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# Magistrates' Courts Act 1980

## 1980 CHAPTER 43

### PART VII

#### MISCELLANEOUS AND SUPPLEMENTARY

##### *Process*

#### **123 Defect in process.**

- (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.

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

C1 S. 123 applied (with modifications) (1.4.1997) by [S.I. 1997/704](#), [rule 5\(1\)\(3\)\(4\)\(h\)\(6\)](#)

#### **124 Process valid notwithstanding death, etc., of justice.**

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.

#### **125 Warrants.**

- (1) A warrant of arrest issued by a justice of the peace shall remain in force until it is executed or withdrawn.

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(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.

[<sup>F1</sup>A warrant of arrest, warrant of commitment or warrant of distress which is issued by a justice of the peace for the enforcement of [<sup>F2</sup>any sum adjudged to be paid] may also be executed by a person who—

- (a) is employed by an authority of a prescribed class;
- (b) is authorised in the prescribed manner to execute such warrants; and
- (c) is acting within the area for which the authority that employs him performs its functions.]

This subsection does not apply to a warrant of commitment or a warrant of distress issued under Part VI of the <sup>M1</sup>General Rate Act 1967.

(3) A warrant to [<sup>F3</sup>which this subsection applies] 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.

[<sup>F4</sup>(4) The warrants to which subsection (3) above applies are—

- (a) a warrant to arrest a person in connection with an offence;
- (b) without prejudice to paragraph (a) above, a warrant under section 186(3) of the Army Act <sup>M2</sup>1955, section 186(3) of the Air Force Act <sup>M3</sup>1955, section 105(3) of the Naval Discipline Act <sup>M4</sup>1957 or [<sup>F5</sup>Schedule 2 to the Reserve Forces Act 1996] (desertion etc.);
- (c) a warrant under—
  - (i) section 102 or 104 of the General Rate Act <sup>M5</sup>1967 (insufficiency of distress);
  - (ii) section 18(4) of the Domestic Proceedings and Magistrates' Courts Act 1978 (protection of parties to marriage and children of family); and
  - (iii) section 55, 76, 93 or 97 above.]

#### Textual Amendments

- F1** Para. inserted by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 65(1), 123(6), **Sch. 8 para. 16**
- F2** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37, 82), s. 125(2), **Sch. 17 para. 11**
- F3** Words substituted by Police and Criminal Evidence Act 1984 (c. 60, SIF 95), s. 33(a)
- F4** S. 125(4) added by Police and Criminal Evidence Act 1984 (c. 60, SIF 95), s. 33(b)
- F5** Words in s. 125(4)(b) substituted (1.4.1997) by 1996 c. 14, s. 131(1), **Sch. 10 para. 18** (with s. 72(5)); S.I. 1997/305, **art. 2(1)**

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

- C2** S. 125(3) applied by S.I. 1989/1058, **reg. 17(6)**; and (1.4.1992) by S.I. 1992/613, **reg. 48(6)**

#### Marginal Citations

- M1** 1967 c. 9.
- M2** 1955 c. 18(7:1).
- M3** 1955 c. 19 (7:1).
- M4** 1957 c. 53 (7:1).

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M5 1967 c. 9 (103:1).

VALID FROM 06/04/2014

**[<sup>F6</sup>125ZA Warrants of control**

- (1) This section applies to a warrant of control issued by a justice of the peace.
- (2) The person to whom it is directed must endorse the warrant as soon as possible after receiving it.
- (3) For the purposes of this section a person endorses a warrant by inserting on the back the date and time when he received it.
- (4) No fee may be charged for endorsing a warrant under this section.]

