;
- (d) as to the extent to which a justices' clerk may engage in practice as a solicitor or barrister ;
- (e) as to the functions of officers of the Crown Court for the purposes of securing the attendance at a trial on indictment of persons in respect of whom conditional witness orders, or orders treated as conditional witness orders, have been made under section 1 of the Criminal Procedure (Attendance of Witnesses) Act 1965 ;
- (f) as to the furnishing by any person having custody of the depositions of copies thereof, and of copies of the information if it is in writing, to a person committed for trial ;
- (g) as to what magistrates' court shall have jurisdiction to hear any complaint ;
- (h) as to the matters additional to those specified in section 53 above on complaint for which a magistrates' court shall have power to make an order with the consent of the defendant without hearing evidence ;
- (i) as to any other matters as to which immediately before the coming into force of section 15 of the Justices of the Peace Act 1949 provision was or could have been made by virtue of the enactments and parts of enactments repealed by Part II of Schedule 7 to the said Act of 1949.

1965 c. 69.

1949 c. 101.

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(2) Where any Act expressly confers jurisdiction on any magistrates' court to hear a complaint, rules made under subsection (1)(g) above shall not take away that jurisdiction, but may extend it to any other magistrates' court.

(3) Any Act passed before 16th December 1949, in so far as that Act relates to matters about which rules may be made under section 144 above, shall have effect subject to any rules so made and may be amended or repealed by the rules accordingly; but nothing in the said section shall authorise the rules to reduce the number of justices required for any purpose by any Act.

(4) No provision included in rules under section 144 above which dispenses with the need to prove that a summons issued under section 1 above and served in accordance with the rules has come to the knowledge of the accused shall apply to a summons for an indictable offence.

(5) Any rules, directions, forms or other instrument having effect immediately before this subsection comes into force as if contained in rules made under section 15 of the Justices of the Peace Act 1949 by virtue of section 15(8) of that Act (rules etc. which previously had effect under the enactments repealed by Part II of Schedule 7 to that Act) shall have effect as if contained in rules made under section 144 above. 1949 c. 101.

Rules about juvenile courts

146.—(1) Without prejudice to the generality of the power to make rules under section 144 above relating to the procedure and practice to be followed by magistrates' courts, provision may be made by such rules with respect to any of the following matters, namely,—

Rules relating to juvenile court panels and composition of juvenile court.

- (a) the formation and revision of juvenile court panels, that is to say, panels of justices specially qualified to deal with juvenile cases and the eligibility of justices to be members of such panels;
- (b) the appointment of persons as chairmen of juvenile courts; and
- (c) the composition of juvenile courts.

(2) Rules making any such provisions as are referred to in subsection (1) above may confer powers on the Lord Chancellor with respect to any of the matters specified in the rules and may, in particular, provide for the appointment of juvenile court panels by him and for the removal from a juvenile court panel of any justice who, in his opinion, is unsuitable to serve on a juvenile court.

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(3) Rules made by virtue of this section may make different provision in relation to different areas for which juvenile court panels are formed ; and in the application of this section to the county palatine of Lancaster, for any reference in subsection (2) above to the Lord Chancellor there shall be substituted a reference to the Chancellor of the Duchy.

(4) Nothing in this section or in any rules made under section 144 above shall affect—

(a) the areas for which juvenile court panels are formed and juvenile courts are constituted ;

1963 c. 37.

(b) the provisions of Part I of Schedule 2 to the Children and Young Persons Act 1963 (and, as it has effect by virtue of section 17(1) of that Act, Part I of Schedule 2 to the Children and Young Persons Act 1933) with respect to the making of recommendations and orders relating to the formation of combined juvenile court panels ; or

1933 c. 12.

(c) the provisions of paragraph 14 of that Schedule relating to the divisions of the metropolitan area for which juvenile courts sit ;

but rules under section 144 above may repeal, either generally or with respect to any part of the metropolitan area, any provision contained in paragraphs 15 to 18 of that Schedule (which contain provisions applicable in the metropolitan area with respect to certain of the matters referred to in subsection (1) above) and in subsections (2) and (3) of section 12 of the Administration of Justice Act 1964 (which amend those paragraphs).

1964 c. 42.

(5) In this section “ the metropolitan area ” means the inner London area and the City of London.

Occasional court-houses

Occasional court-house.

147.—(1) The justices acting for a petty sessions area may appoint as an occasional court-house any place that is not a petty-sessional court-house.

(2) A place appointed as an occasional court-house after 31st May 1953 shall not be used as such unless public notice has been given that it has been appointed.

(3) There may be more than one occasional court-house for each petty sessions area ; and an occasional court-house may be outside the petty sessions area for which it is appointed, and if so shall be deemed to be in that area for the purpose of the jurisdiction of the justices acting for that area.

Interpretation

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148.—(1) In this Act the expression “magistrates’ court” “Magistrates’ court” means any justice or justices of the peace acting under any enactment or by virtue of his or their commission or under the common law.

(2) Except where the contrary is expressed, anything authorised or required by this Act to be done by, to or before the magistrates’ court by, to or before which any other thing was done, or is to be done, may be done by, to or before any magistrates’ court acting for the same petty sessions area as that court.

149. For the purposes of this Act the Isles of Scilly form part of the county of Cornwall.

150.—(1) In this Act, unless the context otherwise requires, the following expressions have the meaning hereby assigned to them, that is to say—

“Act” includes local Act;

“affiliation order” has the same meaning as in the 1957 c. 55. Affiliation Proceedings Act 1957;

“bail in criminal proceedings” has the same meaning as in the Bail Act 1976; 1976 c. 63.

“commit to custody” means commit to prison or, where any enactment authorises or requires committal to some other place of detention instead of committal to prison, to that other place;

“committal proceedings” means proceedings before a magistrates’ court acting as examining justices;

“domestic proceedings” has the meaning assigned to it by section 65 above;

“enactment” includes an enactment contained in a local Act or in any order, regulation or other instrument having effect by virtue of an Act;

“fine”, except for the purposes of any enactment imposing a limit on the amount of any fine, includes any pecuniary penalty or pecuniary forfeiture or pecuniary compensation payable under a conviction;

“impose imprisonment” means pass a sentence of imprisonment or fix a term of imprisonment for failure to pay any sum of money, or for want of sufficient distress to satisfy any sum of money, or for failure to do or abstain from doing anything required to be done or left undone;

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1979 c. 55.

"London commission area" has the same meaning as in the Justices of the Peace Act 1979 ;

"petty-sessional court-house" means any of the following, that is to say—

(a) a court-house or place at which justices are accustomed to assemble for holding special or petty sessions or for the time being appointed as a substitute for such a court-house or place (including, where justices are accustomed to assemble for either special or petty sessions at more than one court-house or place in a petty sessional division, any such court-house or place) ;

(b) a court-house or place at which a stipendiary magistrate is authorised by law to do alone any act authorised to be done by more than one justice of the peace ;

"petty sessions area" means any of the following areas, that is to say, a non-metropolitan county which is not divided into petty sessional divisions, a petty sessional division of a non-metropolitan county, a metropolitan district which is not divided into petty sessional divisions, a petty sessional division of a metropolitan district, a London commission area which is not divided into petty sessional divisions, a petty sessional division of a London commission area and the City of London ;

"prescribed" means prescribed by the rules ;

"the register" means the register of proceedings before a magistrates' court required by the rules to be kept by the clerk of the court ;

"the rules" means rules made under section 144 above ;

"sentence" does not include a committal in default of payment of any sum of money, or for want of sufficient distress to satisfy any sum of money, or for failure to do or abstain from doing anything required to be done or left undone ;

"sum enforceable as a civil debt" means—

(a) any sum recoverable summarily as a civil debt which is adjudged to be paid by the order of a magistrates' court ;

(b) any other sum expressed by this or any other Act to be so enforceable ;

"transfer of fine order" has the meaning assigned to it by section 89 above.

(2) Except where the contrary is expressed or implied, anything required or authorised by this Act to be done by justices may, where two or more justices are present, be done by one of them on behalf of the others.

(3) Any reference in this Act to a sum adjudged to be paid by a conviction or order of a magistrates' court shall be construed as including a reference to any costs, damages or compensation adjudged to be paid by the conviction or order of which the amount is ascertained by the conviction or order; but this subsection does not prejudice the definition of "sum adjudged to be paid by a conviction" contained in subsection (8) of section 81 above for the purposes of that section.

(4) Where the age of any person at any time is material for the purposes of any provision of this Act regulating the powers of a magistrates' court, his age at the material time shall be deemed to be or to have been that which appears to the court after considering any available evidence to be or to have been his age at that time.

(5) Except where the context otherwise requires, any reference in this Act to an offence shall be construed as including a reference to an alleged offence; and any reference in this Act to an offence committed, completed or begun anywhere shall be construed as including a reference to an offence alleged to have been committed, completed or begun there.

(6) References in this Act to an offence punishable with imprisonment or punishable on summary conviction with imprisonment shall be construed without regard to any prohibition or restriction imposed by or under this or any other Act on imprisonment of young offenders.

(7) The provisions of this Act authorising a magistrates' court on conviction of an offender to pass a sentence or make an order instead of dealing with him in any other way shall not be construed as taking away any power to order him to pay costs, damages or compensation.

Miscellaneous

151.—(1) Justices may state a case under this Act when called upon to issue a warrant of distress for any rate other than a rate within the meaning of the General Rate Act 1967.

Application
of Act to
distress
for rates.

(2) Sections 79(2) and 100 above shall apply to proceedings for the non-payment of any rate to which subsection (1) above applies as they apply to proceedings for the non-payment of a sum adjudged to be paid by a magistrates' court.

1967 c. 9.

PART VII

(3) Except as provided in the preceding provisions of this section, the power of justices to issue a warrant of distress for a rate, the form and execution of such a warrant and the committal of persons for want of sufficient distress to satisfy a rate shall not be subject to the provisions of this Act.

Saving for
juvenile
courts.

152. The provisions of this Act relating to the constitution, place of sitting and procedure of magistrates' courts shall, in their application to juvenile courts, have effect subject to any provision contained in the rules or any enactment regulating the constitution, place of sitting or procedure of juvenile courts.

Magistrates'
court may sit
on Sundays
and public
holidays.

153. It is hereby declared that a magistrates' court may sit on any day of the year, and in particular (if the court thinks fit) on Christmas Day, Good Friday or any Sunday.

Repeals, short title, etc.

Consequential
amendments,
transitional
provisions,
repeals, etc.

154.—(1) Subject to subsection (2) below, the enactments mentioned in Schedule 7 to this Act shall have effect subject to the amendments specified in that Schedule, being amendments consequential on the provisions of this Act.

(2) The transitional provisions and savings in Schedule 8 to this Act shall have effect.

(3) Subject to subsection (2) above, the enactments specified in Schedule 9 to this Act (which include enactments which were spent before the passing of this Act) are hereby repealed to the extent specified in the third column of that Schedule.

1978 c. 30.

(4) Nothing in this Act shall be taken as prejudicing the operation of sections 16 and 17 of the Interpretation Act 1978 (which relate to the effect of repeals).

Short title,
extent and
commence-
ment.

155.—(1) This Act may be cited as the Magistrates' Courts Act 1980.

(2) The following provisions of this Act extend to Scotland—

(a) sections 8 (except subsection (9)), 12(8), 83(3), 90 and 91 and this section ; and

(b) section 154 and Schedules 7, 8 and 9 so far as they relate to any enactment extending to Scotland.

(3) The following provisions of this Act extend to Northern Ireland—

(a) sections 83(3), 90 and 91 and this section ; and

(b) section 154 and Schedules 7, 8 and 9 so far as they relate to an enactment extending to Northern Ireland.

(4) The provisions of section 126 above have the same extent as the sections of the Indictable Offences Act 1848 to which they refer. PART VII
1848 c. 42.

(5) The provisions of section 32(7) and (9) above, in their operation in relation to the provision that may be made under subsection (2) of section 2 of the European Communities Act 1972, extend to all places to which the said section 2 extends (except Scotland). 1972 c. 68.

(6) Except as stated in subsections (2) to (5) above, and except so far as relates to the interpretation or commencement of the provisions mentioned in those subsections, this Act extends to England and Wales only.

(7) This Act shall come into force on such date as the Secretary of State may appoint by order made by statutory instrument.

