

The text of this Act is shown “as amended” by amendments found within the Justice Reform Act 2021, and any additional amendments set out within the Justice Reform (Amendment) Bill 2025 (JRAB) once these take effect.

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SUMMARY JURISDICTION ACT 1989

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Index

Section	Page
PART I – PRELIMINARY	11
1 Appointment and powers of High Bailiffs.....	11
1A Extended powers of courts of summary jurisdiction	12
2 [Repealed]	13
3 Holding of courts.....	13
PART II – CRIMINAL JURISDICTION AND PROCEDURE	13
<i>Commencement of proceedings</i>	13
3A Allocation and transfer of proceedings	13
4 Issue of summons or warrant	14
<i>Committal proceedings</i>	15
5 Inquiry by court	15
6 Discharge or committal for trial.....	15
7 Restrictions on reports of committal proceedings	17
7A Power to make rulings at pre-trial hearing.....	19
7B Effect of rulings at pre-trial hearing.....	20
7C Restrictions on reporting	20
7D Offences in connection with reporting	22
<i>Summary trial of complaint</i>	23
<i>Summary proceedings of complaint</i>	23
A8 Discontinuance of proceedings in courts of summary jurisdiction.....	23
8 Procedure on trial	24
9 Adjournment of trial	24
10 Non-appearance of accused: general provisions.....	24
11 Non-appearance of accused: plea of guilty	25
12 Non-appearance of accused: issue of warrant.....	26
13 Proceedings invalid where accused did not know of them.....	27
14 Non-appearance of prosecutor	27
15 Non-appearance of both parties	28

	<i>Summary trial of offences Offences triable on information</i>	28
15A	Initial procedure: accused to indicate intention as to plea	28
15B	Intention as to plea: absence of accused	29
15C	Intention as to plea: adjournment	30
16	Summary trial of offences listed in Schedule 2	30
17	Committal for sentence	31
18	Summary trial of offences triable either way	33
18	Decision as to venue	33
18A	Procedure where summary trial appears more suitable	34
18B	Procedure where trial on information appears more suitable	35
18C	Sending cases to a Court of General Gaol Delivery: adults	35
18D	Sending cases to a Court of General Gaol Delivery: children and young persons	37
18E	Notices in serious or complex fraud cases	39
18F	Provisions supplementing section 18C and 18D	40
18G	Restrictions on reporting	41
18H	Offences in connection with reporting	43
18I	Depositions	43
19	Summary trial of child or young person	43
20	Effect of conviction or dismissal	45
	<i>Right to claim trial by jury</i>	45
21	Right to claim trial by jury for certain summary offences	45
	<i>Remand for reports</i>	46
22	Remand for social inquiry reports	46
23	Remand for medical reports	46
	<i>Powers in respect of offenders</i>	48
24	Consecutive terms of imprisonment	49
25	Mitigation of penalties, etc	49
26	Fixing amount of fine	50
27	Restriction on fines on children and young persons	50
27A	Mentally disordered persons	50
	<i>Costs</i>	50
28	Power to award costs in trial or committal proceedings	50
29	Power to award costs out of Government funds	51
	<i>Miscellaneous</i>	52
30	Prosecutions	52
31	Offences relating to criminal damage	53
32	Corporations	53
32	Corporations	54
33	Power of court of summary jurisdiction to re-open cases to rectify sentencing etc, mistakes	55
33ZA	Person brought before summary court in connection with proceedings in Court of General Gaol Delivery	56

