



Magistrates' Courts Act 1980

1980 CHAPTER 43

PART VII

MISCELLANEOUS AND SUPPLEMENTARY

Constitution and place of sitting of magistrates' courts

121 Constitution and place of sitting of court.

- (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.
- (2) A magistrates' court shall not hold an inquiry into the means of an offender for the purposes of section 82 above [^{F1}or determine under that section at a hearing at which the offender is not present whether to issue a warrant of commitment] 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.
- (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.

Status: Point in time view as at 05/11/1993. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Magistrates' Courts Act 1980, Part VII is up to date with all changes known to be in force on or before 26 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (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 [^{F2}family proceedings].

Textual Amendments

- F1** Words inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), ss. 61(6), 123(6), [Sch. 8 para. 16](#)
- F2** Words in 121(8) substituted (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), ss. 92, 108(6), [Sch. 11 Pt. II para. 8\(c\)](#) (with [Sch. 14 para. 1\(1\)](#)); S.I. 1991/828, [art. 3\(2\)](#)

Modifications etc. (not altering text)

- C1** S. 121(1)(3)(a) applied (with modifications) (1.4.1997) by [S.I. 1997/704](#), [rule 5\(1\)\(3\)\(4\)\(g\)](#)

Appearance by counsel or solicitor

122 Appearance by counsel or solicitor.

- (1) A party to any proceedings before a magistrates' court may be represented by [^{F3}a legal representative].
- (2) Subject to subsection(3) below, an absent party so represented shall be deemed not to be absent.
- (3) Appearance of a party by [^{F3}a legal representative] shall not satisfy any provision of any enactment or any condition of a recognizance expressly requiring his presence.

Textual Amendments

- F3** Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37, 82\)](#), s. 125(3), [Sch. 18 para. 25\(3\)\(b\)](#)

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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)

C2 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.
- (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.

[^{F4}A warrant of arrest, warrant of commitment or warrant of distress which is issued by a justice of the peace for the enforcement of [^{F5}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 ^{M1}General Rate Act 1967.

- (3) A warrant to [^{F6}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.

[^{F7}(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 ^{M2}1955, section 186(3) of the Air Force Act ^{M3}1955, section 105(3) of the Naval Discipline Act ^{M4}1957 or Schedule 5 to the Reserve Forces Act ^{M5}1980 (desertion etc.);

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- (c) a warrant under—
- (i) section 102 or 104 of the General Rate Act ^{M6}1967 (insufficiency of distress);
 - (ii) section 18(4) of the Domestic Proceedings and Magistrates' Courts Act ^{M7}1978 (protection of parties to marriage and children of family); and
 - (iii) section 55, 76, 93 or 97 above.]

Textual Amendments

- F4** Para. inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), ss. 65(1), 123(6), **Sch. 8 para. 16**
- F5** Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37, 82\)](#), s. 125(2), **Sch. 17 para. 11**
- F6** Words substituted by [Police and Criminal Evidence Act 1984 \(c. 60, SIF 95\)](#), s. 33(a)
- F7** S. 125(4) added by [Police and Criminal Evidence Act 1984 \(c. 60, SIF 95\)](#), s. 33(b)

Modifications etc. (not altering text)

- C3** 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).
- M5** 1980 c. 9 (7:2).
- M6** 1967 c. 9 (103:1).
- M7** 1978 c. 22 (49:3).

VALID FROM 06/04/2014

[^{F8}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

- F8** S. 125ZA inserted (prosp.) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), ss. 68, 148 (with s. 89)

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VALID FROM 08/01/2001

[^{F9}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.
- (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

F9 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)

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)

VALID FROM 08/01/2001

[^{F10}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;

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- (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 ^{M8}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 section 31A(4) of the Justices of the ^{M9}Peace Act 1997 by the magistrates’ courts committee concerned.]

Textual Amendments

F10 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)

C5 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

M8 1997 c.25.

M9 1997 c.25.

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VALID FROM 18/07/2005

[^{F11}125B] 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

F11 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

[^{F12}125C] Disclosure 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
 - “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,

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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

F12 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)

C6 S. 125C extended (8.1.2001) by S.I. 2000/3277, art. 2

VALID FROM 31/03/2005

[^{F13}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.
- (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

F13 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)

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

Textual Amendments

- F13** 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 19/02/2001

[^{F14}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—

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- (a) a warrant to arrest a person in connection with an offence;
 - (b) a warrant under section 186(3) of the ^{M10}Army Act 1955, section 186(3) of the ^{M11}Air Force Act 1955, section 105(3) of the ^{M12}Naval Discipline Act 1957 or Schedule 2 to the ^{M13}Reserve Forces Act 1996 (desertion etc.);
 - (c) a warrant under section 102 or 104 of the ^{M14}General Rate Act 1967 (insufficiency of distress);
 - (d) a warrant under section 47(8) of the ^{M15}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 ^{M16}Crime and Disorder Act 1998 (unwilling witnesses);
 - (f) a warrant under paragraph 3(2) of Schedule 1 to the ^{M17}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

F14 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)

C7 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)

Marginal Citations

M10 1955 c.18.
M11 1955 c.19.
M12 1957 c.53.
M13 1966 c.14.
M14 1967 c.9.
M15 1996 c.27.
M16 1998 c.37.
M17 1999 c.23.

126 Execution of certain warrants outside England and Wales.

Sections 12 to 14 of the ^{M18}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

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(d) warrants of commitment issued under this Act.

Marginal Citations

M18 1848 c. 42.

Limitation of time

127 Limitation of time.

- (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.
- (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.