SCHEDULES

Section 17.

SCHEDULE 1**OFFENCES TRIABLE EITHER WAY BY VIRTUE OF SECTION 17****1. Offences at common law of public nuisance.**

1751 c. 36.

2. Offences under section 8 of the Disorderly Houses Act 1751 (appearing to be keeper of bawdy house etc.).

1835 c. 62.

3. Offences consisting in contravention of section 13 of the Statutory Declarations Act 1835 (administration by a person of an oath etc. touching matters in which he has no jurisdiction).

1861 c. 97.

4. Offences under section 36 of the Malicious Damage Act 1861 (obstructing engines or carriages on railways).

1861 c. 100.

5. Offences under the following provisions of the Offences against the Person Act 1861—**(a) section 16 (threats to kill) ;****(b) section 20 (inflicting bodily injury, with or without a weapon) ;****(c) section 26 (not providing apprentices or servants with food etc.) ;****(d) section 27 (abandoning or exposing child) ;****(e) section 34 (doing or omitting to do anything so as to endanger railway passengers) ;****(f) section 36 (assaulting a clergyman at a place of worship etc.) ;****(g) section 38 (assault with intent to resist apprehension) ;****(h) section 47 (assault occasioning bodily harm—common assault) ;****(i) section 57 (bigamy) ;****(j) section 60 (concealing the birth of a child).**

1868 c. 110.

6. Offences under section 20 of the Telegraph Act 1868 (disclosing or intercepting messages).

1869 c. 62.

7. Offences under section 13 of the Debtors Act 1869 (transactions intended to defraud creditors).

1875 c. 25.

8. Offences under section 5 of the Public Stores Act 1875 (obliteration of marks with intent to conceal).

1882 c. 37.

9. Offences under section 12 of the Corn Returns Act 1882 (false returns).

1882 c. 56.

10. Offences under section 22 of the Electric Lighting Act 1882 (injuring works with intent to cut off electricity supply).

11. Offences under section 3 of the Submarine Telegraph Act 1885 (damaging submarine cables). SCH. 1
1885 c. 49.
12. Offences under section 13 of the Stamp Duties Management Act 1891 (offences in relation to dies and stamps). 1891 c. 38.
13. Offences under section 8(2) of the Cremation Act 1902 (making false representations etc. with a view to procuring the burning of any human remains). 1902 c. 8.
14. All offences under the Perjury Act 1911 except offences under— 1911 c. 6.
(a) section 1 (perjury in judicial proceedings);
(b) section 3 (false statements etc. with reference to marriage);
(c) section 4 (false statements etc. as to births or deaths).
15. The following offences under the Forgery Act 1913— 1913 c. 27.
(a) offences under paragraph (a) of section 2(2) (forgery of valuable security etc.) in relation to—
(i) any document being an accountable receipt, release, or discharge, or any receipt or other instrument evidencing the payment of money, or the delivery of any chattel personal; or
(ii) any document being an authority or request for the payment of money or for the delivery or transfer of goods and chattels, where the amount of money or the value of the goods or chattels does not exceed £1,000;
(b) offences under section 4 (forgery of documents in general); and
(c) offences under paragraph (a) of section 7 (demanding property on forged documents), where the amount of the money or the value of the property in respect of which the offence is committed does not exceed £1,000.
16. Offences under section 17 of the Deeds of Arrangement Act 1914 (trustee making preferential payments). 1914 c. 47.
17. Offences under section 3(4) of the Checkweighing in Various Industries Act 1919 (false statements). 1919 c. 51.
18. Offences under section 8(2) of the Census Act 1920 (disclosing census information). 1920 c. 41.
19. Offences under section 36 of the Criminal Justice Act 1925 (forgery of passports etc.). 1925 c. 86.
20. Offences under section 11 of the Agricultural Credits Act 1928 (frauds by farmers). 1928 c. 43.
21. Offences under the following provisions of the Coinage Offences Act 1936— 1936 c. 16.
(a) section 4(1) (defacing coins);
(b) section 5(1) (uttering counterfeit coin);

SCH. 1

- (c) section 5(2) (uttering counterfeit gold or silver coin) ;
- (d) section 5(3) (possession of counterfeit gold or silver coin) ;
- (e) section 5(4) (possession of counterfeit copper coin) ;
- (f) section 5(6) (uttering coins etc. as gold or silver coins) ;
- (g) section 7 (importing and exporting counterfeit coin) ;
- (h) section 8 (making, possessing or selling medals resembling gold or silver coin).

1953 c. 36. 22. Offences under the following provisions of the Post Office Act 1953—

- (a) section 53 (unlawfully taking away or opening mail bag) ;
- (b) section 55 (fraudulent retention of mail bag or postal packet) ;
- (c) section 57 (stealing, embezzlement, destruction etc. by officer of Post Office of postal packet) ;
- (d) section 58 (opening or delaying of postal packets by officers of the Post Office).

1956 c. 69. 23. Offences under the following provisions of the Sexual Offences Act 1956—

- (a) section 6 (unlawful sexual intercourse with a girl under 16) ;
- (b) section 13 (indecenty between men) ;
- (c) section 26 (permitting a girl under 16 to use premises for sexual intercourse).

1964 c. 87. 24. Offences under section 3(1) of the Shipping Contracts and Commercial Documents Act 1964 (offences), so far as it relates to the contravention of any directions given under that Act before 20th March 1980.

1967 c. 29. 25. Offences under section 24B(7) of the Housing Subsidies Act 1967 (failure to notify lender that residence condition not fulfilled or ceased to be fulfilled).

1967 c. 58. 26. The following offences under the Criminal Law Act 1967—

- (a) offences under section 4(1) (assisting offenders) ; and
- (b) offences under section 5(1) (concealing arrestable offences and giving false information),

where the offence to which they relate is triable either way.

1967 c. 60. 27. Offences under section 4(1) of the Sexual Offences Act 1967 (procuring others to commit homosexual acts).

1968 c. 60. 28. All indictable offences under the Theft Act 1968 except:—

- (a) robbery, aggravated burglary, blackmail and assault with intent to rob ;
- (b) burglary comprising the commission of, or an intention to commit, an offence which is triable only on indictment ;
- (c) burglary in a dwelling if any person in the dwelling was subjected to violence or the threat of violence.

29. Offences under the following provisions of the Criminal Damage Act 1971— SCH. 1
1971 c. 48.

section 1(1) (destroying or damaging property);

section 1(1) and (3) (arson);

section 2 (threats to destroy or damage property);

section 3 (possessing anything with intent to destroy or damage property).

30. Offences in relation to stamps issued for the purpose of national insurance under the provisions of any enactments as applied to those stamps.

31. Uttering any forged document the forgery of which is an offence listed in this Schedule.

32. Committing an indecent assault upon a person whether male or female.

33. Aiding, abetting, counselling or procuring the commission of any offence listed in the preceding paragraphs of this Schedule except paragraph 26.

34. Attempting to commit an offence triable either way except an offence mentioned in paragraph 26 or 33 above.

35. Any offence consisting in the incitement to commit an offence triable either way except an offence mentioned in paragraph 33 or 34 above.

SCHEDULE 2

Section 22.

OFFENCES FOR WHICH THE VALUE INVOLVED IS RELEVANT TO THE MODE OF TRIAL

<i>Offence</i>	<i>Value involved</i>	<i>How measured</i>
1. Offences under section 1 of the Criminal Damage Act 1971* (destroying or damaging property), excluding any offence committed by destroying or damaging property by fire.	As regards property alleged to have been destroyed, its value. As regards property alleged to have been damaged, the value of the alleged damage.	What the property would probably have cost to buy in the open market at the material time. (a) If immediately after the material time the damage was capable of repair— (i) what would probably then have been the market price for the repair of the damage, or (ii) what the property alleged to have been damaged would probably have cost to buy in the open market at the material time, whichever is the less; or (b) if immediately after the material time the damage was beyond repair, what the said property would probably have cost to buy in the open market at the material time.
2. The following offences, namely— (a) aiding, abetting, counselling or procuring the commission of any offence mentioned in paragraph 1 above; (b) attempting to commit any offence so mentioned; and (c) inciting another to commit any offence so mentioned.	The value indicated in paragraph 1 above for the offence alleged to have been aided, abetted, counselled or procured, or attempted or incited.	As for the corresponding entry in paragraph 1 above.

* 1971 c. 48.

SCHEDULE 3

Section 46.

CORPORATIONS

1.—(1) A magistrates' court may commit a corporation for trial by an order in writing empowering the prosecutor to prefer a bill of indictment in respect of the offence named in the order.

(2) An order under this paragraph shall not prohibit the inclusion in the bill of indictment of counts that under section 2 of the Administration of Justice (Miscellaneous Provisions) Act 1933 may 1933 c. 36. be included in the bill in substitution for, or in addition to, counts charging the offence named in the order.

2. A representative may on behalf of a corporation—

- (a) make a statement before examining justices in answer to the charge ;
- (b) consent to the corporation being tried summarily ;
- (c) enter a plea of guilty or not guilty on the trial by a magistrates' court of an information.

3.—(1) Where a representative appears, any requirement of this Act that anything shall be done in the presence of the accused, or shall be read or said to the accused, shall be construed as a requirement that that thing shall be done in the presence of the representative or read or said to the representative.

(2) Where a representative does not appear, any such requirement, and any requirement that the consent of the accused shall be obtained for summary trial, shall not apply.

4.—(1) Notification or intimation for the purposes of subsections (2) and (3) of section 12 above may be given on behalf of a corporation by a director or the secretary of the corporation ; and those subsections shall apply in relation to a notification or intimation purporting to be so given as they apply to a notification or intimation purporting to be given by an individual accused.

(2) In this paragraph "director", in relation to a corporation which is established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking and whose affairs are managed by the members thereof, means a member of that corporation.

5. The provisions of this Act relating to committal to the Crown Court for sentence shall not apply to a corporation.

6. Subject to the preceding provisions of this Schedule, the provisions of this Act relating to the inquiry into, and trial of, indictable offences shall apply to a corporation as they apply to an adult.

7. Where a corporation and an individual who has attained the age of 17 are jointly charged before a magistrates' court with an offence triable either way, the court shall not try either of the accused summarily unless each of them consents to be so tried.

SCH. 3
1925 c. 86.

8. Subsection (6) of section 33 of the Criminal Justice Act 1925 shall apply to a representative for the purposes of this Schedule as it applies to a representative for the purposes of that section.

Section 76.

SCHEDULE 4

MAXIMUM PERIODS OF IMPRISONMENT IN DEFAULT OF PAYMENT

1. Subject to the following provisions of this Schedule, the periods set out in the second column of the following Table shall be the maximum periods applicable respectively to the amounts set out opposite thereto, being amounts due at the time the imprisonment is imposed.

TABLE

An amount not exceeding £25	7 days
An amount exceeding £25 but not exceeding £50	...	14 days
An amount exceeding £50 but not exceeding £200	...	30 days
An amount exceeding £200 but not exceeding £500	...	60 days
An amount exceeding £500 but not exceeding £1,000	...	90 days
An amount exceeding £1,000 but not exceeding £2,500	...	6 months
An amount exceeding £2,500 but not exceeding £5,000	...	9 months
An amount exceeding £5,000	12 months

2.—(1) Where the amount due at the time imprisonment is imposed is so much of a sum adjudged to be paid by a summary conviction as remains due after part payment, then, subject to sub-paragraph (2) below, the maximum period applicable to the amount shall be the period applicable to the whole sum reduced by such number of days as bears to the total number of days therein the same proportion as the part paid bears to the whole sum.

(2) In calculating the reduction required under sub-paragraph (1) above any fraction of a day shall be left out of account and the maximum period shall not be reduced to less than 5 days.

3. The maximum period applicable to a sum of any amount enforceable as a civil debt shall be 6 weeks.

Section 130.

SCHEDULE 5

TRANSFER OF REMAND HEARINGS

1. A court which, on adjourning a case, makes an order under section 130(1) of this Act is not required at that time to fix the time and place at which the case is to be resumed but shall do so as soon as practicable after the order ceases to be in force.

2. Where an order under subsection (1) of section 130 of this Act is made in the course of proceedings which, for the purposes of section 8 of this Act, are committal proceedings, proceedings relating to the accused before the alternate court are also committal proceedings for those purposes.