33A	Power of court of summary jurisdiction to re-open cases to rectify mistaken conviction.....	56
34	Disposal of property in possession of police etc	57
35	Return of property taken from accused.....	57
36	[Repealed]	58
36A	Alternative verdicts	58
PART III – JUVENILE COURTS YOUTH COURTS		59
37	Constitution of juvenile courts youth courts	59
38	Assignment of certain matters to juvenile courts youth courts	59
39	Procedure in juvenile courts youth courts	60
40	Miscellaneous powers of juvenile courts youth courts	61
41	[Repealed]	61
PART IV – CIVIL JURISDICTION AND PROCEDURE		61
42	Application of Part IV	61
43	Hearing.....	61
44	Non-appearance of defendant	62
45	Non-appearance of complainant	63
46	Non-appearance of both parties	63
47	Costs	63
PART V – DOMESTIC PROCEEDINGS		64
	<i>Domestic proceedings</i>	64
DIVISION 1: DOMESTIC PROCEEDINGS		64
48	Meaning of “domestic proceedings”	64
49	Composition of courts for domestic proceedings	65
50	Sittings of courts for domestic proceedings.....	66
51	Restrictions on reports of domestic proceedings	66
52	Report by probation officer on parties’ means	67
53	Examination of witnesses by court.....	68
DIVISION 2: THE PROHIBITION ON CROSS-EXAMINATION		68
53A	Prohibition of cross-examination in person: introductory.....	68
53B	Prohibition of cross-examination in person: victims of offences	68
53C	Prohibition of cross-examination in person: persons protected by injunctions etc.....	70
53D	Direction for prohibition of cross-examination in person: other cases	71
53E	Directions under section 53D: supplementary	72
53F	Alternatives to cross-examination in person	73
53G	Costs of advocates appointed under section 53F	74
	<i>Orders in domestic proceedings</i>	74
DIVISION 3: ORDERS IN DOMESTIC PROCEEDINGS		74
54	Periodical payment through Chief Registrar.....	74
55	Revocation etc of periodical payments orders.....	75

56	Periodical payments due under more than one order	75
57	Payments to be made to a minor etc.....	76
58	Power to remit arrears	77

PART VI – WITNESSES AND EVIDENCE **77**

	<i>Witnesses</i>	77
59	Attendance of witnesses	77
60	Protection from civil arrest	78
61	Binding over of witnesses	79
	<i>Evidence: general</i>	79
62	Evidence on oath	79
62A	Confessions by mentally handicapped persons.....	79
63	Note of evidence	80
64	Proof of non-payment of fine etc.....	80
65	Statement of wages to be evidence	80
66	Onus of proving exceptions etc.....	80
67	Proof of convictions	81
68	Deposition of dying person	81
69	Certificate of conviction or order	82
	<i>Committal proceedings</i>	82
70	Evidence at inquiry	82
71	Written statements: further provisions	83
72	Evidence of children	84
	<i>False statements</i>	85
73	False statements in certificates etc.....	85

PART VII – PROCEDURE- GENERAL PROVISIONS **85**

	<i>Appearances</i>	85
74	Appearance by an advocate.....	85
	<i>Limitation of time</i>	86
75	Limitation of time	86
	<i>Forms of proceedings</i>	87
76	Forms of complaint etc	87
77	Defect in process.....	87
78	Order books.....	87
79	Copies of proceedings	88
79A	Methods of authenticating court records and other documents	88
	<i>Summonses and warrants</i>	88
80	Service of process	88
81	Backing of warrant issued in UK or Channel Islands	89
82	Validity of warrants	90
83	Warrant endorsed for bail	90
	<i>Remand</i>	91

84	Remand in custody or on bail	91
84A	Remands in custody for more than eight days	92
85	Further remand	92
86	Remand of accused already in custody	92
	<i>Recognizances</i>	93
87	Exercise of power to bind over	93
87A	Confirmation of powers to bind over	93
88	Enforcement of recognizances	94
89	Forfeiture of recognizances	95
	<i>Contempt of court</i>	95
90	Power to commit and fine for contempt	95
	<i>Rules of court</i>	95
91	Rules of court	95
91	Rules of court and court forms	96
91A	Live video and audio links	98
91B	Requirement to attend court: perjury	99
	PART VIII - ENFORCEMENT	99
	<i>Orders for payment of money</i>	99
92	Power to dispense with immediate payment	99
93	Recovery of periodical payments by Chief Registrar	100
94	Methods of enforcement	100
94A	Enforcement by attachment of earnings or application for benefit deductions	101
94B	Duty of employer under attachment of earnings order	102
94C	Statement of earnings	103
94D	Offences in relation to attachment of earnings orders	103
94E	Recovery of sums due by deductions from benefit	104
94F	Disclosure of information in connection with attachment of earnings or application for benefit deductions	105
94G	Rules of court	107
95	Committal in default of payment	107
95A	Fine defaulters: community service orders	109
	TABLE	110
96	Enforcement of periodical payments orders	110
97	Effect of committal on non-payment	111
98	Allowing time for payment of fine etc	111
99	Application of money found on defaulter	112
100	Remission of fines	113
101	Exercise of mercy in certain cases	113
101A	Register of sums adjudged to be paid on conviction	113
	<i>Orders other than for payment of money</i>	114
102	Enforcement of other orders	114
102A	Interpretation for this Part	115