Modifications etc. (not altering text)

- C8** S. 127 excluded by [Insurance Companies Act 1982 \(c. 50, SIF 67\)](#), **s. 94(2)**
- C9** S. 127 excluded by [Water Act 1989 \(c. 15, SIF 130\)](#), **ss. 58(7), 101(1), 121(2), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58**
S. 127 excluded (25.11.1991) by [Town and Country Planning Act 1990 \(c. 8, SIF 123:1\)](#), **ss. 65(9), 194(3)** (as substituted (25.11.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), **ss. 16(1)** and 10(1) respectively; [S.I. 1991/2728](#), **art. 2** (for limited purposes))
- C10** S. 127 excluded (1.12.1991) by [Water Resources Act 1991 \(c. 57, SIF 130\)](#), **ss. 101, 225(2)** (with **ss. 16(6), 179, 222(3), Sch. 22 para. 1, Sch. 23 para. 6**)
- C11** S. 127 excluded: (1.12.1991) by [Water Resources Act 1991 \(c. 57, SIF 130\)](#), **ss. 202(5), 225(2)** (with **ss. 16(6), 179, 222(3), Sch. 22 para. 1, Sch. 23 para. 6**); and (28.10.1992) by [S.I. 1992/2372](#), **reg. 90**
S. 127 excluded (1.4.1997) by [S.I. 1997/704](#), **rule 5(1)(7)(a)**
S. 127 excluded (25.7.2003 for specified purposes and 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\)](#), **ss. 174(1), 411(5)** (with **Sch. 18**); [S.I. 2003/1900](#), **art. 1(2), 2, 3(1), Sch. 1**; [S.I. 2003/3142](#), **art. 3(2)** (with **art. 11**)

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- S. 127 excluded (5.4.2004) by 1976 c. 63, s. 6(10) (as inserted by Criminal Justice Act 2003 (c. 44), **ss. 15(3), 336** (with s. 141); S.I. 2004/829, **art. 2(2)(b)** (subject to art. 2(3)-(6))
- S. 127 excluded (7.3.2005) by S.I. 2005/281, **reg. 93**
- S. 127 excluded (1.10.2005) by S.I. 2005/1803, **reg. 41(1)**
- S. 127 excluded (8.2.2007) by 2006 c. 36, **ss. 41(8)(a)**, 126
- S. 127 excluded (20.7.2007) by 2006/3418, {reg. 54} (with regs. 7-14, 63, 64)
- C12** S. 127 restricted (1.10.2009) by Planning Act 2008 (c. 29), **ss. 58(6)(7)**, 226, 241; S.I. 2009/2260, **art. 2**
- C13** S. 127(1) modified by Transport Act 1982 (c. 49, SIF 107:1), **ss. 38(3)(8)**, 49(13)(b)
- C14** S. 127(1) excluded by Companies Act 1985 (c. 6, SIF 27), **s. 731(2)**
- C15** S. 127(1) modified by Surrogacy Arrangements Act 1985 (c. 49, SIF 39:2), **s. 4(6)**
- C16** S. 127(1) excluded by Animals (Scientific Procedures) Act 1986 (c. 14, SIF 4:5), **s. 26(3)**
- C17** S. 127(1) excluded by Insolvency Act 1986 (c. 45, SIF 66), **s. 431(2)**
- C18** S. 127(1) excluded by Banking Act 1987 (c. 22, SIF 10), **s. 97(2)**
- S. 127(1) excluded (23.5.1994) by S.I. 1994/1323, **art. 17(7)**
- S. 127(1) excluded (19.10.1994) by S.I. 1994/2673, **art. 13(7)**
- S. 127 excluded (1.4.1997) by S.I. 1997/704, **rule 5(1)(7)(a)**
- S. 127(1) excluded (1.7.1999) by 1985 c. 23, **s. 22B(4)** (as inserted by 1998 c. 37, **ss.45**, 121(2); S.I. 1999/1279, **art. 2**)
- S. 127(1) excluded (3.2.1995) by 1991 c. 53, **s. 20A** (as inserted by 1994 c. 33, s. 168(1), **Sch. 9 para.43**; S.I. 1995/127, **art. 2(1)**, **Sch. 1**Appendix A)
- S. 127(1) excluded (1.11.1997) (*temp.*) by S.I. 1997/2592, **art. 12(7)**
- C19** S. 127(1) modified by Road Traffic Offenders Act 1988 (c. 53, SIF 107:1), **ss. 64(7)(b)**, 66(4), 92
- S. 127(1) modified (21.7.1997) by 1997 c. 22, **s. 21(4)(a)**; S.I. 1997/1672, **art. 2**
- C20** S. 127(1) excluded by S.I. 1989/438, **reg. 29(3)**
- C21** S. 127(1) excluded by S.I. 1989/1058, **reg. 12(3)**
- C22** S. 127(1) excluded (14.10.1991) by Children Act 1989 (c. 41, SIF 20), **ss. 70(8)**, 108(6), (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- C23** S. 127(1) excluded by S.I. 1990/1768, **art. 8(6)** (as replaced by S.I. 1990/2144, **art. 3**)
- C24** S. 127(1) excluded: (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), **ss. 20(4)**, 101(1), **Sch. 12 para. 6** (with s. 28); S.I. 1992/333, **art. 2(2)**, **Sch.2**; and (1.4.1992) by S.I. 1992/613, **reg. 34(3)**; and (15.4.1992) by S.I. 1992/975, **art. 16(7)**; and (5.6.1992) by S.I. 1992/1302, **art. 17(7)**; and (1.5.1993) by S.I. 1993/1188, **art. 16(6)**; and (24.5.1993) by S.I. 1993/1244, **art. 22(8)**; and (22.7.1993) by S.I. 1993/1784, **art. 13(7)**; and (22.7.1993) by S.I. 1993/1787, **art. 10(7)**; and (1.10.1993) by S.I. 1993/2355, **art. 12(7)**; and (1.12.1993) by S.I. 1993/2807, **art. 19(7)**
- S. 127(1) excluded (25.10.1999) by 1973 c. 35, **s. 11A(2)** (as inserted (25.10.1999) by 1999 c. 26, s. 31, **Sch. 7 paras. 1, 5**; S.I. 1999/2830, 2(1), **Sch. 1 Pt. I**)
- S. 127(1) excluded (26.11.1999) by S.I. 1999/3133, **art. 8(7)**
- C25** S. 127(1) amended (4.7.1996) by 1996 c. 25, **s. 56** (with s. 78(1))
- S. 127(1) excluded (3.6.1999) by S.I. 1999/1516, **reg. 9(4)**
- S. 127(1) excluded (16.6.2000) by S.I. 2000/1556, **art. 17**
- S. 127(1) excluded (25.8.2000) by 2000 c. 6, **ss. 126(6)**, 168(1)
- S. 127(1) excluded (16.2.2001) by 2000 c. 41, **s. 151(2)** (with s. 156(6)); S.I. 2001/222, **art. 2**, **Sch. 1 Pt. I**
- S. 127(1) excluded (16.3.2001) by S.I. 2001/947, **art. 16(7)**
- S. 127(1) excluded (10.10.2001) by S.I. 2001/3365, **art. 10(5)**
- S. 127(1) excluded (14.12.2001) by 2001 c. 24, **ss. 6, 127(2)**, **Sch. 3 para. 8(4)** (with s. 14(3))
- S. 127(1) excluded (24.10.2002) by S.I. 2002/2628, **art. 16(7)**
- S. 127(1) excluded (25.1.2002) by S.I. 2002/111, **art. 20(8)**
- S. 127(1) excluded (14.1.2003) by 1981 c. 22, **s. 71A** (as inserted by 2002 c. 42, **s. 14**); S.I. 2002/3044 **art. 2(a)**
- S. 127(1) excluded (14.6.2003) by S.I. 2003/1519, **art. 20(7)**
- S. 127(1) excluded (13.2.2004) by S.I. 2004/348, **art. 15(7)**