3. A court making an order under subsection (1) of section 130 of this Act or remanding the accused under subsection (4) shall at once notify the court before which the accused is to be brought as to the terms of the order or remand.

SCH. 5

4. A person to whom an order under section 130(1) of this Act applies shall, if released on bail, be bailed to appear before the court which made the order.

5. Section 130 of this Act and this Schedule have effect notwithstanding anything in sections 5, 10 or 18(4) of this Act.

SCHEDULE 6

Section 137.

FEES

PART I

FEES TO BE TAKEN BY CLERKS TO JUSTICES

£

APPOINTMENT:—

Of any constable (other than special)	0.05
Of special constables, if less than 28, for each person, to include notice, oath, and certificate	0.05
If more than 28 are appointed on one occasion, for attending to summons, swearing in, and making out appointments, and the business thereof, for each day	2.10

ATTENDANCE:—

On a justice, to view deserted premises in order to affix notice or to give possession thereof, or to view a highway, bridge or nuisance	0.33
If required to go more than one mile from the place of holding petty sessions, for each mile after the first (one way)	0.05

CASE FOR THE OPINION OF HIGH COURT (s. 111 of this Act):—

Drawing case and copy, when the case does not exceed 5 folios of 90 words	0.50
For every additional folio beyond 5	0.05
Taking recognizance as required by s. 114 of this Act ...	0.25
Every enlargement or renewal thereof	0.13
For certificate of refusal of case	0.10

CERTIFICATE:—

Every certificate not otherwise charged	0.10
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CIVIL DEBT (not including rates):—

Summons and copy	0.07
Complaint	0.05
Order and copy	0.15
Oath (each witness)	0.05
Summons on complaint for commitment and copy, including hearing	0.15
Warrant of distress	0.10
Commitment. (See Warrant.)	

SCH. 6

£

COMPLAINT:—

Every complaint not otherwise charged 0·05

COPY:—

Of any document, per folio of 72 words 0·02

DUPLICATE:—

For the duplicate of any document } One-half
the
original
fee.

EXHIBIT:—

Each document annexed to or referred to in any affidavit
or declaration and marked 0·05

HEARING:—

When no order is made 0·05

LICENCES:—

For every licence, consent, or authority not otherwise
provided for, to include registration when necessary 0·25

LIST:—

Every list not otherwise provided for which it is the duty
of the clerk to the justices to make or transmit ... 0·13

NOTICE:—

Every notice not otherwise provided for 0·05

OATH:—

Every oath, affirmation, or solemn declaration not other-
wise charged 0·05
(See note at end of table.)

ORDER:—

Order, certificate, or record of proceedings in case of
deserted premises, or relating to a highway, bridge, or
nuisance 0·25

Order as to the removal of a person of unsound mind ... 0·25

Every order or minute thereof not otherwise charged ... 0·15

Order as to the affiliation of a bastard or under Part I
of the Domestic Proceedings and Magistrates' Courts
Act 1978 0·10

Variation, revocation, or revival of order 0·05

RATE:—

Enforcement of any rate, to include complaint, summons,
and all other proceedings for which separate fees are
not provided hereunder 0·10

Order 0·10

Warrant of distress 0·10

Commitment 0·10

If more than one rate is included in the summons, for
each rate after the first 0·03

	£	SCH. 6 1967 c. 9.
When the form of warrant specified as C(2) in Schedule 12 to the General Rate Act 1967, or a form to the like effect, is used, for each name inserted in the particulars over and above eight	0·01	
SUMMONS:—		
Every summons	0·05	
Every copy	0·03	
Backing summons for service from outside jurisdiction	0·05	

WARRANT:—

Every warrant of distress when not otherwise provided for	0·10
To commit after order in which the order is set forth ...	0·10
Every other warrant	0·05
Return to warrant or endorsing warrant, including oath	0·05
Backing warrant for execution from outside jurisdiction	0·05

NOTE—Nothing herein contained shall be construed as authorising the demand of any fee for any oath, affirmation, or declaration to obtain pay, pension, or allowance from government or friendly society, or charitable fund, or for any declaration relating to lost duplicates of articles pledged where the amount advanced on such articles does not exceed £1, or in any other case where an Act of Parliament directs that no fee shall be taken.

PART II**MATTERS IN RESPECT OF WHICH NO FEES ARE CHARGEABLE**

1. Any summons, warrant, notice or order issued, given or made under sections 83(1) or (2), 88, 89 or 136 of this Act, or section 104 of the General Rate Act 1967, or under any rule made for the purposes of those provisions.

2. Any criminal matter, but this paragraph shall not prevent the charging of a fee for supplying, for use in connection with a matter which is not a criminal matter, a copy of a document prepared for use in connection with a criminal matter.

PART III**MATTERS TO WHICH PART I DOES NOT APPLY**

1. Billiard licences under section 10 of the Gaming Act 1845. 1845 c. 109.
2. The registration of music and dancing licences under section 51 of the Public Health Acts Amendment Act 1890. 1890 c. 59.
3. Licences under the Cinematograph Act 1909. 1909 c. 30.
4. Appeals from pilotage authority under section 28 of the Pilotage Act 1913. 1913 c. 31.
5. Matters in respect of which fees are authorised to be charged by section 29 of the Licensing Act 1964. 1964 c. 26.

Section 154.

SCHEDULE 7

CONSEQUENTIAL AMENDMENTS

Summary Jurisdiction Act 1857 (20 & 21 Vict. c. 43)

1. In sections 6 and 10 of the Summary Jurisdiction Act 1857 for "the Magistrates' Courts Act 1952" (wherever the words occur) substitute "the Magistrates' Courts Act 1980".

Criminal Law Amendment Act 1867 (30 & 31 Vict. c. 35)

2. In section 6 of the Criminal Law Amendment Act 1867 for "section forty-one of the Magistrates' Courts Act 1952" substitute "section 105 of the Magistrates' Courts Act 1980" and for "section fifteen of the Justices of the Peace Act 1949" substitute "section 144 of that Act".

Gun Barrel Proof Act 1868 (c. cxiii)

3. In section 4 of the Gun Barrel Proof Act 1868, in the definition of "statutory maximum", for "section 28 of the Criminal Law Act 1977" substitute "section 32 of the Magistrates' Courts Act 1980".

Criminal Justice Act 1925 (15 & 16 Geo. 5 c. 86)

4. In section 12(4) of the Criminal Justice Act 1925 for "section fifteen of the Justices of the Peace Act 1949" substitute "section 144 of the Magistrates' Courts Act 1980".

5. In section 33(4) of the Criminal Justice Act 1925 for the words following "may be made by rules" in the second place where those words occur substitute "under section 144 of the Magistrates' Courts Act 1980".

Children and Young Persons Act 1933 (23 & 24 Geo. 5 c. 12)

6. In section 46(1A) of the Children and Young Persons Act 1933 for "section 1 of the Magistrates' Courts Act 1957" substitute "section 12 of the Magistrates' Courts Act 1980".

Criminal Justice Act 1948 (11 & 12 Geo. 6 c. 58)

7. In section 27(3) of the Criminal Justice Act 1948 for "section 105(5) of the Magistrates' Courts Act 1952" substitute "section 128(7) of the Magistrates' Courts Act 1980".

Maintenance Orders Act 1950 (14 Geo. 6 c. 37)

8. In section 25(1) of the Maintenance Orders Act 1950 for "section fifteen of the Justices of the Peace Act 1949" substitute "section 144 of the Magistrates' Courts Act 1980".

Rag Flock and Other Filling Materials Act 1951 (14 & 15 Geo. 6 c. 63)

9. In section 20 of the Rag Flock and Other Filling Materials Act 1951 for "section one hundred and fifteen of the Magistrates' Courts Act 1952" substitute "section 140 of the Magistrates' Courts Act 1980".

Pharmacy Act 1954 (2 & 3 Eliz. 2 c. 61)

10. In section 21 of the Pharmacy Act 1954 for "the Magistrates' Courts Act 1952" substitute "the Magistrates' Courts Act 1980".

Mines and Quarries Act 1954 (2 & 3 Eliz. 2 c. 70)

11. In section 153(a) of the Mines and Quarries Act 1954 for "section thirty-five of the Magistrates' Courts Act 1952" substitute "section 44 of the Magistrates' Courts Act 1980".

Army Act 1955 (3 & 4 Eliz. 2 c. 18)

12. In sections 187(4) and 215(9) of the Army Act 1955 for "the Magistrates' Courts Act 1952" substitute, in each case, "the Magistrates' Courts Act 1980".

Air Force Act 1955 (3 & 4 Eliz. 2 c. 19)

13. In sections 187(4) and 215(9) of the Air Force Act 1955 for "the Magistrates' Courts Act 1952" substitute, in each case, "the Magistrates' Courts Act 1980".

Food and Drugs Act 1955 (4 & 5 Eliz. 2 c. 16)

14. In section 108(1) of the Food and Drugs Act 1955 for "the Magistrates' Courts Act 1952" (where the words first occur) substitute "the Magistrates' Courts Act 1980" and for "section one hundred and four of the Magistrates' Courts Act 1952" substitute "section 127(1) of the Magistrates' Courts Act 1980".

15. In section 117(1) of the Food and Drugs Act 1955 for "the Magistrates' Courts Act 1952" substitute "the Magistrates' Courts Act 1980".

Magistrates' Courts (Appeals from Binding Over Orders) Act 1956 (4 & 5 Eliz. 2 c. 44)

16. In section 1(1) of the Magistrates' Courts (Appeals from Binding Over Orders) Act 1956 for "the Magistrates' Courts Act 1952" substitute "the Magistrates' Courts Act 1980".

Sexual Offences Act 1956 (4 & 5 Eliz. 2 c.69)

17. In section 37(7) of the Sexual Offences Act 1956—

(a) in paragraph (a) for "section 6 of the Children and Young Persons Act 1969" substitute "section 24 of the Magistrates' Courts Act 1980";

(b) in paragraph (b) for "subsection (5) of section ninety-eight of the Magistrates' Courts Act 1952" substitute "subsection (5) of section 121 of the Magistrates' Courts Act 1980".

18. In Part II of Schedule 2 to the Sexual Offences Act 1956, in paragraphs 17 and 18—

(a) in sub-paragraph (ii) in the second column of each paragraph, for "section 16(2) of the Criminal Law Act 1977" substitute "section 17(1) of the Magistrates' Courts Act 1980";

(b) in the third column of each paragraph, for "section 28(1) of that Act" substitute "section 32(1) of that Act".

SCH. 7

Dentists Act 1957 (5 & 6 Eliz. 2 c.28)

19. In section 34(3) of the Dentists Act 1957 for "section one hundred and four of the Magistrates' Courts Act 1952" substitute "section 127(1) of the Magistrates' Courts Act 1980"

Affiliation Proceedings Act 1957 (5 & 6 Eliz. 2 c.55)

20. In section 5(5) of the Affiliation Proceedings Act 1957 for "section fifty-two of the Magistrates' Courts Act 1952" substitute "section 59 of the Magistrates' Courts Act 1980".

21. In section 6A of the Affiliation Proceedings Act 1957—

- (a) in subsection (1) for "section 53 of the Magistrates' Courts Act 1952" substitute "section 60 of the Magistrates' Courts Act 1980";
- (b) in subsection (2) for "the said section 53" substitute "the said section 60";
- (c) in subsection (5) for "section 63 of the Magistrates' Courts Act 1952" substitute "section 75 of the Magistrates' Courts Act 1980"

Housing Act 1957 (5 & 6 Eliz. 2 c. 56)

22. In section 191(5) of the Housing Act 1957 for "subsection (3) of section one hundred and twenty-two of the Magistrates' Courts Act 1952" substitute "subsection (3) of section 145 of the Magistrates' Courts Act 1980"

Maintenance Orders Act 1958 (6 & 7 Eliz. 2 c.39)

23. In section 18 of the Maintenance Orders Act 1958—

- (a) in subsection (1) for "subsection (2) of section sixty-five of the Magistrates' Courts Act 1952" substitute "subsection (2) of section 77 of the Magistrates' Courts Act 1980";
- (b) in subsection (6) for "section sixty-seven of the Magistrates' Courts Act 1952" substitute "section 79 of the Magistrates' Courts Act 1980".