PART IX – APPEALS	116
<i>Criminal appeals</i>	116
103 Right of appeal against conviction or sentence	116
<i>Appeals in domestic proceedings</i>	116
104 Appeals in domestic proceedings	116
<i>Procedure</i>	117
105 Procedure on appeals	117
106 Hearing and decision on appeal	118
107 Costs	119
108 Abandonment of appeal	119
<i>Case stated etc.</i>	120
109 Appeal by way of case stated	120
109A Review of sentences passed by courts of summary jurisdiction	121
109B Custody etc pending review	121
110 [Repealed]	122
PART X – MISCELLANEOUS AND SUPPLEMENTAL	122
<i>Miscellaneous</i>	122
111 Powers of Deemsters	122
112 Protection of justices	122
113 Indemnification of justices and clerks	122
<i>Supplemental</i>	123
114 Interpretation	123
115 Transitional provisions and amendments	125
116 Short title and commencement	125
SCHEDULE 1	127
FORMS OF OATH	127
SCHEDULE 2	128
OFFENCES TRIABLE ON INFORMATION WHICH CAN BE DEALT WITH SUMMARILY	128
SCHEDULE 2A	131
MENTALLY DISORDERED PERSONS	131
SCHEDULE 3	137
PROTECTION OF JUSTICES	137
<i>Acts beyond jurisdiction</i>	137
SCHEDULE 4	138
TRANSITIONAL PROVISIONS	138

SCHEDULE 5	140
AMENDMENT OF ENACTMENTS	140
SCHEDULE 6	141
ENDNOTES	143
TABLE OF LEGISLATION HISTORY	143
TABLE OF RENUMBERED PROVISIONS	143
TABLE OF ENDNOTE REFERENCES	143

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SUMMARY JURISDICTION ACT 1989

Received Royal Assent: 12 December 1989
Passed: 12 December 1989
Commenced: 1 April 1990

AN ACT to re-enact with amendments the enactments relating to courts of summary jurisdiction and related enactments; and for connected purposes.

GENERAL NOTES

1. See SD352/09 Rules of the High Court of Justice 2009 Sch 15.1 para 3 reproduced below:

"3. In any statutory provision a reference to a petition of doloance shall be construed as an application to the court in accordance with —

- (a) Chapter 9 of Part 13 (review of detention),
- (b) rule 14.16 (appeal by way of case stated), or
- (c) Chapter 2 of Part 14 (review of lawfulness of decision etc.),

as the case may require."

PART I – PRELIMINARY

1 Appointment and powers of High Bailiffs

- (1) The Governor shall by warrant under his hand appoint a fit and proper person to be High Bailiff.
- (2) The Governor may by warrant under his hand appoint a fit and proper person to be ~~Deputy High Bailiff~~ a **Deputy High Bailiff**, either generally or for the purposes of a particular cause or matter or for any specified period; and a Deputy High Bailiff shall have the like powers and exercise the like jurisdiction as the High Bailiff.

- (3) The High Bailiff and ~~Deputy High Bailiff~~ a Deputy High Bailiff shall hold office during the pleasure of the Governor, but if appointed on a full-time basis shall in any event vacate office on attaining the age of 75.¹
- (4) The High Bailiff and a Deputy High Bailiff shall not practise as an advocate.
- (5) The High Bailiff and ~~Deputy High Bailiff~~ a Deputy High Bailiff shall have concurrent jurisdiction with justices sitting as courts of summary jurisdiction including youth courts.
- (6) A High Bailiff or ~~Deputy High Bailiff~~ a Deputy High Bailiff shall on appointment take before a Deemster the oaths set out in Part I of Schedule 1.

