



Crime and Disorder Act 1998

1998 CHAPTER 37

PART III

CRIMINAL JUSTICE SYSTEM

Functions of courts etc.

47 Powers of youth courts

- (1) Where a person who appears or is brought before a youth court charged with an offence subsequently attains the age of 18, the youth court may, at any time—
- before the start of the trial; or
 - after conviction and before sentence,

remit the person for trial or, as the case may be, for sentence to a magistrates' court (other than a youth court) acting for the same petty sessions area as the youth court.

In this subsection “the start of the trial” shall be construed in accordance with section 22(11B) of the 1985 Act.

- (2) Where a person is remitted under subsection (1) above—
- he shall have no right of appeal against the order of remission;
 - the remitting court shall adjourn proceedings in relation to the offence; and
 - subsections (3) and (4) below shall apply.
- (3) The following, namely—
- section 128 of the 1980 Act; and
 - all other enactments (whenever passed) relating to remand or the granting of bail in criminal proceedings,

shall have effect in relation to the remitting court's power or duty to remand the person on the 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 (“the other court”).

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- (4) The other court may deal with the case in any way in which it would have power to deal with it if all proceedings relating to the offence which took place before the remitting court had taken place before the other court.
- (5) After subsection (3) of section 10 of the 1980 Act (adjournment of trial) there shall be inserted the following subsection—
- “(3A) A youth court shall not be required to adjourn any proceedings for an offence at any stage by reason only of the fact—
- (a) that the court commits the accused for trial for another offence; or
 - (b) that the accused is charged with another offence.”
- (6) After subsection (1) of section 24 of the 1980 Act (summary trial of information against child or young person for indictable offence) there shall be inserted the following subsection—
- “(1A) Where a magistrates' court—
- (a) commits a person under the age of 18 for trial for an offence of homicide; or
 - (b) in a case falling within subsection (1)(a) above, commits such a person for trial for an offence,
- the court may also commit him for trial for any other indictable offence with which he is charged at the same time if the charges for both offences could be joined in the same indictment.”
- (7) In subsection (2) of section 47 (procedure in youth courts) of the Children and Young Persons Act 1933 (“the 1933 Act”), the words from the beginning to “court; and” shall cease to have effect.

48 Youth courts: power of stipendiary magistrates to sit alone

- (1) In paragraph 15 of Schedule 2 to the 1933 Act (constitution of youth courts)—
- (a) in paragraph (a), after the word “shall”, in the first place where it occurs, there shall be inserted the words “either consist of a metropolitan stipendiary magistrate sitting alone or” and the word “shall”, in the other place where it occurs, shall cease to have effect;
 - (b) in paragraph (b), after the words “the chairman” there shall be inserted the words “(where applicable)”; and
 - (c) in paragraph (c), after the words “the other members” there shall be inserted the words “(where applicable)”.
- (2) In paragraph 17 of that Schedule, the words “or, if a metropolitan stipendiary magistrate, may sit alone” shall cease to have effect.

49 Powers of magistrates' courts exercisable by single justice etc

- (1) The following powers of a magistrates' court for any area may be exercised by a single justice of the peace for that area, namely—
- (a) to extend bail or to impose or vary conditions of bail;
 - (b) to mark an information as withdrawn;
 - (c) to dismiss an information, or to discharge an accused in respect of an information, where no evidence is offered by the prosecution;