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- S. 127(1) excluded (11.2.2005) by S.I. 2005/253, **reg. 9(7)**
- S. 127(1) excluded (4.4.2005) by Criminal Justice Act 2003 (c. 44), **ss. 162(6)**, 336; S.I. 2005/950, **art. 2**, Sch. 1 para. 7 (subject to art. 2(2) and Sch. 2)
- S. 127(1) excluded (21.8.2006) by 1984 c. 55, s. 35A(1) (as inserted by Climate Change and Sustainable Energy Act 2006 (c. 19), **ss. 13(1)**), 28
- S. 127(1) excluded (21.5.2007) by Gambling Act 2005 (c. 19), **ss. 347(2)**, 361 (with ss. 352, 354); S.I. 2006/3272, **art. 2(4)**, Sch. 2 (as amended by S.I. 2007/1157, arts. 3(3), **4(2)(3)(c)**)
- S. 127(1) excluded (27.3.2007 for W. and 6.4.2007 for E.) by Animal Welfare Act 2006 (c. 45), **ss. 31(1)**, 68 (with ss. 1(2), 58(1), 59 and 60); S.I. 2007/1030, **art. 2(1)(e)**; S.I. 2007/499, **art. 2(2)(g)**
- C26** S. 127(1) modified (7.2.2005) by Licensing Act 2003 (c. 17), **ss. 186(3)**, 201 (with ss.2(3), 15(2), 195); S.I. 2004/2360, **art. 2**
- C27** S. 127(1) excluded by 1998 c. 37, s. 13B(7) (as inserted (20.7.2006 for certain purposes, otherwise prosp.) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 144, 178, **Sch. 10 para. 2**; S.I. 2006/1871, **art. 2**, Sch.
- C28** S. 127(1) excluded (26.5.2008) by The Business Protection from Misleading Marketing Regulations 2008 (S.I. 2008/1276), **reg. 10(3)**
- C29** S. 127(1) excluded (26.5.2008) by The Consumer Protection from Unfair Trading Regulations 2008 (S.I. 2008/1277), **reg. 14(3)** (with savings in reg. 28(2)(3))
- C30** S. 127(1) excluded (10.10 a.m. on 8.10.2008) by The Landsbanki Freezing Order 2008 (S.I. 2008/2668), **art. 10(3)**
- C31** S. 127(1) excluded (prosp.) by the Public Health (Control of Disease) Act 1984 (c. 22)1984 c. 22, ss. 64A(1) (as inserted by the Health and Social Care Act 2008 (c. 14), ss. 130, 170, **Sch. 11 para. 22**)
- C32** S. 127(1) excluded (10.4.2009) by The Iran (United Nations Sanctions) Order 2009 (S.I. 2009/886), **art. 12(6)**
- C33** S. 127(1) excluded (10.7.2009) by The North Korea (United Nations Sanctions) Order 2009 (S.I. 2009/1749), **art. 14(6)**

Remand

128 Remand in custody or on bail.

- (1) Where a magistrates' court has power to remand any person, then, subject to section 4 of the ^{M19}Bail Act 1976 and to any other enactment modifying that power, the court may—
- remand him in custody, that is to say, commit him to custody to be brought before the court [^{F15}, subject to subsection (3A) below,]at the end of the period of remand or at such earlier time as the court may require; or
 - 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 ^{M20}Bail Act 1976, that is to say, by directing him to appear as provided in subsection (4) below; or
 - 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.

[^{F16}(1A) Where—

- on adjourning a case under section 5, 10(1) or 18(4) above the court proposes to remand or further remand a person in custody; and

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- (b) he is before the court; and
- (c) he has attained the age of 17; and
- (d) he is legally represented in that court,

it shall be the duty of the court—

- (i) to explain the effect of subsections (3A) and (3B) below to him in ordinary language; and
- (ii) to inform him in ordinary language that, notwithstanding the procedure for a remand without his being brought before a court, he would be brought before a court for the hearing and determination of at least every fourth application for his remand, and of every application for his remand heard at a time when it appeared to the court that he had no [^{F17}legal representative]acting for him in the case.

(1B) For the purposes of subsection (1A) above a person is to be treated as legally represented in a court if, but only if, he has the assistance of [^{F18}a legal representative]to represent him in the proceedings in that court.

(1C) After explaining to an accused as provided by subsection (1A) above the court shall ask him whether he consents to hearing and determination of such applications in his absence.]

(2) Where the court fixes the amount of a recognizance under subsection (1) above or section 8(3) of the ^{M21}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).