24. In section 21(1) of the Maintenance Orders Act 1958 for "the Magistrates' Courts Act 1952" substitute "the Magistrates' Courts Act 1980" and for "subsection (2) of section one hundred and twenty-four thereof" substitute "subsection (2) of section 148 thereof".

Adoption Act 1958 (7 Eliz. 2 c. 5)

25. In section 9(2) and (4) of the Adoption Act 1958 for "section fifteen of the Justices of the Peace Act 1949" substitute "section 144 of the Magistrates' Courts Act 1980".

26. In section 48 of the Adoption Act 1958 for "the Magistrates' Courts Act 1952" substitute "the Magistrates' Courts Act 1980".

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Manœuvres Act 1958 (7 & 8 Eliz. 2 c.7)

27. In section 9 of the Manœuvres Act 1958 for "the Magistrates' Courts Act 1952" substitute "the Magistrates' Courts Act 1980".

County Courts Act 1959 (7 & 8 Eliz. 2 c. 22)

28. In section 179(b) of the County Courts Act 1959 for "the Magistrates' Courts Act 1952" substitute "the Magistrates' Courts Act 1980 (disregarding section 81(1) of that Act)".

Highways Act 1959 (7 & 8 Eliz.2 c.25)

29. In section 295(1) of the Highways Act 1959, in the definition of "petty sessions area", for "the Magistrates' Courts Act 1952" substitute "the Magistrates' Courts Act 1980".

Street Offences Act 1959 (7 & 8 Eliz.2 c.57)

30. In section 2(2) of the Street Offences Act 1959 for "section fifteen of the Justices of the Peace Act 1949" substitute "section 144 of the Magistrates' Courts Act 1980" and for "sections forty-seven to forty-nine of the Magistrates' Courts Act 1952" substitute "sections 55 to 57 of that Act".

Mental Health Act 1959 (7 & 8 Eliz. 2 c. 72)

31. In section 67(4) of the Mental Health Act 1959 for "section twenty-nine of the Magistrates' Courts Act 1952" substitute "section 38 of the Magistrates' Courts Act 1980".

32. In section 72(6)(b) of the Mental Health Act 1959 for "subsection (3) of section ninety-one of the Magistrates' Courts Act 1952" substitute "subsection (3) of section 115 of the Magistrates' Courts Act 1980".

33. In section 73(2)(b) of the Mental Health Act 1959 for "section twenty-eight or section twenty-nine of the Magistrates' Courts Act 1952" substitute "section 37 or section 38 of the Magistrates' Courts Act 1980".

34. In section 77(3) of the Mental Health Act 1959 for "section one hundred and five of the Magistrates' Courts Act 1952" substitute "section 128 of the Magistrates' Courts Act 1980".

Road Traffic Act 1960 (8 & 9 Eliz. 2 c.16)

35. In section 257(1) of the Road Traffic Act 1960, in the definitions of "magistrates' court" and "petty sessions area", for "the Magistrates' Courts Act 1952" substitute "the Magistrates' Courts Act 1980".

Administration of Justice Act 1960 (8 & 9 Eliz.2 c.65)

36. In section 13(5) of the Administration of Justice Act 1960, in paragraph (c) for "subsection (3) of section fifty-four of the Magistrates' Courts Act 1952" substitute "subsection (3) of section 63 of the Magistrates' Courts Act 1980", and in the words following paragraph (c) for "the Magistrates' Courts Act 1952" substitute "the Magistrates' Courts Act 1980".

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Factories Act 1961 (9 & 10 Eliz.2 c.34)

37. In section 176(1) of the Factories Act 1961, in the definition of "magistrates' court", for "the Magistrates' Courts Act 1952" substitute "the Magistrates' Courts Act 1980".

Criminal Justice Act 1961 (9 & 10 Eliz. 2 c. 39)

38. In section 1(4) of the Criminal Justice Act 1961 for "section twenty-eight of the Magistrates' Courts Act 1952" substitute "section 37 of the Magistrates' Courts Act 1980".

39. In section 3(4) of the Criminal Justice Act 1961 for "section one hundred and eight of the Magistrates' Courts Act 1952" substitute "section 133 of the Magistrates' Courts Act 1980".

40. In section 4(4) of the Criminal Justice Act 1961 for "subsection (3) of section fourteen of the Magistrates' Courts Act 1952" substitute "subsection (3) of section 10 of the Magistrates' Courts Act 1980".

41. In section 5(5) of the Criminal Justice Act 1961 for "Part III of the Magistrates' Courts Act 1952" substitute "Part III of the Magistrates' Courts Act 1980".

42. In section 12(4) of the Criminal Justice Act 1961 for "subsection (3) of section fourteen of the Magistrates' Courts Act 1952" substitute "subsection (3) of section 10 of the Magistrates' Courts Act 1980".

Plant Varieties and Seeds Act 1964 (c.14)

43. In section 23(2) of the Plant Varieties and Seeds Act 1964 for "section 104 of the Magistrates' Courts Act 1952" substitute "section 127(1) of the Magistrates' Courts Act 1980".

44. In section 28 of the Plant Varieties and Seeds Act 1964—

(a) in subsection (1) for "section 104 of the Magistrates' Courts Act 1952" substitute "section 127(1) of the Magistrates' Courts Act 1980";

(b) in subsection (2) for "the said section 104" substitute "the said section 127(1)".

Licensing Act 1964 (c.26)

45. In section 22(4) of the Licensing Act 1964 for "section 85(2) of the Magistrates' Courts Act 1952" substitute "section 109(1) of the Magistrates' Courts Act 1980".

46. In section 28(2) of the Licensing Act 1964 for "Section 118(2) of the Magistrates' Courts Act 1952" substitute "Section 141(2) of the Magistrates' Courts Act 1980".

47. In section 48(3) of the Licensing Act 1964 for "section 104 of the Magistrates' Courts Act 1952" substitute "section 127(1) of the Magistrates' Courts Act 1980".

48. In section 192(2) of the Licensing Act 1964 for "section 3 of the Magistrates' Courts Act 1952" substitute "section 3 of the Magistrates' Courts Act 1980".

49. In Schedule 2 to the Licensing Act 1964, in paragraph 9, for "Subsections (1), (3) and (4) of section 77 of the Magistrates' Courts Act 1952" substitute "Subsections (1), (3) and (4) of section 97 of the Magistrates' Courts Act 1980".

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50. In Schedule 6 to the Licensing Act 1964—

- (a) in paragraph 16(2), for "subsections (1) and (3) of section 77 and section 98 of the Magistrates' Courts Act 1952" substitute "subsections (1) and (3) of section 97 and section 121 of the Magistrates' Courts Act 1980";
- (b) in paragraph 18, for the words from "section 15 of the Justices of the Peace Act 1949" to the end substitute "section 144 of the Magistrates' Courts Act 1980, shall have effect subject to any rules so made and to any rules made under section 15 of the Justices of the Peace Act 1949 (which was re-enacted in the said section 144) after 3rd August 1961".

Administration of Justice Act 1964 (c.42)

51. In section 38(1) of the Administration of Justice Act 1964 for "section 28 or 29 of the Magistrates' Courts Act 1952" substitute "section 37 or 38 of the Magistrates' Courts Act 1980".

Magistrates' Courts Act (Northern Ireland) 1964 (c.21 (N.I.))

52. In section 104B of the Magistrates' Courts Act (Northern Ireland) 1964—

- (a) in subsection (1) for "section 72A of the Magistrates' Courts Act 1952" substitute "section 90 of the Magistrates' Courts Act 1980" and for "the said Act of 1952" substitute "the said Act of 1980";
- (b) in subsection (2) for "section 72A of the Magistrates' Courts Act 1952" substitute "section 90 of the Magistrates' Courts Act 1980".

Finance Act 1965 (c.25)

53. In section 92(7) of the Finance Act 1965 for "Section 104 of the Magistrates' Courts Act 1952" substitute "Section 127(1) of the Magistrates' Courts Act 1980".

Gas Act 1965 (c.36)

54. In section 21(4) of the Gas Act 1965 for "section 35 of the Magistrates' Courts Act 1952" substitute "section 44 of the Magistrates' Courts Act 1980".

Backing of Warrants (Republic of Ireland) Act 1965 (c.45)

55. In the Schedule to the Backing of Warrants (Republic of Ireland) Act 1965, in the proviso to paragraph 2, for "the Magistrates' Courts Act 1952" (in both places) substitute "the Magistrates' Courts Act 1980".

SCH. 7*Criminal Procedure (Attendance of Witnesses) Act 1965 (c.69)*

56. In section 8 of the Criminal Procedure (Attendance of Witnesses) Act 1965 for "section 77 of the Magistrates' Courts Act 1952" substitute "section 97 of the Magistrates' Courts Act 1980".

General Rate Act 1967 (c.9)

57. In section 97(3) of the General Rate Act 1967 for "section 15 of the Justices of the Peace Act 1949" substitute "section 144 of the Magistrates' Courts Act 1980".

58. In section 98 of the General Rate Act 1967 for "the Magistrates' Courts Act 1952" substitute "the Magistrates' Courts Act 1980".

59. In section 104(2) of the General Rate Act 1967 for "section 15 of the Magistrates' Courts Act 1952" substitute "section 13 of the Magistrates' Courts Act 1980".

60. In section 107(1) of the General Rate Act 1967 for "section 122(3) of the Magistrates' Courts Act 1952" substitute "section 145(3) of the Magistrates' Courts Act 1980".

Criminal Law Act 1967 (c.58)

61. In section 2(1) of the Criminal Law Act 1967 for "section 29 of the Criminal Law Act 1977" substitute "section 33 of the Magistrates' Courts Act 1980", for "subsection (2) of section 23 of the said Act of 1977" substitute "subsection (2) of section 22 of the said Act of 1980" and for "the said section 23" substitute "the said section 22".

Wireless Telegraphy Act 1967 (c.72)

62. In section 11(4) of the Wireless Telegraphy Act 1967 for "section 115 of the Magistrates' Courts Act 1952" substitute "section 140 of the Magistrates' Courts Act 1980".

Criminal Justice Act 1967 (c.80)

63. In section 7 of the Criminal Justice Act 1967 for "section 2 of this Act" substitute "section 102 of the Magistrates' Courts Act 1980".

64. In section 11(3) of the Criminal Justice Act 1967 for "section 15 of the Justices of the Peace Act 1949" substitute "section 144 of the Magistrates' Courts Act 1980".

65. In section 32(3)(b) of the Criminal Justice Act 1967 for "section 26 of the Magistrates' Courts Act 1952" substitute "section 30 of the Magistrates' Courts Act 1980".

66. In section 36(2) of the Criminal Justice Act 1967 for "the Magistrates' Courts Act 1952" substitute "the Magistrates' Courts Act 1980".

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67. In section 56 of the Criminal Justice Act 1967—

- (a) in subsection (2) for “sections 28 and 29 of the Magistrates' Courts Act 1952” substitute “sections 37 and 38 of the Magistrates' Courts Act 1980”;
- (b) in subsection (6) for “section 28 of the Magistrates' Courts Act 1952” substitute “section 37 of the Magistrates' Courts Act 1980”.

68. In section 62(7) of the Criminal Justice Act 1967 for “section 29 of the Magistrates' Courts Act 1952” substitute “section 38 of the Magistrates' Courts Act 1980”.

69. In section 90(2) and (4) of the Criminal Justice Act 1967 for “section 104 of the Magistrates' Courts Act 1952” substitute, in each case, “section 127(1) of the Magistrates' Courts Act 1980”.

Companies Act 1967 (c.81)

70. In section 49(3) of the Companies Act 1967 for “section 104 of the Magistrates' Courts Act 1952” substitute “section 127(1) of the Magistrates' Courts Act 1980”.

Criminal Appeal Act 1968 (c.19)

71. In section 1 of the Criminal Appeal Act 1968—

- (a) in subsection (1) insert at the beginning “Subject to subsection (3) below”;
- (b) insert after subsection (2)—

“(3) Where a person is convicted before the Crown Court of a scheduled offence it shall not be open to him to appeal to the Court of Appeal against the conviction on the ground that the decision of the court which committed him for trial as to the value involved was mistaken.