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- (d) to make an order for the payment of defence costs out of central funds;
 - (e) to request a pre-sentence report following a plea of guilty and, for that purpose, to give an indication of the seriousness of the offence;
 - (f) to request a medical report and, for that purpose, to remand the accused in custody or on bail;
 - (g) to remit an offender to another court for sentence;
 - (h) where a person has been granted police bail to appear at a magistrates' court, to appoint an earlier time for his appearance;
 - (i) to extend, with the consent of the accused, a custody time limit or an overall time limit;
 - (j) where a case is to be tried on indictment, to grant representation under Part V of the Legal Aid Act 1988 for purposes of the proceedings in the Crown Court;
 - (k) where an accused has been convicted of an offence, to order him to produce his driving licence;
 - (l) to give a direction prohibiting the publication of matters disclosed or exempted from disclosure in court;
 - (m) to give, vary or revoke directions for the conduct of a trial, including directions as to the following matters, namely—
 - (i) the timetable for the proceedings;
 - (ii) the attendance of the parties;
 - (iii) the service of documents (including summaries of any legal arguments relied on by the parties);
 - (iv) the manner in which evidence is to be given; and
 - (n) to give, vary or revoke orders for separate or joint trials in the case of two or more accused or two or more informations.
- (2) Without prejudice to the generality of subsection (1) of section 144 of the 1980 Act (rules of procedure)—
- (a) rules under that section may, subject to subsection (3) below, provide that any of the things which, by virtue of subsection (1) above, are authorised to be done by a single justice of the peace for any area may, subject to any specified restrictions or conditions, be done by a justices' clerk for that area; and
 - (b) rules under that section which make such provision as is mentioned in paragraph (a) above may make different provision for different areas.
- (3) Rules under that section which make such provision as is mentioned in subsection (2) above shall not authorise a justices' clerk—
- (a) without the consent of the prosecutor and the accused, to extend bail on conditions other than those (if any) previously imposed, or to impose or vary conditions of bail;
 - (b) to give an indication of the seriousness of an offence for the purposes of a pre-sentence report;
 - (c) to remand the accused in custody for the purposes of a medical report or, without the consent of the prosecutor and the accused, to remand the accused on bail for those purposes on conditions other than those (if any) previously imposed;
 - (d) to give a direction prohibiting the publication of matters disclosed or exempted from disclosure in court; or
 - (e) without the consent of the parties, to give, vary or revoke orders for separate or joint trials in the case of two or more accused or two or more informations.

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- (4) Before making any rules under that section which make such provision as is mentioned in subsection (2) above in relation to any area, the Lord Chancellor shall consult justices of the peace and justices' clerks for that area.
- (5) In this section and section 50 below “justices' clerk” has the same meaning as in section 144 of the 1980 Act.

50 Early administrative hearings

- (1) Where a person (“the accused”) has been charged with an offence at a police station, the magistrates' court before whom he appears or is brought for the first time in relation to the charge may, unless the accused falls to be dealt with under section 51 below, consist of a single justice.
- (2) At a hearing conducted by a single justice under this section—
 - (a) the accused shall be asked whether he wishes to receive legal aid; and
 - (b) if he indicates that he does, his eligibility for it shall be determined; and
 - (c) if it is determined that he is eligible for it, the necessary arrangements or grant shall be made for him to obtain it.
- (3) At such a hearing the single justice—
 - (a) may exercise, subject to subsection (2) above, such of his powers as a single justice as he thinks fit; and
 - (b) on adjourning the hearing, may remand the accused in custody or on bail.
- (4) This section applies in relation to a justices' clerk as it applies in relation to a single justice; but nothing in subsection (3)(b) above authorises such a clerk to remand the accused in custody or, without the consent of the prosecutor and the accused, to remand the accused on bail on conditions other than those (if any) previously imposed.
- (5) In this section “legal aid” means representation under Part V of the Legal Aid Act 1988.

51 No committal proceedings for indictable-only offences

- (1) Where an adult appears or is brought before a magistrates' court (“the court”) charged with an offence triable only on indictment (“the indictable-only offence”), the court shall send him forthwith to the Crown Court for trial—
 - (a) for that offence, and
 - (b) for any either-way or summary offence with which he is charged which fulfils the requisite conditions (as set out in subsection (11) below).
- (2) Where an adult who has been sent for trial under subsection (1) above subsequently appears or is brought before a magistrates' court charged with an either-way or summary offence which fulfils the requisite conditions, the court may send him forthwith to the Crown Court for trial for the either-way or summary offence.
- (3) Where—
 - (a) the court sends an adult for trial under subsection (1) above;
 - (b) another adult appears or is brought before the court on the same or a subsequent occasion charged jointly with him with an either-way offence; and
 - (c) that offence appears to the court to be related to the indictable-only offence,

the court shall where it is the same occasion, and may where it is a subsequent occasion, send the other adult forthwith to the Crown Court for trial for the either-way offence.