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

[^{F19}(3A) Subject to subsection (3B) below, where a person has been remanded in custody [^{F20}and the remand was not a remand under section 128A below for a period exceeding 8 clear days,], the court may further remand him [^{F20}(otherwise than in the exercise of the power conferred by that section)]on an adjournment under section 5, 10(1) or 18(4) above without his being brought before it if it is satisfied—

- (a) that he gave his consent, either in response to a question under subsection (1C) above or otherwise, to the hearing and determination in his absence of any application for his remand on an adjournment of the case under any of those provisions; and
- (b) that he has not by virtue of this subsection been remanded without being brought before the court on more than two such applications immediately preceding the application which the court is hearing; and
- (c) that he had attained the age of 17 years when he gave his consent to the hearing and determination of such applications in his absence; and
- (d) that he has not withdrawn his consent to their being so heard and determined.

(3B) The court may not exercise the power conferred by subsection (3A) above if it appears to the court, on an application for a further remand being made to it, that the person to whom the application relates has no [^{F21}legal representative]acting for him in the case (whether present in court or not).

(3C) Where—

- (a) a person has been remanded in custody on an adjournment of a case under section 5, 10(1) or 18(4) above; and

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- (b) an application is subsequently made for his further remand on such an adjournment; and
 - (c) he is not brought before the court which hears and determines the application; and
 - (d) that court is not satisfied as mentioned in subsection (3A) above,
- the court shall adjourn the case and remand him in custody for the period for which it stands adjourned.
- (3D) An adjournment under subsection (3C) above shall be for the shortest period that appears to the court to make it possible for the accused to be brought before it.
- (3E) Where—
- (a) on an adjournment of a case under section 5, 10(1) or 18(4) above a person has been remanded in custody without being brought before the court; and
 - (b) it subsequently appears—
 - (i) to the court which remanded him in custody; or
 - (ii) to an alternate magistrates' court to which he is remanded under section 130 below,that he ought not to have been remanded in custody in his absence, the court shall require him to be brought before it at the earliest time that appears to the court to be possible.]
- (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 [F22sections 128A and]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;
 - (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

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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 [^{F23}detention at a police station].

[^{F24}(8) Where a person is committed to detention at a police station under subsection (7) above—

- (a) he shall not be kept in such detention unless there is a need for him to be so detained for the purposes of inquiries into other offences;
- (b) if kept in such detention, he shall be brought back before the magistrates' court which committed him as soon as that need ceases;
- (c) he shall be treated as a person in police detention to whom the duties under section 39 of the Police and Criminal Evidence Act 1984 (responsibilities in relation to persons detained) relate;
- (d) his detention shall be subject to periodic review at the times set out in section 40 of that Act (review of police detention).]

Textual Amendments

- F15** Words inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 59(1), **Sch. 9 para. 2**
- F16** [S. 128\(1A\)—\(1C\)](#) inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 59(1), **Sch. 9 para. 3**
- F17** Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37, 82\)](#), s. 125(3), **Sch. 18 para. 25(4)(a)**
- F18** Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37, 82\)](#), s. 125(3), **Sch. 18 para. 25(3)(a)(b)**
- F19** [S. 128\(3A\)—\(3E\)](#) inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 59(1), **Sch. 9 para. 4**
- F20** Words inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), ss. 123(6), 170(1), **Sch. 15 para. 69(1)**
- F21** Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37, 82\)](#), s. 125(3), **Sch. 18 para. 25(4)(a)**
- F22** Words substituted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), **ss. 123(6)** 170(1), Sch. 15 para. 69(2)
- F23** Words substituted by [Police and Criminal Evidence Act 1984 \(c. 60, SIF 95\)](#), **ss. 48(a)**, 51, 52
- F24** [S. 128\(8\)](#) inserted by [Police and Criminal Evidence Act 1984 \(c. 60, SIF 95\)](#), **ss. 48(b)**, 51, 52

Modifications etc. (not altering text)

- C34** [S. 128](#) amended by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), **s. 52(3)**
- C35** [S. 128\(7\)](#) modified (1.10.1992) by [Children and Young Persons Act 1969 \(c. 54, SIF 20\)](#), **s. 23(14)** (as substituted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), **s. 60(1)**; S.I. 1992/333, art. 2(2), **Sch.2**)

Marginal Citations

- M19** 1976 c. 63.
- M20** 1976 c.63.
- M21** 1976 c. 63.

[^{F25}**128A**Remands in custody for more than eight days.

(1) The Secretary of State may by order made by statutory instrument provide that this section shall have effect—

- (a) in an area specified in the order; or

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- (b) in proceedings of a description so specified,
in relation to any accused person ("the accused") who has attained the age of 17.
- (2) A magistrates' court may remand the accused in custody for a period exceeding 8 clear days if—
- (a) it has previously remanded him in custody for the same offence; and
- (b) he is before the court,
- but only if, after affording the parties an opportunity to make representations, it has set a date on which it expects that it will be possible for the next stage in the proceedings, other than a hearing relating to a further remand in custody or on bail, to take place, and only—
- (i) for a period ending not later than that date; or
- (ii) for a period of 28 clear days,
- whichever is the less.
- (3) Nothing in this section affects the right of the accused to apply for bail during the period of the remand.
- (4) A statutory instrument containing an order under this section shall not be made unless a draft of the instrument has been laid before Parliament and been approved by a resolution of each House.]

Textual Amendments

F25 S. 128A inserted (E.W.) by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), ss. 123(6), 155(1), [Sch. 8 para. 16](#)

Modifications etc. (not altering text)

C36 S. 128A extended (2.12.1991) by [S.I. 1991/2667](#), [art.2](#)

129 Further remand.

- (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;

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(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.

130 Transfer of remand hearings.

- (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.
- (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.

[^{F26}(4A) Where a magistrates' court is satisfied as mentioned in section 128(3A) above—

- (a) subsection (1) above shall have effect as if for the words “he be brought up for any subsequent remands before” there were substituted the words “applications for any subsequent remands be made to”;
- (b) subsection (2) above shall have effect as if for the words “the accused to be brought before” there were substituted the words “an application for a further remand to be made to” and
- (c) subsection (4) above shall have effect as if for the words “him to be brought before” there were substituted the words “an application for a further remand to be made to”.]