(4) In subsection (3) above “scheduled offence” and “the value involved” have the same meanings as they have in section 22 of the Magistrates' Courts Act 1980 (certain offences against property to be tried summarily if value of property or damage is small).”.

Firearms Act 1968 (c.27)

72. In section 51(4) of the Firearms Act 1968 for “section 104 of the Magistrates' Courts Act 1952” substitute “section 127(1) of the Magistrates' Courts Act 1980”.

73. In Part II of Schedule 6 to the Firearms Act 1968, in paragraph 3—

- (a) in sub-paragraph (1) for “Schedule 3 to the Criminal Law Act 1977” substitute “Schedule 1 to the Magistrates' Courts Act 1980”;
- (b) in sub-paragraph (2) for “sections 19 to 24 of the said Act of 1977” substitute “sections 18 to 23 of the said Act of 1980”;

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- (c) in sub-paragraph (3) for "the said sections 19 to 24" substitute "the said sections 18 to 23" and for "section 25(3) and (4) of the said Act of 1977" substitute "section 25(3) and (4) of the said Act of 1980".

Trade Descriptions Act 1968 (c.29)

74. In sections 19(2) and 40(1)(a) of the Trade Descriptions Act 1968 for "section 104 of the Magistrates' Courts Act 1952" substitute "section 127(1) of the Magistrates' Courts Act 1980".

Civil Evidence Act 1968 (c.64)

75. In section 8(6) of the Civil Evidence Act 1968 for "section 15 of the Justices of the Peace Act 1949" substitute "section 144 of the Magistrates' Courts Act 1980".

Medicines Act 1968 (c.67)

76. In section 125(1) of the Medicines Act 1968 for "section 104 of the Magistrates' Courts Act 1952" substitute "section 127(1) of the Magistrates' Courts Act 1980".

Sea Fisheries Act 1968 (c.77)

77. In section 12(3) of the Sea Fisheries Act 1968 for "Sections 65(1) and 66 of the Magistrates' Courts Act 1952" substitute "Sections 77(1) and 78 of the Magistrates' Courts Act 1980".

Children and Young Persons Act 1969 (c. 54)

78. In section 2 of the Children and Young Persons Act 1969—

- (a) in subsection (4) for "subsections (3) and (4) of section 47 of the Magistrates' Courts Act 1952" substitute "subsections (3) and (4) of section 55 of the Magistrates' Courts Act 1980";
- (b) in subsection (6) for "Section 77 of the Magistrates' Courts Act 1952" substitute "Section 97 of the Magistrates' Courts Act 1980";
- (c) in subsection (13) for "section 96 of the Magistrates' Courts Act 1952" substitute "section 120 of the Magistrates' Courts Act 1980".

79. In section 7(1) of the Children and Young Persons Act 1969 for "section 28(1) of the Magistrates' Courts Act 1952" substitute "section 37(1) of the Magistrates' Courts Act 1980".

80. In section 8(3) of the Children and Young Persons Act 1969 for "Subsections (2) and (4) of section 40 of the Magistrates' Courts Act 1952" substitute "Subsections (2) and (4) of section 49 of the Magistrates' Courts Act 1980".

81. In section 16(2) of the Children and Young Persons Act 1969 for "subsections (3) and (4) of section 47 of the Magistrates' Courts Act 1952" substitute "subsections (3) and (4) of section 55 of the Magistrates' Courts Act 1980".

82. In section 18(2) of the Children and Young Persons Act 1969 for "section 15 of the Justices of the Peace Act 1949" substitute "section 144 of the Magistrates' Courts Act 1980".

83. In section 23 of the Children and Young Persons Act 1969—

(a) in subsection (4) for "section 28 of the Magistrates' Courts Act 1952" substitute "section 37 of the Magistrates' Courts Act 1980";

(b) in subsection (5) for "section 105(5) of the said Act of 1952" substitute "section 128(7) of the said Act of 1980".

84. In section 31(6) of the Children and Young Persons Act 1969 for "the Magistrates' Courts Act 1952" substitute "the Magistrates' Courts Act 1980".

85. In section 70(1) of the Children and Young Persons Act 1969, in the definition of "petty sessions area", for "the Magistrates' Courts Act 1952" substitute "the Magistrates' Courts Act 1980".

86. In Schedule 4 to the Children and Young Persons Act 1969, in paragraph 5(1), for "section 28(1) of the Magistrates' Courts Act 1952" substitute "section 37(1) of the Magistrates' Courts Act 1980".

87. In Schedule 5 to the Children and Young Persons Act 1969, in paragraph 55, for "sections 2 and 9 of the Criminal Justice Act 1967" substitute "section 9 of the Criminal Justice Act 1967 and section 102 of the Magistrates' Courts Act 1980".

Administration of Justice Act 1970 (c. 31)

88. In section 41(8) of the Administration of Justice Act 1970 for "section 64 of the Magistrates' Courts Act 1952" substitute "section 76 of the Magistrates' Courts Act 1980" and for "paragraph 2 of Schedule 3 to that Act" substitute "paragraph 2 of Schedule 4 to that Act".

89. In Schedule 1 to the Administration of Justice Act 1970 for "section 54(3) of the Magistrates' Courts Act 1952" substitute "section 63(3) of the Magistrates' Courts Act 1980".

Merchant Shipping Act 1970 (c. 36)

90. In section 56(2) and (7) of the Merchant Shipping Act 1970 for "subsections (1), (3) and (4) of section 77 of the Magistrates' Courts Act 1952" substitute, in each place, "subsections (1), (3) and (4) of section 97 of the Magistrates' Courts Act 1980".

Guardianship of Minors Act 1971 (c. 3)

91. In section 13(1) of the Guardianship of Minors Act 1971 for "section 54(3) of the Magistrates' Courts Act 1952" substitute "section 63(3) of the Magistrates' Courts Act 1980".

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92. In section 16(5) of the Guardianship of Minors Act 1971—

- (a) for “section 15 of the Justices of the Peace Act 1949” substitute “section 144 of the Magistrates' Courts Act 1980”;
- (b) for “section 55(1) of the Magistrates' Courts Act 1952” substitute “section 64(1) of the Magistrates' Courts Act 1980”.

Vehicles (Excise) Act 1971 (c.10)

93. In section 34 of the Vehicles (Excise) Act 1971—

- (a) for “section 1(2) of the Magistrates' Courts Act 1957” substitute “section 12(2) of the Magistrates' Courts Act 1980”;
- (b) for “section 15 of the Justices of the Peace Act 1949” substitute “section 144 of the Magistrates' Courts Act 1980”;
- (c) for “the said section 1(2)” substitute “the said section 12(2)”.

Courts Act 1971 (c.23)

94. In section 7(2) of the Courts Act 1971 for “subsection (1) above” substitute “section 7 of the Magistrates' Courts Act 1980”.

95. In section 13 of the Courts Act 1971—

- (a) in subsection (5)(e) for “sections 94 and 95 of the Magistrates' Courts Act 1952” substitute “sections 118 and 119 of the Magistrates' Courts Act 1980”;
- (b) in subsection (8) for “the Magistrates' Courts Act 1952” substitute “the Magistrates' Courts Act 1980”.

96. In section 52(5) of the Courts Act 1971 for “section 55 of the Magistrates' Courts Act 1952” substitute “section 64 of the Magistrates' Courts Act 1980”.

Attachment of Earnings Act 1971 (c.32)

97. In section 3 of the Attachment of Earnings Act 1971—

- (a) in subsection (1)(c) for “section 52(1) of the Magistrates' Courts Act 1952” substitute “section 59(1) of the Magistrates' Courts Act 1980”;
- (b) in subsection (4) for “section 64 of the Magistrates' Courts Act 1952” substitute “section 76 of the Magistrates' Courts Act 1980” and for “section 64 of the said Act of 1952” substitute “section 76 of the said Act of 1980”.

98. In section 8(3) of the Attachment of Earnings Act 1971 for “section 65(2) of the Magistrates' Courts Act 1952” substitute “section 77(2) of the Magistrates' Courts Act 1980”.

99. In section 17(3)(e) of the Attachment of Earnings Act 1971 for “Part III of the Magistrates' Courts Act 1952” substitute “Part III of the Magistrates' Courts Act 1980”.

100. In section 19 of the Attachment of Earnings Act 1971—

- (a) in subsection (4) for “section 43 of the Magistrates' Courts Act 1952” substitute “section 51 of the Magistrates' Courts Act 1980”;
- (b) in subsection (5) for “section 104 of the Magistrates' Courts Act 1952” substitute “section 127(1) of the Magistrates' Courts Act 1980”.

101. In section 25 of the Attachment of Earnings Act 1971—

- (a) in subsection (1), in the definition of “rules of court”, for “section 15 of the Justices of the Peace Act 1949” substitute “section 144 of the Magistrates' Courts Act 1980”; and
- (b) in subsection (6) for “Part III of the Magistrates' Courts Act 1952” substitute “Part III of the Magistrates' Courts Act 1980”.

Misuse of Drugs Act 1971 (c.38)

102. In section 25(4) of the Misuse of Drugs Act 1971 for “section 104 of the Magistrates' Courts Act 1952” substitute “section 127(1) of the Magistrates' Courts Act 1980”.

Fire Precautions Act 1971 (c.40)

103. In section 26(1) of the Fire Precautions Act 1971 for “the Magistrates' Courts Act 1952” substitute “the Magistrates' Courts Act 1980”.

Immigration Act 1971 (c.77)

104. In section 6(2) of the Immigration Act 1971 for “section 14(3) of the Magistrates' Courts Act 1952” substitute “section 10(3) of the Magistrates' Courts Act 1980”.

Maintenance Orders (Reciprocal Enforcement) Act 1972 (c.18)

105. In section 14(3) and (6) of the Maintenance Orders (Reciprocal Enforcement) Act 1972 for “section 77(1), (3) and (4) of the Magistrates' Courts Act 1952” substitute, in each case, “section 97(1), (3) and (4) of the Magistrates' Courts Act 1980”.

106. In section 18(1) of the Maintenance Orders (Reciprocal Enforcement) Act 1972 for “section 15 of the Justices of the Peace Act 1949” substitute “section 144 of the Magistrates' Courts Act 1980”.

107. In section 21(1) of the Maintenance Orders (Reciprocal Enforcement) Act 1972, in the definition of “prescribed”, for “section 15 of the Justices of the Peace Act 1949” substitute “section 144 of the Magistrates' Courts Act 1980”.

108. In section 27 of the Maintenance Orders (Reciprocal Enforcement) Act 1972—

- (a) in subsection (9) for “section 52 of the Magistrates' Courts Act 1952” substitute “section 59 of the Magistrates' Courts Act 1980”;
- (b) in subsection (10) for “section 15 of the Justices of the Peace Act 1949” substitute “section 144 of the Magistrates' Courts Act 1980”.

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109. In section 38(4) and (6) of the Maintenance Orders (Reciprocal Enforcement) Act 1972 for "section 77(1), (3) and (4) of the Magistrates' Courts Act 1952" substitute, in each case, "section 97(1), (3) and (4) of the Magistrates' Courts Act 1980".

110. In section 41 of the Maintenance Orders (Reciprocal Enforcement) Act 1972—

- (a) in subsections (1), (2A) and (2B) for "section 53 of the Magistrates' Courts Act 1952" substitute, in each case, "section 60 of the Magistrates' Courts Act 1980";
- (b) in subsection (2A) for "section 15 of the Justices of the Peace Act 1949" substitute "section 144 of the Magistrates' Courts Act 1980";
- (c) in subsection (2B) for "section 47(3) of the Magistrates' Courts Act 1952" substitute "section 55(3) of the Magistrates' Courts Act 1980".

Road Traffic Act 1972 (c.20)

111. In section 104(2) of the Road Traffic Act 1972 for "section 1(2) of the Magistrates' Courts Act 1957" substitute "section 12(2) of the Magistrates' Courts Act 1980".

112. In Part I of Schedule 4 to the Road Traffic Act 1972, in column 4 of the entries relating to section 2 and section 99(b), for "section 28 of the Criminal Law Act 1977" substitute, in each case, "section 32 of the Magistrates' Courts Act 1980".

Civil Evidence Act 1972 (c.30)

113. In section 2(8) of the Civil Evidence Act 1972 for "section 15 of the Justices of the Peace Act 1949" substitute "section 144 of the Magistrates' Courts Act 1980".