1A Extended powers of courts of summary jurisdiction

- (1) A court of summary jurisdiction, including a youth court, may try a person for any offence, other than one for which the sentence is fixed by law.
- (2) An offence is one for which the sentence is fixed by law where it is an offence in respect of which the court has no discretion as to the sentence which it may impose.
- (3) In this Act and any other enactment, except where the context otherwise requires, a reference to an offence triable either way includes a reference to an offence triable on information which, under subsection (1), a court of summary jurisdiction may try.
- (4) On conviction of an offence falling within subsection (1), a court of summary jurisdiction may impose —
 - (a) a term of custody (whether immediate or suspended) not exceeding 2 years; or
 - (b) a fine.

This is subject to the qualifications in subsection (5).

- (5) Subsection (4) —
 - (a) has effect despite any general restriction imposed on the sentencing powers of a court of summary jurisdiction (including, for the sake of clarity, a youth court); but
 - (b) is subject —
 - (i) in the case of an offence which, but for this section would be triable only on information, to the maximum sentence which might be imposed by a Court of General Gaol Delivery;
 - (ii) in the case of an offence triable either way, to the maximum sentence which might be imposed by a Court of General Gaol Delivery; and

- (iii) in the case of an offence triable only summarily, to the maximum sentence prescribed for the offence.

2 [Repealed]²

3 Holding of courts

[1988/1/2]

- (1) The High Bailiff or ~~Deputy High Bailiff~~ a **Deputy High Bailiff** shall hold court at such times and places as the High Bailiff may, in accordance with any directions of the First Deemster, appoint.³
- (2) Courts of summary jurisdiction consisting of 2 or more justices shall be held at such times and places as the Chief Registrar may, in accordance with any directions of the First Deemster, appoint.⁴
- (3) This section is without prejudice to any power of the High Bailiff or ~~Deputy High Bailiff~~ a **Deputy High Bailiff** or justices to hear and determine any case, or to deal with any matter, otherwise than at a court held in accordance with subsection (1) or (2).
- (4) No person shall act as clerk of any court of summary jurisdiction unless he has taken before a Deemster the oath set out in Part II of Schedule 1.⁵

PART II – CRIMINAL JURISDICTION AND PROCEDURE

Commencement of proceedings

3A Allocation and transfer of proceedings

- (1) Subject to rules of court and any directions of the First Deemster, on the commencement of any proceedings in a court of summary jurisdiction, whether by complaint or by application or otherwise, the Chief Registrar shall allocate the proceedings to such court of summary jurisdiction as he thinks convenient.⁶
- (2) Subject to such rules of court and any directions of the First Deemster, where any proceedings have been commenced in a court of summary jurisdiction but the court has not begun to hear evidence in the proceedings, it may, on an application by any party or of its own motion, order that they be transferred to such other court of summary jurisdiction as appears to it more convenient and is specified in the order; and where such an order is made, the proceedings shall be deemed to have been commenced in the court so specified.⁷
- (3) This section is subject to section 38 (~~juvenile courts~~ **youth courts**) and section 49 (domestic proceedings).⁸

4 Issue of summons or warrant

[P1980/43/1]

