



# Magistrates' Courts Act 1980

## 1980 CHAPTER 43

### PART VII

#### MISCELLANEOUS AND SUPPLEMENTARY

##### *Power to rectify mistakes etc.*

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

(1) [<sup>F1</sup>A magistrates' court may vary or rescind a sentence or other order imposed or made by it when dealing with an offender if it appears to the court to be in the interests of justice to do so;] 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.

[<sup>F2</sup>(1A) The power conferred on a magistrates' court by subsection (1) above shall not be exercisable in relation to any sentence or order imposed or made by it when dealing with an offender if—

- (a) the Crown Court has determined an appeal against—
  - (i) that sentence or order;
  - (ii) the conviction in respect of which that sentence or order was imposed or made; or
  - (iii) any other sentence or order imposed or made by the magistrates' court when dealing with the offender in respect of that conviction (including a sentence or order replaced by that sentence or order); or
- (b) the High Court has determined a case stated for the opinion of that court on any question arising in any proceeding leading to or resulting from the imposition or making of the sentence or order.]

(2) Where a person is [<sup>F3</sup>convicted by a magistrates' court]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, <sup>F4</sup>. . .so direct.

*Status: Point in time view as at 01/01/1996.*

*Changes to legislation: Magistrates' Courts Act 1980, Cross Heading: Power to rectify mistakes etc. is up to date with all changes known to be in force on or before 03 June 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)*

- [<sup>F5</sup>(2A) The power conferred on a magistrates' court by subsection (2) above shall not be exercisable in relation to a conviction if—
- (a) the Crown Court has determined an appeal against—
    - (i) the conviction; or
    - (ii) any sentence or order imposed or made by the magistrates' court when dealing with the offender in respect of the conviction; or
  - (b) the High Court has determined a case stated for the opinion of that court on any question arising in any proceeding leading to or resulting from the conviction.]
- (3) Where a court gives a direction under subsection (2) above—
- (a) the [<sup>F6</sup>conviction] 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.
- <sup>F7</sup>(4) .....
- (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.

#### Textual Amendments

- F1** Words in s. 142(1) substituted (1.1.1996) by 1995 c. 35, s. 26(2); S.I. 1995/3061, art. 3(c)
- F2** S. 142(1A) inserted (1.1.1996) by 1995 c. 35, s. 26(3); S.I. 1995/3061, art. 3(c)
- F3** Words in s. 142(2) substituted (1.1.1996) by 1995 c. 35, s. 26(4)(a); S.I. 1995/3061, art. 3(c)
- F4** Words in s. 142(2) repealed (1.1.1996) by 1995 c. 35, ss. 26(4)(b), 29(2), Sch.3; S.I. 1995/3061, art. 3(c)(d)(i)(iv)
- F5** S. 142(2A) inserted (1.1.1996) by 1995 c. 35, s. 26(5); S.I. 1995/3061, art. 3(c)
- F6** Word in s. 142(3) substituted (1.1.1996) by 1995 c. 35, s. 26(6); S.I. 1995/3061, art. 3(c)
- F7** S. 142(4) repealed (1.1.1996) by 1995 c. 35, s. 26(7), 29(2), Sch. 3; S.I. 1995/3061, art. 3(c)(d)(i)(iv)

**Status:**

Point in time view as at 01/01/1996.

**Changes to legislation:**

Magistrates' Courts Act 1980, Cross Heading: Power to rectify mistakes etc. is up to date with all changes known to be in force on or before 03 June 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.