**Textual Amendments**

**F6** S. 125ZA inserted (prosp.) by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 68, 148 (with s. 89)

VALID FROM 08/01/2001

**[<sup>F7</sup>125A Civilian enforcement officers.**

- (1) A warrant to which this subsection applies may be executed anywhere in England and Wales by a civilian enforcement officer.
- (2) In this section “civilian enforcement officer”, in relation to a warrant, means a person who—
  - (a) is employed by an authority of a prescribed class which performs functions in relation to any area specified in the warrant; and
  - (b) is authorised in the prescribed manner to execute warrants.
- (3) The warrants to which subsection (1) above applies are any warrant of arrest, commitment, detention or distress issued by a justice of the peace—
  - (a) under any provision specified for the purposes of this subsection by an order made by the Lord Chancellor and the Secretary of State, acting jointly; or
  - (b) for the enforcement of a court order of any description so specified.
- (4) Where a warrant has been executed by a civilian enforcement officer, a written statement indicating—
  - (a) the name of the officer;
  - (b) the authority by which he is employed; and
  - (c) that he is authorised in the prescribed manner to execute warrants,shall, on the demand of the person arrested, committed or detained or against whom distress is levied, be shown to him as soon as practicable.

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- (5) The power to make orders conferred by subsection (3) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

- F7** S. 125A inserted (8.1.2001) by 1999 c. 22, s. 92, (with s. 107, Sch. 14 para. 7(2)); S.I. 2000/3280, art. 2(b)

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

- C3** S. 125-126 applied (temp.) (23.2.2004 and 29.3.2004 for certain purposes, otherwise 5.4.2004 until 31.3.2006) by The Fines Collection Regulations 2004 (S.I. 2004/176), regs. 1(3), 10 (with reg. 3) (as amended (30.3.2005) by S.I. 2005/484, regs. 1(1)(a)(2), 2, 4)

VALID FROM 08/01/2001

### [<sup>F8</sup>125B Execution by approved enforcement agency.

- (1) A warrant to which section 125A(1) above applies may also be executed anywhere in England and Wales—
  - (a) by an individual who is an approved enforcement agency;
  - (b) by a director of a company which is an approved enforcement agency;
  - (c) by a partner in a partnership which is an approved enforcement agency; or
  - (d) by an employee of an approved enforcement agency who is authorised in writing by the agency to execute warrants.
- (2) In this section “approved enforcement agency”, in relation to a warrant, means a person or body approved under section 31A of the <sup>M6</sup>Justices of the Peace Act 1997 by the magistrates’ courts committee for the petty sessions area of the justice (or any of the justices) who issued the warrant.
- (3) Failure by a magistrates’ courts committee to comply with any provision of, or made under, section 31A(2) to (5) of the Justices of the Peace Act 1997 does not of itself render unlawful the execution of a warrant.
- (4) Where a warrant has been executed by a person mentioned in subsection (1) above, a written statement indicating the matters specified in subsection (5) below shall, on the demand of the person arrested, committed or detained or against whom distress is levied, be shown to him as soon as practicable.
- (5) The matters referred to in subsection (4) above are—
  - (a) the name of the person by whom the warrant was executed;
  - (b) if he is a director of, or partner in, an approved enforcement agency, the fact that he is a director of, or partner in, that agency;
  - (c) if he is an employee of an approved enforcement agency, the fact that he is an employee authorised in writing by that agency to execute warrants; and
  - (d) the fact that his name, or (where paragraph (b) or (c) above applies) that of the agency indicated, is contained in the register maintained under

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section 31A(4) of the Justices of the <sup>M7</sup>Peace Act 1997 by the magistrates' courts committee concerned.]

#### Textual Amendments

**F8** S. 125B inserted (8.1.2001) by 1999 c. 22, s. 93(2), (with s. 107, Sch. 14 para. 7(2)); S.I. 2000/3280, art. 2(b)

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

**C4** S. 125-126 applied (temp.) (23.2.2004 and 29.3.2004 for certain purposes, otherwise 5.4.2004 until 31.3.2006) by The Fines Collection Regulations 2004 (S.I. 2004/176), regs. 1(3), 10 (with reg. 3) (as amended (30.3.2005) by S.I. 2005/484, regs. 1(1)(a)(2), 2, 4)

#### Marginal Citations

**M6** 1997 c.25.

**M7** 1997 c.25.

VALID FROM 18/07/2005

#### [<sup>F9</sup>125BA Powers of persons authorised under section 125A or 125B

Schedule 4A to this Act, which confers powers on persons authorised under section 125A or 125B for the purpose of executing warrants for the enforcement of fines and other orders, shall have effect.]