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

Textual Amendments

F26 S. 130(4A) inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 59(1), [Sch. 9 para. 5](#)

131 Remand of accused already in custody.

- (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.

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- (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)^{F27}

Textual Amendments

F27 S. 131(3) repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 59(1), Sch. 9 para. 6, **Sch. 16**

Restrictions on imprisonment

132 Minimum term.

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

133 Consecutive terms of imprisonment.

- (1) A magistrates' court imposing imprisonment [^{F28}or youth custody]on any person may order that the term of imprisonment [^{F28}or youth custody]shall commence on the expiration of any other term of imprisonment [^{F28}or youth custody]imposed by that or any other court; but where a magistrates' court imposes two or more terms of imprisonment [^{F28}or youth custody]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.
- [^{F29}(2A) In relation to the imposition of terms of detention in a young offender institution subsection (2) above shall have effect as if the reference to an offence triable either way were a reference to such an offence or an offence triable only on indictment.]
- (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.

Textual Amendments

F28 Words inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 77, **Sch. 14 para. 56**

Status: Point in time view as at 05/11/1993. This version of this part contains provisions that are not valid for this point in time.

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F29 S. 133(2A) inserted by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 123(6), 170(1), **Sch. 15 para. 70**

Detention for short periods

134 **F30**

Textual Amendments

F30 S. 134 repealed by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 49, 123, 170(2), Sch. 8 para. 16, **Sch. 16**

135 Detention of offender for one day in court-house or police station.

- (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.
- (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.
- [^{F31}(3) This section shall have effect in relation to a person [^{F32}aged 18] or over but less than 21 as if references in it to prison were references to detention under section 9 of the Criminal Justice Act 1982 (detention of persons [^{F32}aged 18] to 20 for default).]

Textual Amendments

- F31** S. 135(3) added by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 77, **Sch. 14 para. 58**
- F32** Words in s. 135(3) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 68, 101(1), Sch. 8 para. 6(3), **Sch. 12 para. 22(1)**; S.I. 1992/333, art. 2(2), **Sch.2**

136 Committal to custody overnight at police station for non-payment of sum adjudged by conviction.

- (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.
- (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 [^{F33}or any person who—
 - (a) is employed by an authority of a prescribed class;
 - (b) is authorised in the prescribed manner to execute such warrants; and

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- (c) is acting within the area for which the authority that employs him performs its functions.]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.
- (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.
- [^{F34}(4) This section shall have effect in relation to a person [^{F35}aged 18] or over but less than 21 as if references in it to prison were references to detention under section 9 of the Criminal Justice Act 1982 (detention of persons [^{F35}aged 18] to 20 for default).]

Textual Amendments

F33 Words inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), ss. 65(2), 123, [Sch. 8 para. 16](#)

F34 [S. 136\(4\)](#) added by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 77, [Sch. 14 para. 58](#)

F35 Words in [s. 136\(4\)](#) substituted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), ss. 68, 101(1), [Sch. 8 para. 6\(3\)](#), [Sch. 12 para. 22\(1\)](#); S.I. 1992/333, art. 2(2), [Sch.2](#)

Modifications etc. (not altering text)

C37 [S. 136](#) excluded (26.11.1999) by S.I. 1999/3133, [art. 8\(8\)](#)

Fees, fines, forfeitures, etc.

137 Fees.

- (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 [^{F36}Lord Chancellor] 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.

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Textual Amendments

F36 Words in s. 137(4) substituted (1.4.1992) by S.I. 1992/709, art. 2(3), **Sch.1**

Modifications etc. (not altering text)

C38 S. 137(1) excluded by [Sporting Events \(Control of Alcohol etc.\) Act 1985 \(c. 57, SIF 39:2\)](#), s. 4(6)

C39 S. 137(4): functions of the Secretary of State transferred (1.4.1992) to the Lord Chancellor by S.I. 1992/709, art. 2(1), **Sch.1**

138 Remission of fees

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.

139 Disposal of sums adjudged to be paid by conviction.

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 ^{M22}Peace Act 1979 or any other enactment relating to the sum.

Marginal Citations

M22 1979 c. 55.

140 Disposal of non-pecuniary forfeitures.

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.

Modifications etc. (not altering text)

C40 S. 140 excluded by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), s. 80(12)

C41 S. 140 excluded by [Wireless Telegraphy Act 1949 \(c. 54, SIF 96\)](#), s. 14(3C) (as substituted by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), s. 82)

C42 S. 140 excluded (E.W.) by [Prevention of Terrorism \(Temporary Provisions\) Act 1989 \(c. 4, SIF 39:2\)](#), s. 13(8), **Sch. 4 para. 1(7)**

C43 S. 140 excluded (19.2.2001) by 2000 c. 11, s. 23(9), **Sch. 4 para. 2(4)**; S.I. 2001/421, art. 2

C44 S. 140 excluded (25.7.2003) by [The Advanced Television Services Regulations 2003 \(S.I. 2003/1901\)](#), reg. 8, **Sch. para. 8(10)**

S. 140 excluded (8.2.2007) by [Wireless Telegraphy Act 2006 \(c. 36\)](#), ss. 103, 126, **Sch. 5 para. 6**

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Clerks to justices

141 Clerks to justices.

- (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.

Modifications etc. (not altering text)

- C45** S. 141 applied by [Public Order Act 1986 \(c. 64, SIF 39:2\)](#), **ss. 34(3)**, 37
- C46** S. 141 applied (E.W.) by [Prevention of Terrorism \(Temporary Provisions\) Act 1989 \(c. 4, SIF 39:2\)](#), s. 13(8), **Sch. 4 para. 1(5)**
- C47** S. 141 applied with modifications (*prosp.*) by s. 7(10)(c) and (24.4.1991) by s. 18(4) of [Football Spectators Act 1989 \(c. 37, SIF 45A\)](#)

Power to rectify mistakes etc.

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

- (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.
- (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.
- (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—

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- (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

[^{F37}143] Power to alter sums specified in certain provisions.

