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# Magistrates' Courts Act 1980

## 1980 CHAPTER 43

### PART I

#### CRIMINAL JURISDICTION AND PROCEDURE

##### *Miscellaneous*

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

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

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

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

#### **[<sup>F1</sup>43 Bail on arrest.**

- (1) Where a person has been granted bail under the Police and Criminal Evidence Act 1984 subject to a duty to appear before a magistrates' court, the 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 at that time.
- (2) The recognizance of any surety for any person granted bail subject to a duty to attend at a police station may be enforced as if it were conditioned for his appearance before a magistrates' court for the petty sessions area in which the police station named in the recognizance is situated.]

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#### Textual Amendments

**F1** S. 43 substituted by [Police and Criminal Evidence Act 1984 \(c. 60, SIF 95\)](#), **ss. 47(8)(a)**, 51, 52

### [<sup>F2</sup>43A Functions of magistrates' court where a person in custody is brought before it with a view to his appearance before the Crown Court.

- (1) Where a person in custody in pursuance of a warrant issued by the Crown Court with a view to his appearance before the Crown Court is brought before a magistrates' court in pursuance of section 81(5) of the <sup>M1</sup>Supreme Court Act 1981—
  - (a) the magistrates' court shall commit him in custody or release him on bail until he can be brought or appear before the Crown Court at the time and place appointed by the Crown Court;
  - (b) if the warrant is endorsed for bail, but the person in custody is unable to satisfy the conditions endorsed, the magistrates' court may vary those conditions, if satisfied that it is proper to do so.
- (2) A magistrates' court shall have jurisdiction under subsection (1) whether or not the offence was committed, or the arrest was made, within the court's area.]

#### Textual Amendments

**F2** S. 43A inserted by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), s. 152(1), **Sch. 5**

#### Marginal Citations

**M1** 1981 c. 54 (37).

VALID FROM 10/04/1995

### [<sup>F3</sup>43B Power to grant bail where police bail has been granted.

- (1) Where a custody officer—
  - (a) grants bail to any person under Part IV of the Police and Criminal Evidence Act 1984 in criminal proceedings and imposes conditions, or
  - (b) varies, in relation to any person, conditions of bail in criminal proceedings under section 3(8) of the Bail Act 1976,
 a magistrates' court may, on application by or on behalf of that person, grant bail or vary the conditions.
- (2) On an application under subsection (1) the court, if it grants bail and imposes conditions or if it varies the conditions, may impose more onerous conditions.
- (3) On determining an application under subsection (1) the court shall remand the applicant, in custody or on bail in accordance with the determination, and, where the court withholds bail or grants bail the grant of bail made by the custody officer shall lapse.
- (4) In this section “bail in criminal proceedings” and “vary” have the same meanings as they have in the Bail Act 1976.]

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#### Textual Amendments

**F3** S. 43B inserted (10.4.1995) by 1994 c. 33, s. 27(4), **Sch. 3 para.3**; S.I. 1995/721, **art. 2**, Sch.

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

**C1** S. 43B excluded (4.4.2005) by Criminal Justice Act 2003 (c. 44), **ss. 88(1)(c)**, 336; S.I. 2005/950, **art. 2**, **Sch. 1 para. 5** (subject to **art. 2(2)** and with **Sch. 2**)

### 44 Aiders and abettors.

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

### 45 Incitement.

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

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

**C2** S. 45(3) excluded by Public Order Act 1986 (c. 64, SIF 39:2), **ss. 12(10)**, 13(13), 14(10)  
S. 45(3) excluded by 1986 c. 64, **s. 14B(7)** (as inserted (3.11.1994) by 1994 c. 33, **s.70**)  
S. 45(3) excluded (1.8.2005) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 136(4)**, 178;  
S.I. 2005/1521 {art. 4(1)} (subject to art. 4(2))

### 46 Corporations.

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

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

**C3** S. 46 applied (1.5.2009) by The Payment Services Regulations 2009 (S.I. 2009/209), regs. 1(2)(b) (xiii), **118(4)(a)**

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

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

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

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

**49** ..... F4

**Textual Amendments**  
F4 S. 49 repealed by [Police and Criminal Evidence Act 1984 \(c. 64, SIF 95\)](#), s. 119(2), [Sch. 7 Pt. 1](#)

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

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

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