



# Criminal Procedure and Investigations Act 1996

## 1996 CHAPTER 25

### PART VI **E+W**

#### MAGISTRATES' COURTS

#### 48 **Non-appearance of accused: issue of warrant.** **E+W**

- (1) Section 13 of the <sup>M1</sup>Magistrates' Courts Act 1980 (non-appearance of accused: issue of warrant) shall be amended as follows.
- (2) In subsection (2) (no warrant where summons has been issued unless certain conditions fulfilled) for the words from "unless" to the end of the subsection there shall be substituted " unless the condition in subsection (2A) below or that in subsection (2B) below is fulfilled ”.
- (3) The following subsections shall be inserted after subsection (2)—
  - “(2A) The condition in this subsection is that 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.
  - (2B) The condition in this subsection is that—
    - (a) the adjournment now being made is a second or subsequent adjournment of the trial,
    - (b) the accused was present on the last (or only) occasion when the trial was adjourned, and
    - (c) on that occasion the court determined the time for the hearing at which the adjournment is now being made.”
- (4) This section applies where the court proposes to issue a warrant under section 13 on or after the appointed day.

*Status: Point in time view as at 24/07/2002.*

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- (5) The reference in subsection (4) to the appointed day is to such day as is appointed for the purposes of this section by the Secretary of State by order.

**Subordinate Legislation Made**

**P1** [S. 48\(5\)](#) power wholly exercised (7.9.1996): 1.10.1996 appointed day by [S.I. 1996/2343](#).

**Marginal Citations**

**M1** [1980 c. 43](#).

**49 Either way offences: accused’s intention as to plea. E+W**

- (1) The Magistrates’ Courts Act 1980 shall be amended as follows.
- (2) The following sections shall be inserted after section 17 (offences triable on indictment or summarily)—

**“17A Initial procedure: accused to indicate intention as to plea.**

- (1) This section shall have effect where a person who has attained the age of 18 years appears or is brought before a magistrates’ court on an information charging him with an offence triable either way.
- (2) Everything that the court is required to do under the following provisions of this section must be done with the accused present in court.
- (3) The court shall cause the charge to be written down, if this has not already been done, and to be read to the accused.
- (4) The court shall then explain to the accused in ordinary language that he may indicate whether (if the offence were to proceed to trial) he would plead guilty or not guilty, and that if he indicates that he would plead guilty—
  - (a) the court must proceed as mentioned in subsection (6) below; and
  - (b) he may be committed for sentence to the Crown Court under section 38 below if the court is of such opinion as is mentioned in subsection (2) of that section.
- (5) The court shall then ask the accused whether (if the offence were to proceed to trial) he would plead guilty or not guilty.
- (6) If the accused indicates that he would plead guilty the court shall proceed as if—
  - (a) the proceedings constituted from the beginning the summary trial of the information; and
  - (b) section 9(1) above was complied with and he pleaded guilty under it.
- (7) If the accused indicates that he would plead not guilty section 18(1) below shall apply.
- (8) If the accused in fact fails to indicate how he would plead, for the purposes of this section and section 18(1) below he shall be taken to indicate that he would plead not guilty.

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- (9) Subject to subsection (6) above, the following shall not for any purpose be taken to constitute the taking of a plea—
- (a) asking the accused under this section whether (if the offence were to proceed to trial) he would plead guilty or not guilty;
  - (b) an indication by the accused under this section of how he would plead.

### **17B Intention as to plea: absence of accused.**

- (1) This section shall have effect where—
- (a) a person who has attained the age of 18 years appears or is brought before a magistrates’ court on an information charging him with an offence triable either way,
  - (b) the accused is represented by a legal representative,
  - (c) the court considers that by reason of the accused’s disorderly conduct before the court it is not practicable for proceedings under section 17A above to be conducted in his presence, and
  - (d) the court considers that it should proceed in the absence of the accused.
- (2) In such a case—
- (a) the court shall cause the charge to be written down, if this has not already been done, and to be read to the representative;
  - (b) the court shall ask the representative whether (if the offence were to proceed to trial) the accused would plead guilty or not guilty;
  - (c) if the representative indicates that the accused would plead guilty the court shall proceed as if the proceedings constituted from the beginning the summary trial of the information, and as if section 9(1) above was complied with and the accused pleaded guilty under it;
  - (d) if the representative indicates that the accused would plead not guilty section 18(1) below shall apply.
- (3) If the representative in fact fails to indicate how the accused would plead, for the purposes of this section and section 18(1) below he shall be taken to indicate that the accused would plead not guilty.
- (4) Subject to subsection (2)(c) above, the following shall not for any purpose be taken to constitute the taking of a plea—
- (a) asking the representative under this section whether (if the offence were to proceed to trial) the accused would plead guilty or not guilty;
  - (b) an indication by the representative under this section of how the accused would plead.