Criminal Justice Act 1972 (c.71)

114. In section 46 of the Criminal Justice Act 1972—

- (a) in subsection (1) for the words from "Sections 2" to "those sections)" substitute "Section 102 of the Magistrates' Courts Act 1980 and section 9 of the Criminal Justice Act 1967 (which respectively allow written statements to be used as evidence in committal proceedings and in other criminal proceedings) and section 106 of the said Act of 1980 and section 89 of the said Act of 1967 (which punish the making of false statements which are tendered in evidence under the said section 102 or 9, as the case may be)";
- (b) in subsection (2) for "The said section 2" substitute "The said section 102".

115. In section 49(1) of the Criminal Justice Act 1972 for "Part III of the Magistrates' Courts Act 1952" substitute "Part III of the Magistrates' Courts Act 1980".

Guardianship Act 1973 (c.29)

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116. In section 3(4) of the Guardianship Act 1973 for "section 15 of the Justices of the Peace Act 1949" substitute "section 144 of the Magistrates' Courts Act 1980".

117. In section 6(4) of the Guardianship Act 1973 for "section 46(2) of the Magistrates' Courts Act 1952" substitute "section 54(2) of the Magistrates' Courts Act 1980".

Fair Trading Act 1973 (c.41)

118. In section 129(2) and (4) of the Fair Trading Act 1973 for "section 104 of the Magistrates' Courts Act 1952" substitute "section 127(1) of the Magistrates' Courts Act 1980".

Powers of Criminal Courts Act 1973 (c.62)

119. In section 1(6) of the Powers of Criminal Courts Act 1973 for "section 14(1) of the Magistrates' Courts Act 1952" substitute "section 10(1) of the Magistrates' Courts Act 1980", for "section 15 of that Act" substitute "sections 11(1) and 13(1), (2) and (5) of that Act", and for "applies" substitute "apply".

120. In section 32 of the Powers of Criminal Courts Act 1973—

(a) in subsection (2) for "section 67(2) of the Magistrates' Courts Act 1952" substitute "section 79(2) of the Magistrates' Courts Act 1980", for "section 44(10) of the Criminal Justice Act 1967" substitute "section 85(1) of that Act" and for "Schedule 3 to the Magistrates' Courts Act 1952" substitute "Schedule 4 to that Act";

(b) in subsection (4) for "section 44(10) of the Criminal Justice Act 1967 or section 96 of the Magistrates' Courts Act 1952" substitute "section 85(1) or 120 of the Magistrates' Courts Act 1980" and for "and section 44(10)" substitute "and section 85(1)".

121. In section 42 of the Powers of Criminal Courts Act 1973 for "section 29 of the Magistrates' Courts Act 1952" substitute "section 38 of the Magistrates' Courts Act 1980".

122. In section 44(1) of the Powers of Criminal Courts Act 1973 for "section 29 of the Magistrates' Courts Act 1952" substitute "section 38 of the Magistrates' Courts Act 1980".

123. In section 57(1) of the Powers of Criminal Courts Act 1973, in the definition of "the register", for "section 15 of the Justices of the Peace Act 1949" substitute "section 144 of the Magistrates' Courts Act 1980".

Slaughterhouses Act 1974 (c.3)

124. In section 6(2) of the Slaughterhouses Act 1974 for "the Magistrates' Courts Act 1952" substitute "the Magistrates' Courts Act 1980".

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125. In sections 38(6) and 43(3) of the Slaughterhouses Act 1974 for "section 35 of the Magistrates' Courts Act 1952" substitute, in each case, "section 44 of the Magistrates' Courts Act 1980".

Legal Aid Act 1974 (c.4)

126. In section 23(2) of the Legal Aid Act 1974 for "the Magistrates' Courts Act 1952" substitute "the Magistrates' Courts Act 1980".

127. In section 30(11) of the Legal Aid Act 1974 for "section 91 of the Magistrates' Courts Act 1952" substitute "section 115 of the Magistrates' Courts Act 1980".

128. In section 40(1) of the Legal Aid Act 1974 for "section 28 or 29 of the Magistrates' Courts Act 1952" substitute "section 37 or 38 of the Magistrates' Courts Act 1980".

129. In Schedule 3 to the Legal Aid Act 1974—

- (a) in paragraph 2 for "section 63 of the Magistrates' Courts Act 1952" substitute "section 75 of the Magistrates' Courts Act 1980";
- (b) in paragraph 3 for "Sections 74 (complaint for arrears), 75 (effect of committal on arrears) and 76 (power to remit arrears) of the Magistrates' Courts Act 1952" substitute "Sections 93 (complaint for arrears), 94 (effect of committal on arrears) and 95 (power to remit arrears) of the Magistrates' Courts Act 1980";
- (c) in paragraph 4 for "section 55 of the Magistrates' Courts Act 1952" substitute "section 64 of the Magistrates' Courts Act 1980";
- (d) in paragraph 6 for "Section 68 of the Magistrates' Courts Act 1952" substitute "Section 80 of the Magistrates' Courts Act 1980".

Control of Pollution Act 1974 (c.40)

130. In section 87(3) of the Control of Pollution Act 1974 for "section 104 of the Magistrates' Courts Act 1952" substitute "section 127(1) of the Magistrates' Courts Act 1980".

Friendly Societies Act 1974 (c.46)

131. In section 102 of the Friendly Societies Act 1974 for "the Magistrates' Courts Act 1952" substitute "the Magistrates' Courts Act 1980".

Solicitors Act 1974 (c.47)

132. In sections 26, 42(2) and 44(4) of the Solicitors Act 1974 for "the Magistrates' Courts Act 1952" substitute, in each case, "the Magistrates' Courts Act 1980".

Insurance Companies Act 1974 (c.49)

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133. In section 82(2) of the Insurance Companies Act 1974 for "section 104 of the Magistrates' Courts Act 1952" substitute "section 127(1) of the Magistrates' Courts Act 1980".

Rehabilitation of Offenders Act 1974 (c.53)

134. In section 6(6)(a) of the Rehabilitation of Offenders Act 1974 for "section 23 of the Criminal Law Act 1977" substitute "section 22 of the Magistrates' Courts Act 1980".

Social Security Act 1975 (c.14)

135. In section 152(1) of the Social Security Act 1975—

- (a) for "section 1(2) of the Magistrates' Courts Act 1957" substitute "section 12(2) of the Magistrates' Courts Act 1980";
- (b) for "section 15 of the Justices of the Peace Act 1949" substitute "section 144 of the Magistrates' Courts Act 1980".

Criminal Procedure (Scotland) Act 1975 (c.21)

136. In section 397(1) of the Criminal Procedure (Scotland) Act 1975 for "section 72A of the Magistrates' Courts Act 1952" substitute "section 90 of the Magistrates' Courts Act 1980".

137. In section 403 of the Criminal Procedure (Scotland) Act 1975—

- (a) in subsection (4) for "section 72A of the Magistrates' Courts Act 1952" substitute "section 90 of the Magistrates' Courts Act 1980", for "the said Act of 1952" (in the first place where the words occur) substitute "the said Act of 1980" and for "the Table set out in paragraph 1 of Schedule 3 to the said Act of 1952" substitute "the Table set out in paragraph 1 of Schedule 4 to the said Act of 1980";
- (b) in subsection (6) for "section 72A of the Magistrates' Courts Act 1952" substitute "section 90 of the Magistrates' Courts Act 1980".

Children Act 1975 (c.72)

138. In section 46(4) of the Children Act 1975 for "section 55(1) of the Magistrates' Courts Act 1952" substitute "section 64(1) of the Magistrates' Courts Act 1980".

Prevention of Terrorism (Temporary Provisions) Act 1976 (c.8)

139. In section 12(3) of the Prevention of Terrorism (Temporary Provisions) Act 1976 for "Section 38 of the Magistrates' Courts Act 1952" substitute "Section 43 of the Magistrates' Courts Act 1980".

Restrictive Trade Practices Act 1976 (c.34)

140. In sections 39(2) and 41(5) and (7) of the Restrictive Trade Practices Act 1976 for "section 104 of the Magistrates' Courts Act 1952" substitute, in each case, "section 127(1) of the Magistrates' Courts Act 1980".

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Adoption Act 1976 (c.36)

141. In section 66(2) of the Adoption Act 1976 for "section 15 of the Justices of the Peace Act 1949" substitute "section 144 of the Magistrates' Courts Act 1980".

142. In section 72(1) of the Adoption Act 1976, in the definition of "rules", for "section 15 of the Justices of the Peace Act 1949" substitute "section 144 of the Magistrates' Courts Act 1980".

Bail Act 1976 (c.63)

143. In section 2(1)(c) of the Bail Act 1976 for "section 26(1) of the Magistrates' Courts Act 1952" substitute "section 30(1) of the Magistrates' Courts Act 1980".

144. In section 3(9) of the Bail Act 1976 for "subsection (3) of section 26 of the Magistrates' Courts Act 1952" substitute "subsection (2) of section 30 of the Magistrates' Courts Act 1980".

145. In section 4(7) of the Bail Act 1976 for "section 8 of the Magistrates' Courts Act 1952" substitute "section 41 of the Magistrates' Courts Act 1980".

146. In Part I of Schedule 1 to the Bail Act 1976, in paragraph 8(3), for "section 26(3) of the Magistrates' Courts Act 1952" substitute "section 30(2) of the Magistrates' Courts Act 1980" and for "the said section 26(3)" substitute "the said section 30(2)".

Land Drainage Act 1976 (c.70)

147. In section 19(2) of the Land Drainage Act 1976 for "the Magistrates' Courts Act 1952" substitute "the Magistrates' Courts Act 1980".

Sexual Offences (Amendment) Act 1976 (c.82)

148. In section 3(3) of the Sexual Offences (Amendment) Act 1976 for "section 6(1) of the Children and Young Persons Act 1969" substitute "section 24(1) of the Magistrates' Courts Act 1980".

Criminal Law Act 1977 (c.45)

149. In section 28(8) of the Criminal Law Act 1977 for "Schedule 3 to this Act" substitute "Schedule 1 to the Magistrates' Courts Act 1980".

150. In section 38(1) of the Criminal Law Act 1977 for "subsection (4) of section 102 of the Magistrates' Courts Act 1952" substitute "subsection (3) of section 125 of the Magistrates' Courts Act 1980".

151. In section 48(1) of the Criminal Law Act 1977 for "section 15 of the Justices of the Peace Act 1949" substitute "section 144 of the Magistrates' Courts Act 1980".

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152. In section 64(2) of the Criminal Law Act 1977 for "section 23 above" substitute "section 22 of the Magistrates' Courts Act 1980 (cases where value involved is small)".

153. In section 65(2) of the Criminal Law Act 1977 for "14" substitute "15" and for "Magistrates' Courts Act 1952" substitute "Magistrates' Courts Act 1980".

154. In paragraph 1 of Schedule 5 to the Criminal Law Act 1977—

(a) in subparagraph (1)(b), for "subparagraph (2)(b) below" substitute "subparagraph (1A) below";

(b) after subparagraph (1) insert—

"(1A) The offences mentioned in subparagraph (1)(b) above are offences under the following provisions of the Misuse of Drugs Act 1971, 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)."

155. In paragraph 1 of Schedule 14 to the Criminal Law Act 1977 for "14 to 26, 34 and 35" substitute "15 and 17".

Civil Aviation Act 1978 (c.8)

156. In section 2(7)(a) of the Civil Aviation Act 1978 for "section 28 of the Criminal Law Act 1977" substitute "section 32 of the Magistrates' Courts Act 1980" and for "section 61 of that Act" substitute "section 143 of that Act".

Domestic Proceedings and Magistrates' Courts Act 1978 (c.22)

157. In section 8(8) of the Domestic Proceedings and Magistrates' Courts Act 1978 for "the proviso to section 60(1) of the Magistrates' Courts Act 1952" substitute "section 72(1) of the Magistrates' Courts Act 1980".

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158. In section 12(8) of the Domestic Proceedings and Magistrates' Courts Act 1978 for "section 46(2) of the Magistrates' Courts Act 1952" substitute "section 54(2) of the Magistrates' Courts Act 1980".