[^{F38}(1) If it appears to the Secretary of State that there has been a change in the value of money since the relevant date, he may by order substitute for the sum or sums for the time being specified in any provision mentioned in subsection (2) below such other sum or sums as appear to him justified by the change.]

(2) The said provisions are—

- (a) section 22 (1) above;
- [^{F39}(aa) section 24(3) and (4) above;]
- (b) the definition of “the prescribed sum” in section 32(9) above;
- (c) paragraph (a) of section 33(1) above
- [^{F40}(ca) section 34(3)(b) above;
- (cb) section 36 above;]
- (d) section 40(1) above;
- [^{F41}(dd) section 59B(3) above;]
- (e) the Table in paragraph 1 of Schedule 4 to this Act.
- [^{F42}(f) any provision mentioned in Schedule 6A to this Act;
- (g) paragraph 11(2) of Schedule 5A to the Army Act ^{M23}1955 and to the Air Force Act ^{M24}1955 (compensation orders);
- (h) paragraph 14(1) of that Schedule and paragraph 14(1) of Schedule 4A to the Naval Discipline Act ^{M25}1957 (recognizance from parents and guardians);
- [^{F43}(i) section 2(13) of the Children and Young Persons Act ^{M26}1969 (recognizance from parents and guardians);]
- (j) the Table in section 31(3A) of the Powers of Criminal Courts Act ^{M27}1973;
- (k) section 8(1)(b) of the Armed Forces Act ^{M28}1976 (maximum fine awarded by Standing Civilian Courts);
- (l) ^{F44}
- (o) section 37(2) of the Criminal Justice Act 1982.]
- [^{F45}(p) section 58(2) and (3) of the Criminal Justice Act 1991 (recognisance from parents or guardians);]

[^{F46}(3) In subsection (1) above the “relevant date” means—

- (a) the date of the coming into force of section 17 of the Criminal Justice Act 1991 (increase of certain maxima); or

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- (b) where the sums specified in a provision mentioned in subsection (2) above have been substituted by an order under subsection (1) above, the date of that order.]
- (4) ^{F47}
- (6) An order under subsection (1) ^{F48} 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.

Textual Amendments

- F37** S. 143(2)(i) repealed (E.W.) (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(7), **Sch. 15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)** and expressed to be repealed (E.W.) (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 100, 101(2), Sch. 11 para. 27(1), **Sch. 13**; S.I. 1992/333, art. 2(2), **Sch. 2**
- F38** S. 143(1) substituted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 48(1)(a)
- F39** S. 143(2)(aa) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 48(1)(b)(i)
- F40** S. 143(2)(ca)(cb) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1) s. 48(1)(b)(ii)
- F41** S. 143(2)(dd) inserted (E.W.) (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s. 11(1), **Sch. 2 para. 9**; S.I. 1992/455, **art. 2**.
- F42** S. 143(2)(f)–(o) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 48(1)(b)(iii)
- F43** S. 143(2)(i) repealed (E.W.) (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(7), **Sch. 15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)** and expressed to be repealed (E.W.) (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 100, 101(2), Sch. 11 para. 27(1), **Sch.13**; S.I. 1992/333, art. 2(2), **Sch.2**
- F44** S. 143(2)(l)–(n) repealed by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 123, 170(2), Sch. 8 para. 16, **Sch. 16**
- F45** S. 143(2)(p) inserted (E.W.) (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, **Sch. 11**, para. 27(1); S.I. 1992/333, art. 2(2), **Sch.2**
- F46** S. 143(3) expressed to be inserted (E.W.) (1.10.1992) for subsection (3) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, **Sch. 11**, para. 27(2); S.I. 1992/333, art. 2(2), **Sch.2**
- F47** S. 143(4)(5) repealed by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 123, 170(2), Sch. 8 para. 16, **Sch. 16**
- F48** Words in s. 143(6) repealed by Criminal Justice Act 1988 (c. 33, SIF 39:1) ss. 123, 170(2), Sch. 8 para. 16, Sch. 16

Modifications etc. (not altering text)

- C48** S. 143 extended (N.I.) by Finance Act 1983 (c. 28, SIF 40:2), s. 47, **Sch. 9 para. 1(1)**
- C49** S. 143(2) extended by Drug Trafficking Offences Act 1986 (c. 32, SIF 39:1), s. 6(5)(6)

Marginal Citations

- M23** 1955 c. 18 (7:1).
- M24** 1955 c. 19 (7:1).
- M25** 1957 c. 53 (7:1).
- M26** 1969 c.54 (20)
- M27** 1973 c. 62 (39:1).
- M28** 1976 c. 52 (7:1).

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Rules

144 Rule committee and rules of procedure.

- (1) The Lord Chancellor may appoint a rule committee for magistrates' courts, and may on the advice of or after consultation with the rule committee make rules for regulating and prescribing the procedure and practice to be followed in magistrates' 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
 - [^{F49}(a) one justices' clerk;
 - (b) one person who has a Supreme Court qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990); and
 - (c) one person who has been granted by an authorised body, under Part II of that Act, the right to conduct litigation in relation to all proceedings in the Supreme Court.]
- (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.

Textual Amendments

F49 S. 144(3)(a)(b)(c) substituted for words from "one justice's clerk" to the end by Courts and Legal Services Act 1990 (c. 41, SIF 37, 82), s. 125(3), **Sch. 18 para. 25(7)(a)**

Modifications etc. (not altering text)