### **17C Intention as to plea: adjournment.**

A magistrates’ court proceeding under section 17A or 17B above 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

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- (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 proceedings shall be that at which he is required to appear or be brought before the court in pursuance of the remand or would be required to be brought before the court but for section 128(3A) below.”
- (3) In section 18(1) (initial procedure) after “either way” there shall be inserted “and—
- (a) he indicates under section 17A above that (if the offence were to proceed to trial) he would plead not guilty, or
- (b) his representative indicates under section 17B above that (if the offence were to proceed to trial) he would plead not guilty”.
- (4) In section 19 (court to consider which mode of trial appears more suitable) paragraph (a) of subsection (2) (charge to be read to accused) shall be omitted.
- (5) In—
- (a) subsections (1A), (3A), (3C) and (3E) of section 128 (remand), and
- (b) subsection (1) of section 130 (transfer of remand hearings),
- after “10(1)” there shall be inserted “, 17C ”.
- (6) This section applies where a person appears or is brought before a magistrates’ court on or after the appointed day, unless he has appeared or been brought before such a court in respect of the same offence on a previous occasion falling before that day.
- (7) The reference in subsection (6) to the appointed day is to such day as is appointed for the purposes of this section by the Secretary of State by order.

**Subordinate Legislation Made**

**P2** [S. 49\(7\)](#) power wholly exercised (8.9.1997): 1.10.1997 appointed day by [S.I. 1997/2199](#).

**50 Enforcement of payment of fines. E+W**

- (1) In section 87 of the <sup>M2</sup>Magistrates’ Courts Act 1980 (enforcement of fines) in subsection (3) (no proceedings unless court authorises it after inquiry into means) for the words from “authorised” to the end of the subsection there shall be substituted “ there has been an inquiry under section 82 above into that person’s means and he appeared to the court to have sufficient means to pay the sum forthwith. ”
- (2) This section applies where the clerk of a magistrates’ court proposes to take proceedings by virtue of section 87(1) on or after the appointed day.
- (3) The reference in subsection (2) to the appointed day is to such day as is appointed for the purposes of this section by the Secretary of State by order.

**Subordinate Legislation Made**

**P3** [S. 50\(3\)](#) power wholly exercised (7.9.1996): 1.10.1996 appointed day by [S.I. 1996/2343](#).

**Marginal Citations**

**M2** [1980 c. 43](#).

*Status: Point in time view as at 24/07/2002.*

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**51 Summons to witness and warrant for his arrest. E+W**

(1) In section 97 of the Magistrates’ Courts Act 1980 (summons to witness and warrant for his arrest) the following subsections shall be inserted after subsection (2A)—

“(2B) A justice may refuse to issue a summons under subsection (1) above in relation to the summary trial of an information if he is not satisfied that an application for the summons was made by a party to the case as soon as reasonably practicable after the accused pleaded not guilty.

(2C) In relation to the summary trial of an information, subsection (2) above shall have effect as if the reference to the matters mentioned in subsection (1) above included a reference to the matter mentioned in subsection (2B) above.”

(2) This section applies in relation to any proceedings for the purpose of which no summons has been issued under section 97(1), and no warrant has been issued under section 97(2), before the appointed day.

(3) The reference in subsection (2) to the appointed day is to such day as is appointed for the purposes of this section by the Secretary of State by order.

**Subordinate Legislation Made**

P4 S. 51(3) power wholly exercised (8.3.1997): 1.4.1997 appointed day by S.I. 1997/682.

**52 Remand. E+W**

(1) In section 128 of the <sup>M3</sup>Magistrates’ Courts Act 1980 (remand in custody or on bail) paragraph (c) of subsection (1A) and paragraph (c) of subsection (3A) (which restrict certain provisions about remand to persons who have attained the age of 17) shall be omitted.

(2) In section 128A(1) of that Act (power to make order allowing remand in custody for more than 8 clear days if accused has attained the age of 17) the words “who has attained the age of 17” shall be omitted.

(3) Subsection (1) applies where the offence with which the person concerned is charged is alleged to be committed on or after the appointed day.

(4) The reference in subsection (3) to the appointed day is to such day as is appointed for the purposes of this section by the Secretary of State by order.

**Subordinate Legislation Made**

P5 S. 52(4) power wholly exercised (12.1.1997): 1.2.1997 appointed day by S.I. 1997/36.

**Marginal Citations**

M3 1980 c. 43.

**53 Attachment of earnings. E+W**

(1) In section 3 of the <sup>M4</sup>Attachment of Earnings Act 1971 (court’s power to make order) the following subsections shall be inserted after subsection (3A)—

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“(3B) Where—

- (a) a magistrates’ court imposes a fine on a person in respect of an offence, and
- (b) that person consents to an order being made under this subsection, the court may at the time it imposes the fine, and without the need for an application, make an attachment of earnings order to secure the payment of the fine.

(3C) Where—

- (a) a magistrates’ court makes in the case of a person convicted of an offence an order under section 35 of the <sup>M5</sup>Powers of Criminal Courts Act 1973 (a compensation order) requiring him to pay compensation or to make other payments, and
- (b) that person consents to an order being made under this subsection, the court may at the time it makes the compensation order, and without the need for an application, make an attachment of earnings order to secure the payment of the compensation or other payments.”

(2) This section applies in relation to—

- (a) fines imposed in respect of offences committed on or after the appointed day;
- (b) compensation orders made on convictions for offences committed on or after that day.

(3) The reference in subsection (2) to the appointed day is to such day as is appointed for the purposes of this section by the Secretary of State by order.

#### Subordinate Legislation Made

**P6** [S. 53\(3\)](#) power wholly exercised (7.9.1996): 1.10.1996 appointed day by [S.I. 1996/2343](#).

#### Marginal Citations

**M4** [1971 c. 32](#).

**M5** [1973 c. 62](#).

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**Changes to legislation:**

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