159. In section 16(8) of the Domestic Proceedings and Magistrates' Courts Act 1978 for "Part II of the Magistrates' Courts Act 1952" substitute "Part II of the Magistrates' Courts Act 1980".

160. In section 22 of the Domestic Proceedings and Magistrates' Courts Act 1978 for "section 63 of the Magistrates' Courts Act 1952" substitute "section 75 of the Magistrates' Courts Act 1980".

161. In section 23 of the Domestic Proceedings and Magistrates' Courts Act 1978—

(a) in subsection (1) for "section 55(1) of the Magistrates' Courts Act 1952" substitute "section 64(1) of the Magistrates' Courts Act 1980";

(b) in subsection (2) for "section 53 of the Magistrates' Courts Act 1952" substitute "section 60 of the Magistrates' Courts Act 1980" and for "section 54(2) of that Act" substitute "section 63(2) of that Act".

162. In section 24(3) of the Domestic Proceedings and Magistrates' Courts Act 1978 for "section 47(3) of the Magistrates' Courts Act 1952" substitute "section 55(3) of the Magistrates' Courts Act 1980".

163. In section 30(1) of the Domestic Proceedings and Magistrates' Courts Act 1978 for "section 11 of the Administration of Justice Act 1964" substitute "section 70 of the Magistrates' Courts Act 1980".

164. In section 32(2) of the Domestic Proceedings and Magistrates' Courts Act 1978 for "section 52 of the Magistrates' Courts Act 1952" substitute "section 59 of the Magistrates' Courts Act 1980" and for "the said section 52" substitute "the said section 59".

165. In section 33 of the Domestic Proceedings and Magistrates' Courts Act 1978 for "section 54(3) of the Magistrates' Courts Act 1952" substitute "section 63(3) of the Magistrates' Courts Act 1980".

166. In section 47(2) of the Domestic Proceedings and Magistrates' Courts Act 1978 for "section 53 of the Magistrates' Courts Act 1952" substitute "section 60 of the Magistrates' Courts Act 1980" and for "section 54(2) of that Act" substitute "section 63(2) of that Act".

167. In section 88(1) of the Domestic Proceedings and Magistrates' Courts Act 1978 for "section 56 of the Magistrates' Courts Act 1952" substitute "section 65 of the Magistrates' Courts Act 1980" and for "section 15 of the Justices of the Peace Act 1949" substitute "section 144 of the Magistrates' Courts Act 1980".

Nuclear Safeguards and Electricity (Finance) Act 1978 (c. 25)

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168. In section 2(6) of the Nuclear Safeguards and Electricity (Finance) Act 1978 for "section 28 of the Criminal Law Act 1977" substitute "section 32 of the Magistrates' Courts Act 1980" and for "the provisions of the Criminal Law Act 1977" substitute "the provisions of the Magistrates' Courts Act 1980".

Interpretation Act 1978 (c. 30)

169. In Schedule 1 to the Interpretation Act 1978—

- (a) in paragraph (a) of the definition of "committed for trial" for "section 7 of the Magistrates' Courts Act 1952" substitute "section 6 of the Magistrates' Courts Act 1980";
- (b) in paragraph (a) of the definition of "magistrates' court" for "section 124 of the Magistrates' Courts Act 1952" substitute "section 148 of the Magistrates' Courts Act 1980";
- (c) in the entry about expressions relating to offences for "section 23 of the Criminal Law Act 1977" substitute "section 22 of the Magistrates' Courts Act 1980".

Theft Act 1978 (c. 31)

170. In section 4(3)(b) of the Theft Act 1978 for "section 28 of the Criminal Law Act 1977" substitute "section 32 of the Magistrates' Courts Act 1980".

Protection of Children Act 1978 (c. 37)

171. In section 6(3)(b) of the Protection of Children Act 1978 for "section 28 of the Criminal Law Act 1977" substitute "section 32 of the Magistrates' Courts Act 1980".

Consumer Safety Act 1978 (c. 38)

172. In section 9(4) of the Consumer Safety Act 1978, in the definition of "the statutory maximum", for "section 28 of the Criminal Law Act 1977" substitute "section 32 of the Magistrates' Courts Act 1980".

173. In section 11(g) of the Consumer Safety Act 1978 for "the Criminal Law Act 1977" substitute "the Magistrates' Courts Act 1980".

Employment Protection (Consolidation) Act 1978 (c. 44)

174. In section 104(10)(a) of the Employment Protection (Consolidation) Act 1978 for "section 28 of the Criminal Law Act 1977" substitute "section 32 of the Magistrates' Courts Act 1980" and for "section 61 of that Act" substitute "section 143 of that Act".

175. In section 107(5)(a) of the Employment Protection (Consolidation) Act 1978 for "section 28 of the Criminal Law Act 1977" substitute "section 32 of the Magistrates' Courts Act 1980" and for "section 61 of that Act" substitute "section 143 of that Act".

Customs and Excise Management Act 1979 (c. 2)

176. In section 147(2) of the Customs and Excise Management Act 1979 for "section 25(3) of the Criminal Law Act 1977" substitute "section 25(3) of the Magistrates' Courts Act 1980"

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177. In section 151 of the Customs and Excise Management Act 1979 for "section 114 of the Magistrates' Courts Act 1952" substitute "section 139 of the Magistrates' Courts Act 1980".

178. In section 171(2)(a) of the Customs and Excise Management Act 1979 for "section 28 of the Criminal Law Act 1977 (£1,000 or other sum substituted by order under section 61(1) of that Act)" substitute "section 32 of the Magistrates' Courts Act 1980 (£1,000 or other sum substituted by order under section 143(1) of that Act)".

Customs and Excise Duties (General Reliefs) Act 1979 (c. 3)

179. In section 15(3)(a) of the Customs and Excise Duties (General Reliefs) Act 1979 for "section 28 of the Criminal Law Act 1977 (£1,000 or other sum substituted by order under section 61(1) of that Act)" substitute "section 32 of the Magistrates' Courts Act 1980 (£1,000 or other sum substituted by order under section 143(1) of that Act)".

Alcoholic Liquor Duties Act 1979 (c. 4)

180. In section 4(1) of the Alcoholic Liquor Duties Act 1979, in the definition of "the prescribed sum", for "section 28 of the Criminal Law Act 1977 (£1,000 or other sum substituted by order under section 61(1) of that Act)" substitute "section 32 of the Magistrates' Courts Act 1980 (£1,000 or other sum substituted by order under section 143(1) of that Act)".

Hydrocarbon Oil Duties Act 1979 (c. 5)

181. In section 27(1) of the Hydrocarbon Oil Duties Act 1979, in the definition of "the prescribed sum", for "section 28 of the Criminal Law Act 1977 (£1,000 or other sum substituted by order under section 61(1) of that Act)" substitute "section 32 of the Magistrates' Courts Act 1980 (£1,000 or other sum substituted by order under section 143(1) of that Act)".

Agricultural Statistics Act 1979 (c. 13)

182. In section 6(1) of the Agricultural Statistics Act 1979, in the definition of "the prescribed sum", for "section 28 of the Criminal Law Act 1977 (£1,000 or other sum substituted by order under section 61(1) of that Act)" substitute "section 32 of the Magistrates' Courts Act 1980 (£1,000 or other sum substituted by order under section 143(1) of that Act)".

Credit Unions Act 1979 (c. 34)

183. In section 31(1) of the Credit Unions Act 1979, in the definition of "statutory maximum", for "section 28 of the Criminal Law Act 1977" substitute "section 32 of the Magistrates' Courts Act 1980".

Banking Act 1979 (c. 37)

184. In section 50(1) of the Banking Act 1979, in the definition of "statutory maximum", for "section 28 of the Criminal Law Act 1977" substitute "section 32 of the Magistrates' Courts Act 1980" and for "the provisions of the Criminal Law Act 1977" substitute "the provisions of the Magistrates' Courts Act 1980".

Estate Agents Act 1979 (c. 38)

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185. In section 33(1) of the Estate Agents Act 1979, in the definition of "the statutory maximum", for "section 28 of the Criminal Law Act 1977" substitute "section 32 of the Magistrates' Courts Act 1980" and for "the provisions of the Criminal Law Act 1977" substitute "the provisions of the Magistrates' Courts Act 1980".

Merchant Shipping Act 1979 (c. 39)

186. In section 42(4) of the Merchant Shipping Act 1979 for "Section 18 of the Criminal Law Act 1977" substitute "Section 127(2) to (4) of the Magistrates' Courts Act 1980".

187. In section 43(5) of the Merchant Shipping Act 1979 for "subsection (1) of section 61 of the Criminal Law Act 1977" substitute "subsection (1) of section 143 of the Magistrates' Courts Act 1980" and for "section 28 of that Act" substitute "section 32 of that Act".

Weights and Measures Act 1979 (c. 45)

188. In section 12(3) of the Weights and Measures Act 1979 for "section 28 of the Criminal Law Act 1977" substitute "section 32 of the Magistrates' Courts Act 1980".

189. In paragraph 8 of Schedule 6 to the Weights and Measures Act 1979 for "the Criminal Law Act 1977" substitute "the Magistrates' Courts Act 1980".

Ancient Monuments and Archaeological Areas Act 1979 (c. 46)

190. In section 61(1) of the Ancient Monuments and Archaeological Areas Act 1979, in the definition of "the statutory maximum", for "section 28 of the Criminal Law Act 1977 (that is to say, £1,000 or another sum fixed by order under section 61 of that Act)" substitute "section 32 of the Magistrates' Courts Act 1980 (that is to say, £1,000 or another sum fixed by order under section 143 of that Act)".

Justices of the Peace Act 1979 (c. 55)

191. In section 16 of the Justices of the Peace Act 1979—

(a) in subsection (1) for "the Magistrates' Courts Act 1952" substitute "the Magistrates' Courts Act 1980";

(b) in subsection (5) for "section 56 of the Magistrates' Courts Act 1952" substitute "section 65 of the Magistrates' Courts Act 1980".

192. In section 18(4) of the Justices of the Peace Act 1979 for "section 15 of the Justices of the Peace Act 1949" substitute "section 144 of the Magistrates' Courts Act 1980".

193. In section 27(8) of the Justices of the Peace Act 1979 for "section 15 of the Justices of the Peace Act 1949" substitute "section 144 of the Magistrates' Courts Act 1980".

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194. In section 28(1) of the Justices of the Peace Act 1979 for "section 15 of the Justices of the Peace Act 1949" substitute "section 144 of the Magistrates' Courts Act 1980".

195. In section 29(3) of the Justices of the Peace Act 1979 for "section 52 of the Magistrates' Courts Act 1952" substitute "section 59 of the Magistrates' Courts Act 1980" and for "section 53A of that Act" substitute "section 62 of that Act".

196. In section 30(2) of the Justices of the Peace Act 1979 for "section 15 of the Justices of the Peace Act 1949" substitute "section 144 of the Magistrates' Courts Act 1980".

197. In section 61(1) of the Justices of the Peace Act 1979 for "paragraphs (a) and (b) of section 114(1) of the Magistrates' Courts Act 1952" substitute "paragraphs (a) and (b) of section 139 of the Magistrates' Courts Act 1980".

Isle of Man Act 1979 (c.58)

198. In section 5 of the Isle of Man Act 1979—

(a) in subsection (2)(a) for "section 77 of the Magistrates' Courts Act 1952" substitute "section 97 of the Magistrates' Courts Act 1980";

(b) in subsection (3)(a) for "sections 2 and 9 of the Criminal Justice Act 1967" substitute "section 9 of the Criminal Justice Act 1967 and section 102 of the Magistrates' Courts Act 1980" and for "section 2" substitute "section 102".

Child Care Act 1980 (c.5)

199. In section 48(1) of the Child Care Act 1980 for "section 53 of the Magistrates' Courts Act 1952" substitute "section 60 of the Magistrates' Courts Act 1980".

200. In section 49(4)(a) of the Child Care Act 1980 for "section 53 of the Magistrates' Courts Act 1952" substitute "section 60 of the Magistrates' Courts Act 1980".

Foster Children Act 1980 (c.6)

201. In section 16(4) of the Foster Children Act 1980 for "section 104 of the Magistrates' Courts Act 1952" substitute "section 127(1) of the Magistrates' Courts Act 1980".