- C50** S. 144 extended by Criminal Law Act 1977 (c. 45, SIF 39:1), s. 48 (as amended by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154(1), **Sch. 7 para. 151**)
- C51** S. 144 extended by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 28, 123(6), Sch. 2 para. 4(c), **Sch. 8 para. 16**
- C52** S. 144 extended (1.7.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 82), ss. 10(2); S.I. 1991/1364, art. 2, **Sch.**
- C53** S. 144 extended by Extradition Act 1989 (c. 33, SIF 48), ss. 1(3), 7(3), 14(2), **Sch. 1 para. 9(2)**
- C54** S. 144 extended (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 97(1), 108(6) (with Sch. 14 para. 1(1)); S.I. 1991/828, art. 3(2)
- C55** S. 144 amended (17.6.1992) by Child Support Act 1991 (c. 48, SIF 20), s. 10(5), (with s. 9(2)); S.I. 1992/1431, art. 2 **Sch.2**
- C56** S. 144 extended (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 20(5)(b), 101(1), **Sch. 12 para. 6** (with s. 28); S.I. 1992/333, art. 2(2), **Sch.2**
S. 144 modified (*prosp.*) by 1999 c. 22, ss. 14, 108(1), Sch. 3 para. 2(7) (with s. 107, **Sch. 14 para. 7(2)**)
- C57** S. 144 extended (5.11.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1972 (c. 18), s. 18(1A) (as inserted (5.11.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1992 (c. 56), s. 1, **Sch. 1 Pt. II para.11**); S.I. 1993/618, art.2

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- C58** S. 144 extended (5.11.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1972 (c. 18), s. 38A (as inserted (5.11.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1992 (c. 56), s. 1, Sch. 1 Pt. II Para.18); S.I. 1993/618, art.2
- S. 144 extended (4.7.1996, with effect as mentioned in s. 1 of the amending Act and S.I. 1997/682, art. 2(1)(a)) by 1996 c. 25, s. 19(1)(a)(2) (with s. 78(1)); S.I. 1997/682, art. 2(1)(a)
- S. 144 extended (4.7.1996, with effect as mentioned in s. 1 of the amending Act and S.I. 1997/682, art. 2(1)(a)) by 1996 c. 25, s. 19(3) (with s. 78(1)); S.I. 1997/682, art. 2(1)(a)
- S. 144(1) extended (4.7.1996, with effect as mentioned in s. 1 of the amending Act and S.I. 1997/682, art. 2(1)(a)) by 1996 c. 25, s. 20(3) (with s. 78(1)); S.I. 1997/682, art. 2(1)(a)
- S. 144(1) extended (19.6.1997) by 1997 c. 25, ss. 44(3), 74(1) (with Sch. 4 para. 27)
- S. 144 extended (19.6.1997) by 1997 c. 25, ss. 45(1)(2), 74(1) (with Sch. 4 para. 27)
- S. 144 extended (1.8.1998 with effect for specified purposes as mentioned in S.I. 1998/1883 and 30.9.1998 to the extent that it is not already in force as mentioned in S.I. 1998/2337) by 1998 c. 37, s. 49(2); S.I. 1998/1883, art. 2(b) and S.I. 1998/2327, art. 3(2), Sch. 2
- S. 144 extended (30.9.1998 for purposes specified in S.I. 1998/2327, art. 2(1)(m) and 4.1.1999 for purposes specified in S.I. 1998/2327, art. 4(2)(b), Sch. 2) by 1998 c. 37, s. 52(6), Sch. 3 para. 4(5) (12); S.I. 1998/2327, arts.2(1)(m), 4(2)(b), Sch.2
- S. 144 extended (25.8.2000) by 2000 c. 6, ss. 132(2), 168(1)

VALID FROM 03/04/2006

[^{F50}144A Rules to be made if required by Lord Chancellor

- (1) This section applies if the Lord Chancellor gives the Lord Chief Justice written notice that he thinks it is expedient for rules made under section 144 to include provision that would achieve a purpose specified in the notice.
- (2) The Lord Chief Justice must make such rules as he considers necessary to achieve the specified purpose.
- (3) Those rules must be—
 - (a) made within a reasonable period after the Lord Chancellor gives notice to the Lord Chief Justice;
 - (b) made in accordance with section 144.
- (4) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.]

Textual Amendments

- F50** S. 144A inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, Sch. 4 para. 103 ; S.I. 2006/1014, art. 2(a)

145 Rules: supplementary provisions.

- (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;

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- (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 [^{F51}legal representative];
 - (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 ^{M29}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 ^{M30}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.
- (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 ^{M31}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.

Textual Amendments

F51 Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), Sch. 18 para. 25(4)(c)

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Marginal Citations

M29 1965 c. 69.

M30 1949 c. 101.

M31 1949 c. 101.

[^{F52}145A] Rules: costs order against legal representative.

- (1) In any civil proceedings, a magistrates' court may disallow or (as the case may be) order the legal or other representative concerned to meet the whole of any wasted costs or such part of them as may be determined in accordance with rules.
- (2) In subsection (1), “wasted costs” means any costs incurred by a party—
 - (a) as a result of any improper, unreasonable or negligent act or omission on the part of any legal or other representative or any employee of such a representative; or
 - (b) which, in the light of any such act or omission occurring after they were incurred, the court considers it is unreasonable to expect that party to pay.
- (3) In this section “legal or other representative”, in relation to any proceedings, means any person who is exercising a right of audience, or a right to conduct litigation, on behalf of any party to the proceedings.
- (4) Rules made by virtue of this section may, in particular, make provision as to the destination of any payment required to be made under the rules (including provision for the reimbursement of sums paid by the Legal Aid Board).
- (5) Rules made by virtue of this section—
 - (a) shall require a magistrates' court which proposes to act under the rules against a legal or other representative to allow him a reasonable opportunity to appear before it and show cause why it should not do so;
 - (b) shall provide that action may be taken under the rules either on the application of any party to the proceedings or on the motion of the court;
 - (c) shall provide that no such action shall be taken after the end of the period of six months beginning with the date on which the proceedings are disposed of by the court; and
 - (d) shall provide that a legal or other representative against whom action is taken under the rules may appeal to the Crown Court.]

Textual Amendments

F52 S. 145A inserted (1.10.1991) by [Courts and Legal Services Act 1990 \(c. 41, SIF 82\)](#), s. 112; S.I. 1991/1883, art.2.

Rules about [^{F53}youth courts]

Textual Amendments

F53 Words in s. 146 substituted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), s. 100, [Sch. 11 para. 40\(2\)\(n\)](#); S.I. 1992/333, art. 2(2), [Sch.2](#)

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146 Rules relating to [^{F54} youth court panels] and composition of [^{F55} youth courts].