#### Textual Amendments

**F9** S. 125BA inserted (18.7.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 27(1), 60; S.I. 2005/1821, art. 2

VALID FROM 08/01/2001

#### [<sup>F10</sup>125CDisclosure of information for enforcing warrants.

(1) Basic personal information held by a relevant public authority may, on the application of a justices' chief executive, be supplied by the authority to him (or to a justices' clerk appointed by, or member of the staff of, his magistrates' courts committee who is specified in the application) for the purpose of facilitating the enforcement of a section 125A(1) warrant which is so specified.

(2) In this section—

“basic personal information” means a person's name, date of birth or national insurance number or the address (or any of the addresses) of a person;

“relevant public authority” means a Minister of the Crown, government department, local authority or chief officer of police specified in an order made by the Lord Chancellor; and

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“a section 125A(1) warrant” means a warrant to which section 125A(1) above applies and which has been issued by a justice of the peace to whom the justices' chief executive making the application is chief executive.

- (3) Information supplied to any person under subsection (1) above, or this subsection, for the purpose of facilitating the enforcement of a section 125A(1) warrant may be supplied by him for that purpose to—
- (a) any person entitled to execute the warrant;
  - (b) any employee of a body or person who, for the purposes of section 125B above, is an approved enforcement agency in relation to the warrant; or
  - (c) any person who is the justices' chief executive, a justices' clerk or a member of the staff of the magistrates' courts committee whose justices' chief executive made the application for the information.
- (4) A person who intentionally or recklessly—
- (a) discloses information supplied to him under this section otherwise than as permitted by subsection (3) above; or
  - (b) uses information so supplied otherwise than for the purpose of facilitating the enforcement of the section 125A(1) warrant concerned,
- commits an offence.
- (5) But it is not an offence under subsection (4) above—
- (a) to disclose any information in accordance with any enactment or order of a court or for the purposes of any proceedings before a court; or
  - (b) to disclose any information which has previously been lawfully disclosed to the public.
- (6) A person guilty of an offence under subsection (4) above is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
  - (b) on conviction on indictment, to a fine.
- (7) The power to make orders conferred by subsection (2) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

**F10** S. 125C inserted (8.1.2001) by 1999 c. 22, s. 94, (with s. 107, Sch. 14 para. 7(2)); S.I. 2000/3280, art. 2(b) (with transitional provisions in art. 3)

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

**C5** S. 125C extended (8.1.2001) by S.I. 2000/3277, art. 2

VALID FROM 31/03/2005

#### <sup>F11</sup> 125C Power to make disclosure order

- (1) A magistrates' court may make a disclosure order if satisfied that it is necessary to do so for the purpose of executing a warrant to which this section applies.

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- (2) This section applies to a warrant of arrest, commitment, detention or distress issued by a justice of the peace in connection with the enforcement of a fine or other order imposed or made on conviction.
- (3) A disclosure order is an order requiring the person to whom it is directed to supply the designated officer for the court with any of the following information about the person to whom the warrant relates—
  - (a) his name, date of birth or national insurance number;
  - (b) his address (or any of his addresses).
- (4) A disclosure order may be made only on the application of a person entitled to execute the warrant.
- (5) This section applies to the Crown as it applies to other persons.