(4) Where a court sends an adult for trial under subsection (3) above, it shall at the same time send him to the Crown Court for trial for any either-way or summary offence with which he is charged which fulfils the requisite conditions.

(5) Where—

- (a) the court sends an adult for trial under subsection (1) or (3) above; and
- (b) a child or young person appears or is brought before the court on the same or a subsequent occasion charged jointly with the adult with an indictable offence for which the adult is sent for trial,

the court shall, if it considers it necessary in the interests of justice to do so, send the child or young person forthwith to the Crown Court for trial for the indictable offence.

(6) Where a court sends a child or young person for trial under subsection (5) above, it may at the same time send him to the Crown Court for trial for any either-way or summary offence with which he is charged which fulfils the requisite conditions.

(7) The court shall specify in a notice the offence or offences for which a person is sent for trial under this section and the place at which he is to be tried; and a copy of the notice shall be served on the accused and given to the Crown Court sitting at that place.

(8) In a case where there is more than one indictable-only offence and the court includes an either-way or a summary offence in the notice under subsection (7) above, the court shall specify in that notice the indictable-only offence to which the either-way offence or, as the case may be, the summary offence appears to the court to be related.

(9) The trial of the information charging any summary offence for which a person is sent for trial under this section shall be treated as if the court had adjourned it under section 10 of the 1980 Act and had not fixed the time and place for its resumption.

(10) In selecting the place of trial for the purpose of subsection (7) above, the court shall have regard to—

- (a) the convenience of the defence, the prosecution and the witnesses;
- (b) the desirability of expediting 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 75(1) of the Supreme Court Act 1981.

(11) An offence fulfils the requisite conditions if—

- (a) it appears to the court to be related to the indictable-only offence; and
- (b) in the case of a summary offence, it is punishable with imprisonment or involves obligatory or discretionary disqualification from driving.

(12) For the purposes of this section—

- (a) “adult” means a person aged 18 or over, and references to an adult include references to a corporation;
- (b) “either-way offence” means an offence which, if committed by an adult, is triable either on indictment or summarily;
- (c) an either-way offence is related to an indictable-only offence if the charge for the either-way offence could be joined in the same indictment as the charge for the indictable-only offence;

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- (d) a summary offence is related to an indictable-only offence if it arises out of circumstances which are the same as or connected with those giving rise to the indictable-only offence.

52 Provisions supplementing section 51

- (1) Subject to section 4 of the Bail Act 1976, section 41 of the 1980 Act, regulations under section 22 of the 1985 Act and section 25 of the 1994 Act, the court may send a person for trial under section 51 above—
 - (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.
- (2) Where—
 - (a) the person's release on bail under subsection (1)(b) above is conditional on his providing one or more sureties; and
 - (b) in accordance with subsection (3) of section 8 of the Bail Act 1976, the court fixes the amount in which a surety is to be bound with a view to his entering into his recognisance subsequently in accordance with subsections (4) and (5) or (6) of that section,the court shall in the meantime make an order such as is mentioned in subsection (1) (a) above.
- (3) The court shall treat as an indictable offence for the purposes of section 51 above an offence which is mentioned in the first column of Schedule 2 to the 1980 Act (offences for which the value involved is relevant to the mode of trial) unless it is clear to the court, having regard to any representations made by the prosecutor or the accused, that the value involved does not exceed the relevant sum.
- (4) In subsection (3) above "the value involved" and "the relevant sum" have the same meanings as in section 22 of the 1980 Act (certain offences triable either way to be tried summarily if value involved is small).
- (5) A magistrates' court may adjourn any proceedings under section 51 above, and if it does so shall remand the accused.
- (6) Schedule 3 to this Act (which makes further provision in relation to persons sent to the Crown Court for trial under section 51 above) shall have effect.