- (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,—
- (a) the formation and revision of [^{F54} youth 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 [^{F55} youth courts]; and
 - (c) the composition of [^{F55} youth 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 [^{F54} youth court panels] by him and for the removal from a [^{F54} youth court panel] of any justice who, in his opinion, is unsuitable to serve on a [^{F55} youth court].
- (3) Rules made by virtue of this section may make different provision in relation to different areas for which [^{F54} youth 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 [^{F54} youth court panels] are formed and [^{F55} youth courts] are constituted;
 - (b) the provisions of Part I of Schedule 2 to the ^{M32}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 ^{M33}Children and Young Persons Act 1933) with respect to the making of recommendations and orders relating to the formation of combined [^{F54} youth court panels]; or
 - (c) the provisions of paragraph 14 of that Schedule relating to the divisions of the metropolitan area for which [^{F55} youth 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 ^{M34}Administration of Justice Act 1964 (which amend those paragraphs).
- (5) In this section “the metropolitan area” means the inner London area and the City of London.

Textual Amendments

- F54** Words in s. 146 substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, **Sch. 11 para. 41(2)(e)**; S.I. 1992/333, art. 2(2), **Sch.2**
- F55** Words in s. 146 substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, **Sch. 11 para. 40(2)(n)**; S.I. 1992/333, art. 2(2), **Sch.2**

Marginal Citations

- M32** 1963 c. 37.
M33 1933 c. 12.

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M34 1964 c. 42

Occasional court-houses

147 Occasional court-house.

- (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.

Modifications etc. (not altering text)

C59 Definition in s. 147 applied (31.10.1991) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), [s. 92\(1\)](#); [S.I. 1991/2208, art. 2\(4\)](#), [Sch. 3](#)

Interpretation

148 “Magistrates’ court”.

- (1) In this Act the expression “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.

Modifications etc. (not altering text)

C60 S. 148(2) extended (4.7.1996) by [1996 c. 25, s. 76](#) (with [s. 78\(1\)](#))

149 Isles of Scilly.

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

150 Interpretation of other terms.

- (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;

F56

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“bail in criminal proceedings” has the same meaning as in the ^{M35}Bail Act 1976;

“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;

“ [^{F57}family 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;

[^{F58}“legal representative” means an authorised advocate or authorised litigator, as defined by section 119(1) of the Courts and Legal Services Act 1990;]

“London commission area” has the same meaning as in the Justices of the ^{M36}Peace Act 1979;

[^{F59}“magistrates’ court maintenance order” means a maintenance order enforceable by a magistrates’ court;

“maintenance order” means any order specified in Schedule 8 to the Administration of Justice Act ^{M37}1970 and includes such an order which has been discharged, if any arrears are recoverable thereunder;]

“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;

[^{F60}“petty sessions area” has the same meaning as in the Justices of the Peace Act ^{M38}1979;]

“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—

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- (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.

Textual Amendments

- F56** Definition of “affiliation order” repealed by [Family Law Reform Act 1987 \(c. 42, SIF 49:7\)](#), ss. 33(1)(2)(4), [Sch. 2 para. 88\(a\)](#), Sch. 3 paras. 1, 6, Sch. 4
- F57** Words in s. 150(1) substituted (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), ss. 92, 108(6), [Sch. 11 Pt. II para. 8\(c\)](#) (with [Sch. 14 para. 1\(1\)](#)); S.I. 1991/828, [art. 3\(2\)](#)
- F58** Definition of “legal representative” inserted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37, 82\)](#), s. 125(3), [Sch. 18 para. 25\(2\)](#)
- F59** Definitions of “magistrates' court maintenance order” and “maintenance order” inserted by [Family Law Reform Act 1987 \(c. 42, SIF 49:7\)](#), s. 33(1)(2), [Sch. 2 para. 88\(b\)](#), Sch. 3 paras 1, 6
- F60** Definition of “petty sessions area” substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 12(11)

Modifications etc. (not altering text)

- C61** Definition of “magistrates' court maintenance order” in s. 150(1) applied (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), ss. 15(1), 108(6), [Sch. 1 para. 12\(3\)](#) (with [Sch. 14 para. 1\(1\)](#)); S.I. 1991/828, [art. 3\(2\)](#)

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Definition of "magistrates' court maintenance order" in s. 150(1) applied (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), ss. 29, 108(6), [Sch. 2 para. 24\(1\)](#) (with [Sch. 14 para. 1\(1\)](#)); [S.I. 1991/828, art. 3\(2\)](#)

Definition of "magistrates' court maintenance order" in s. 150(1) extended (1.7.1992) by [Social Security Administration Act 1992 \(c. 5\)](#), [ss. 106\(5\)](#), 192(4)

Marginal Citations

M35 1976 c. 63.

M36 1979 c. 55.

M37 1970 c. 31 (45:1).

M38 1979 c. 55 (82).

Miscellaneous

151 Application of Act to distress for rates.

- (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 ^{M39}General Rate Act 1967.
- (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.
- (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.

Marginal Citations

M39 1967 c. 9.

152 Saving for juvenile courts.

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.

153 Magistrates' court may sit on Sundays and public holidays.

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.

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Repeals, short title, etc.

154 Consequential amendments, transitional provisions, repeals, etc.

- (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.
- (4) Nothing in this Act shall be taken as prejudicing the operation of sections 16 and 17 of the ^{M40}Interpretation Act 1978 (which relate to the effect of repeals).

Marginal Citations

M40 1978 c. 30.

155 Short title, extent and commencement.

- (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 ^{M41}Indictable Offences Act 1848 to which they refer.
- ^{F61}(5)
- (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.

Subordinate Legislation Made

P1 Power of appointment conferred by s. 155(7) fully exercised: 6.7.1981 appointed by [S.I. 1981/457](#)

Textual Amendments

F61 [S. 155\(5\)](#) repealed (5.11.1993) by [1993 c. 50, s. 1\(1\)](#), [Sch. 1 Pt. XIV](#) Group1

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Marginal Citations

M41 [1848 c. 42.](#)

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