Residential Homes Act 1980 (c. 7)

202. In section 4(2) of the Residential Homes Act 1980 for "the Magistrates' Courts Act 1952" substitute "the Magistrates' Courts Act 1980".

Reserve Forces Act 1980 (c. 9)

203. In section 144(2)(a) of the Reserve Forces Act 1980 for "section 28 of the Criminal Law Act 1977" substitute "section 32 of the Magistrates' Courts Act 1980".

204. In paragraph 2(4) of Schedule 5 to the Reserve Forces Act 1980 for "the Magistrates' Courts Act 1952" substitute "the Magistrates' Courts Act 1980".

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Protection of Trading Interests Act 1980 (c. 11)

205. In section 3(5) of the Protection of Trading Interests Act 1980 for "section 28 of the Criminal Law Act 1977" substitute "section 32 of the Magistrates' Courts Act 1980" and for "the said Act of 1977" substitute "the said Act of 1980".

Competition Act 1980 (c. 21)

206. In section 19(7) of the Competition Act 1980 for "section 28 of the Criminal Law Act 1977" substitute "section 32 of the Magistrates' Courts Act 1980" and for "the provisions of the Criminal Law Act 1977" substitute "the provisions of the Magistrates' Courts Act 1980".

Companies Act 1980 (c.22)

207. In section 87(1) of the Companies Act 1980, in the definition of "the statutory maximum", for "section 28 of the Criminal Law Act 1977" substitute "section 32 of the Magistrates' Courts Act 1980" and for "section 61 of that Act" substitute "section 143 of that Act".

SCHEDULE 8

Section 154.

TRANSITIONAL PROVISIONS AND SAVINGS

Interpretation

1. In this Schedule references to the old enactments are to enactments repealed or amended by this Act and references to the appointed day are to the day on which this Act comes into force.

Proceedings commenced before appointed day

2.—(1) Where proceedings were commenced before the appointed day, the old enactments relating to the proceedings continue to apply and nothing in this Act affects those enactments.

(2) Without prejudice to the generality of sub-paragraph (1) above, the old enactments relating to proceedings which continue in force by virtue of it include any provision of those enactments which creates an offence, which relates to civil or criminal procedure, which relates to the punishment for an offence, or which relates to enforcing, appealing against, questioning, varying or rescinding anything ordered or done in the proceedings.

Offences committed before appointed day

3.—(1) This paragraph applies where proceedings are commenced under this Act in relation to an offence committed before the appointed day.

(2) Nothing in this Act renders a person liable to punishment by way of fine or imprisonment for the offence which differs from the punishment to which he would have been liable if this Act had not been passed and proceedings for the offence had been commenced under the old enactments.

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(3) Nothing in this Act renders a person liable to pay compensation under a compensation order in respect of the offence which differs from the compensation he would have been liable to pay if this Act had not been passed and proceedings for the offence had been commenced under the old enactments.

(4) The provisions of this Act corresponding to the old enactments relating to punishment and compensation are to be construed accordingly.

Other matters : general

4. Paragraphs 5 and 6 below have effect subject to paragraphs 2 and 3 above.

5. Without prejudice to any express amendment made by this Act, a reference in an enactment or other document, whether express or implied, to an enactment repealed by this Act shall, unless the context otherwise requires, be construed as, or as including, a reference to this Act or to the corresponding provision of this Act.

6. Where a period of time specified in an enactment repealed by this Act is current at the commencement of this Act, this Act shall have effect as if the corresponding provision of it had been in force when that period began to run.

Saving for transitionals in orders

7.—(1) This paragraph applies where any provision of an old enactment—

(a) was brought into force by order which made transitional provision in connection with the provision brought into force, or

(b) fell to be brought into force by order which could have made transitional provision in connection with the provision brought into force, if this Act had not been passed.

(2) In that case, an order under section 155(7) of this Act may make corresponding transitional provision in connection with any provision of this Act corresponding to that of the old enactment.

Savings of amendments

1952 c. 55.

8. Notwithstanding the repeal by this Act of the Magistrates' Courts Act 1952, the amendments made in other enactments ("the amended enactments") by that Act shall, to the extent that they had effect immediately before the coming into force of this Act, continue to have effect subject to any amendment of any of the amended enactments by this Act.

Savings for Local Government Act 1972

1972 c. 70.

9. The provisions of this Act shall have effect without prejudice to the exercise of any power conferred by section 67 of the Local Government Act 1972 (consequential and transitional arrangements relating to Part IV), section 252 of that Act (general power to adapt Acts and instruments) or section 254 of that Act (consequential

and supplementary provision); and any such power which, if this Act had not been passed, would have been exercisable in relation to an enactment repealed by this Act shall be exercisable in the like manner and to the like extent in relation to the corresponding provision (if any) of this Act.

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Scottish saving

10.—(1) This paragraph applies to Schedule 7B to the Criminal Procedure (Scotland) Act 1975, which was inserted by paragraph 12 of Schedule 11 to the Criminal Law Act 1977 and takes the same form as Schedule 5 to that Act (subject to certain modifications specified in that paragraph). 1975 c. 21. 1977 c. 45.

(2) Schedule 7B is not affected by—

- (a) the repeal by Schedule 9 to this Act of paragraph 1(2)(a) and (b) of Schedule 5 ;
- (b) the amendments made to paragraph 1 of Schedule 5 by Schedule 7 to this Act.

Section 154.

SCHEDULE 9

REPEALS

Chapter	Short title	Extent of repeal
12, 13 & 14 Geo. 6. c. 101.	Justices of the Peace Act 1949.	Section 15(1), (2), (3), (7), (8) and (9).
15 & 16 Geo. 6 & 1 Eliz. 2. c. 55.	Magistrates' Courts Act 1952.	The whole Act.
5 & 6 Eliz. 2. c. 29.	Magistrates' Courts Act 1957.	The whole Act.
6 & 7 Eliz. 2. c. 39.	Maintenance Orders Act 1958.	Section 16. Section 20(6).
7 & 8 Eliz. 2. c. 72.	Mental Health Act 1959.	In Schedule 7, in Part I, the entry relating to the Magistrates' Courts Act 1952.
7 & 8 Eliz. 2. c. 73.	Legitimacy Act 1959.	Section 5(2).
9 & 10 Eliz. 2. c. 39.	Criminal Justice Act 1961.	In section 1(5) the words " and subsections (2) and (3) of section twenty-eight of the Magistrates' Courts Act 1952 ". Section 8(3). In section 41(4), the words " section twenty-eight of the Magistrates' Courts Act 1952 ". In Schedule 4, the entries relating to sections 28 and 126 of the Magistrates' Courts Act 1952. In Schedule 6, the text of the Magistrates' Courts Act 1952, section 28.
1963 c. 37.	Children and Young Persons Act 1963.	Section 27.
1964 c. 42.	Administration of Justice Act 1964.	Section 11. In Schedule 3, paragraphs 20(2) and 22(3) and (5).
1965 c. 69.	Criminal Procedure (Attendance of Witnesses) Act 1965.	In Schedule 2, in Part I, the entry relating to the Magistrates' Courts Act 1952.
1967 c. 80.	Criminal Justice Act 1967.	Sections 1 to 6. Section 19. In section 20, the words " or section 28 or 29 of the Magistrates' Courts Act 1952 (committal for sentence) ". Section 24. Section 26. Sections 28 to 30. In section 33, the words from the beginning to " that section and ".

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Chapter	Short title	Extent of repeal
1967 c. 80— <i>cont.</i>	Criminal Justice Act 1967 — <i>cont.</i>	In section 36(1), the definitions of "broadcast" and "publish". Sections 44, 44A and 45. In section 50, the words from the beginning to "Part of that Act". Section 56(4). In section 89(1), the words "2 or". In section 90(1) the words "an order under section 44(8) or". Section 94. In section 106(2)(b), the figure "3". In Schedule 6, paragraphs 9 to 13 and 17 to 20. In Schedule 3, paragraph 8.
1968 c. 69.	Justices of the Peace Act 1968.	In Schedule 3, paragraph 8.
1969 c. 54.	Children and Young Persons Act 1969.	Section 6. Section 10(3). Section 61. In Schedule 4, paragraph 4.
1970 c. 31.	Administration of Justice Act 1970.	Section 12. In section 28(1), the definitions of "the Act of 1952" and "magistrates' court maintenance order". Section 30(1) and (2) as respects section 12. Section 41(6). Section 42. Section 50. In section 51, subsection (1), and in subsection (3) the definition of "the Act of 1952".
1971 c. 23.	Courts Act 1971.	Section 7(1). In Schedule 8, paragraph 34, in paragraph 48(b) in the words "56(4)(6)" the word "(4)", and paragraph 52. In Schedule 9, in Part I, the entry relating to the Magistrates' Courts Act 1952.
1972 c. 18.	Maintenance Orders (Reciprocal Enforcement) Act 1972.	Section 22(2)(b).
1972 c. 70.	Local Government Act 1972.	In Schedule 27, paragraph 16.
1972 c. 71.	Criminal Justice Act 1972.	Section 41. Sections 44 and 45. Section 50. In Schedule 5, the entries relating to the Magistrates' Courts Act 1952 and the entry relating to section 6(1) of the Children and Young Persons Act 1969.

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Chapter	Short title	Extent of repeal
1973 c. 14.	Costs in Criminal Cases Act 1973.	In Schedule 1, paragraph 1.
1973 c. 29.	Guardianship Act 1973.	Section 9(2)(b).
1973 c. 38.	Social Security Act 1973.	In Schedule 27, in paragraph 85, the words " and 12(2)(b) " and " (in each place) ".
1973 c. 62.	Powers of Criminal Courts Act 1973.	Section 35(5). In Schedule 5, paragraphs 4, 5, 7, 16 and 34.
1974 c. 4.	Legal Aid Act 1974.	In Schedule 4, paragraph 3.
1975 c. 21.	Criminal Procedure (Scotland) Act 1975.	Section 326(2). In section 463(1)(b), the words " 326(2) ".
1976 c. 63.	Bail Act 1976.	In Schedule 2, paragraphs 14 to 29 and 35.
1977 c. 45.	Criminal Law Act 1977.	Section 14. In section 15, in subsection (1), paragraph (b) and the word " and " immediately preceding it, and, in subsection (3), paragraph (a). Section 16. Sections 18 to 27. In section 28, subsections (1) to (7) and in subsection (8) the words from " and subsection (2) above " to the end. Section 29. Section 30(4). Section 32(2). Sections 34 and 35. In section 36, subsections (2) to (8) and in subsection (9) the definitions of " guardian " and " the statutory restrictions upon the imprisonment of young offenders ". Sections 41 and 42. Section 45. In section 58, subsections (1), (4) and (6). Sections 59 to 61. In section 63(2), in the entry relating to section 65(4) and Schedule 12 so far as they relate to the Criminal Justice Act 1967, the words " 3 and ". In section 65(10)(e) the words from " and the provisions " to " all such places (except Scotland) ". Schedule 2. Schedule 3. Schedule 4. In Schedule 5, paragraph 1(2)(a) and (b). In Schedule 7, paragraph 1. Schedule 8.

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Chapter	Short title	Extent of repeal
1977 c. 45— <i>cont.</i>	Criminal Law Act 1977 — <i>cont.</i>	In Schedule 12, the entries relating to the Magistrates' Courts Act 1952, the entries relating to sections 3, 24, 44(5) and 44A of the Criminal Justice Act 1967, and paragraphs 2 and 3 of the entries relating to the Criminal Justice Act 1972. In Schedule 14, paragraph 2, in paragraph 3(1) the words "or 2", paragraph 4, and in paragraph 5 the words "(other than section 29 or any provision mentioned in paragraph 4 above)".
1978 c. 22.	Domestic Proceedings and Magistrates' Courts Act 1978.	Sections 75 to 85. In Schedule 1, in paragraph 5 the words "or in any of sections 79 to 82", paragraph 6 and paragraph 7. In Schedule 2, paragraphs 15 and 21.
1978 c. 37.	Protection of Children Act 1978.	Section 2(2).
1979 c. 55.	Justices of the Peace Act 1979.	In Schedule 2, paragraphs 7 to 9 and paragraph 14.
1980 c. 5.	Child Care Act 1980.	In Schedule 5, paragraph 5.
1980 c. 11.	Protection of Trading Interests Act 1980.	In section 8(5), the words from "together with" to the end.