#### Textual Amendments

**F11** Ss. 125CA, 125CB inserted (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), ss. 28, 60; S.I. 2005/579, art. 3(c)

VALID FROM 31/03/2005

#### 125CB Use of information supplied under disclosure order

- (1) Information supplied to a person under a disclosure order, or under this subsection, may be supplied by him to—
  - (a) the applicant for the order or any other person entitled to execute the warrant concerned;
  - (b) any employee of a body or person who, for the purposes of section 125B above, is an approved enforcement agency in relation to the warrant;
  - (c) any justices' clerk or other person appointed under section 2(1) of the Courts Act 2003.
- (2) A person who intentionally or recklessly—
  - (a) discloses information supplied under a disclosure order otherwise than as permitted by subsection (1) above, or
  - (b) uses information so supplied otherwise than for the purpose of facilitating the execution of the warrant concerned,commits an offence.
- (3) But it is not an offence under subsection (2) above—
  - (a) to disclose any information in accordance with any enactment or order of a court or for the purposes of any proceedings before a court; or
  - (b) to disclose any information which has previously been lawfully disclosed to the public.
- (4) A person guilty of an offence under subsection (2) above is liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.



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(5) In this section “disclosure order” has the meaning given by section 125CA(3) above.]

#### Textual Amendments

**F11** Ss. 125CA, 125CB inserted (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), ss. 28, 60; S.I. 2005/579, art. 3(e)

VALID FROM 19/02/2001

#### [<sup>F12</sup>125D Execution by person not in possession of warrant.

- (1) A warrant to which section 125A(1) above applies may be executed by any person entitled to execute it even though it is not in his possession at the time.
- (2) A warrant to which this subsection applies (and which is not a warrant to which section 125A(1) above applies) may be executed by a constable even though it is not in his possession at the time.
- (3) Subsection (2) above applies to—
  - (a) a warrant to arrest a person in connection with an offence;
  - (b) a warrant under section 186(3) of the <sup>M8</sup>Army Act 1955, section 186(3) of the <sup>M9</sup>Air Force Act 1955, section 105(3) of the <sup>M10</sup>Naval Discipline Act 1957 or Schedule 2 to the <sup>M11</sup>Reserve Forces Act 1996 (desertion etc.);
  - (c) a warrant under section 102 or 104 of the <sup>M12</sup>General Rate Act 1967 (insufficiency of distress);
  - (d) a warrant under section 47(8) of the <sup>M13</sup>Family Law Act 1996 (failure to comply with occupation order or non-molestation order);
  - (e) a warrant under paragraph 4 of Schedule 3 to the <sup>M14</sup>Crime and Disorder Act 1998 (unwilling witnesses);
  - (f) a warrant under paragraph 3(2) of Schedule 1 to the <sup>M15</sup>Youth Justice and Criminal Evidence Act 1999 (offenders referred to court by youth offender panel); and
  - (g) a warrant under section 55, 76, 93, 97 or 97A above.
- (4) Where by virtue of this section a warrant is executed by a person not in possession of it, it shall, on the demand of the person arrested, committed or detained or against whom distress is levied, be shown to him as soon as practicable.]

#### Textual Amendments

**F12** S. 125D inserted (19.2.2001) by [1999 c. 22, s. 96](#) (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/168, arts. 1, 2(a) (subject to transitional provisions in art. 3 of that S.I.)

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

**C6** Ss. 125-126 applied (temp.) (23.2.2004 and 29.3.2004 for certain purposes, otherwise 5.4.2004 until 31.3.2006) by [The Fines Collection Regulations 2004 \(S.I. 2004/176\)](#), regs. 1(3), 10 (with reg. 3) (as amended (30.3.2005) by S.I. 2005/484, regs. 1(1)(a)(2), 2, 4)



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**Marginal Citations**

- M8** 1955 c.18.
- M9** 1955 c.19.
- M10** 1957 c.53.
- M11** 1966 c.14.
- M12** 1967 c.9.
- M13** 1996 c.27.
- M14** 1998 c.37.
- M15** 1999 c.23.

**126 Execution of certain warrants outside England and Wales.**

Sections 12 to 14 of the <sup>M16</sup>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—

- (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.

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**Marginal Citations**

- M16** 1848 c. 42.

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