- (1) Upon a complaint being made before a justice that any person has, or is suspected of having, committed an offence, the justice may, subject to subsection (2) —
 - (a) issue a summons directed to that person requiring him to appear before a court of summary jurisdiction to answer to the complaint, or
 - (b) issue a warrant to arrest that person and to bring him before a court of summary jurisdiction.
- (1A) Upon a complaint being made before a justice that —
 - (a) an offence has been or is suspected of having been committed in the Island; and
 - (b) a person outside the Island has, or is suspected of having, committed the offence; and
 - (c) there are reasonable grounds for believing that it is necessary for the purpose of securing or preserving evidence relating to that offence or to obtain such evidence by questioning the person, that the person should be arrested and brought to the Island,the justice may, subject to subsection (2), issue a warrant to arrest that person for such purposes.⁹
- (2) No warrant shall be issued under this section unless the complaint is in writing and substantiated on oath.
- (3) A warrant under this section may be issued at any time notwithstanding that a summons has previously been issued.
- (4) A justice may issue a summons or warrant under this section upon a complaint being laid before him notwithstanding any enactment requiring the complaint to be laid before 2 or more justices.
- (5) Where a justice issues a warrant under this section, he may order that the complainant enter into a recognizance to appear at the court where the complaint is to be heard or inquired into and to prosecute or give evidence against the accused.
- (6) Where 2 or more complaints are laid against the same person or persons, a single summons may be issued against that person or each of those persons in respect of all the complaints if the matter of each complaint is separately stated in the summons; and any such summons shall be treated as if it were a separate summons in respect of each complaint.

*Committal proceedings***5—Inquiry by court**

- (1) ~~Where a complaint is laid before a justice that any person has, or is suspected of having, committed an offence triable on information, the complaint shall be inquired into by a court of summary jurisdiction.⁴⁰~~
- (2) ~~Where such an offence may be dealt with summarily—~~
- ~~(a) the court may adjourn the inquiry for the purpose of ascertaining whether it is expedient to do so; and~~
 - ~~(b) if only one justice is present, he shall adjourn the inquiry to a court which may do so.~~
- (3) ~~Without prejudice to subsection (2), a court of summary jurisdiction may adjourn an inquiry before beginning it or at any time during it.~~
- (4) ~~When adjourning an inquiry, a court of summary jurisdiction shall—~~
- ~~(a) remand the accused; and~~
 - ~~(b) fix the time and place at which the inquiry is to be resumed, which shall be that at which the accused is required to appear or be brought before it in pursuance of the remand.~~

6—Discharge or committal for trial

- (1) ~~Subject to subsection (2) and to any enactment providing for the summary trial of offences triable on information, if the court inquiring into an offence under section 5 is of opinion, on consideration of the evidence and of any statement of the accused, that there is sufficient evidence to put the accused on trial by jury for any offence triable on information, it shall commit him for trial; but if it is not of that opinion and he is in custody for no other cause than the offence under inquiry, it shall discharge him.~~
- (2) ~~A court of summary jurisdiction inquiring into an offence under section 5 may, if it is satisfied that all the evidence before it (whether for the prosecution or the defence) consists of written statements under section 70, commit the accused for trial for the offence without consideration of the contents of those statements unless—~~
- ~~(a) the accused or one of the accused is not represented by an advocate, or~~
 - ~~(b) an advocate for the accused or one of them has requested it to consider a submission that the statements disclose insufficient evidence to put that accused on trial for the offence.~~
- (3) ~~A court of summary jurisdiction may commit a person for trial—~~
- ~~(a) in custody, that is, by committing him to custody there to be safely kept until delivered in due course of law; or~~

- (b) ~~on bail, that is, by taking from him a recognizance to appear before a Court of General Gaol Delivery at the time and place appointed for the trial.~~
- (4) ~~Where a court has committed a person in custody under subsection (3)(a) and he is in custody for no other cause, it may, at any time before his first appearance before a Court of General Gaol Delivery, grant him bail in accordance with subsection (3)(b).~~
- (5) ~~Where a court of summary jurisdiction commits any person for trial or determines to discharge him, the clerk of the court shall, on the day on which the inquiry is concluded or the next day, cause to be displayed in a part of the court house to which the public have access a notice—~~
- (a) ~~in either case giving that person's name, address and age (if known);~~
- (b) ~~where the justices commit him for trial, stating the charge on which he is committed;~~
- (c) ~~where they determine to discharge him, describing the offence charged and stating that they have so determined;~~
- ~~but this subsection has effect subject to Part 8 of the *Sexual Offences and Obscene Publications Act 2021* and to any witness anonymity order under the *Criminal Justice (Witness Anonymity) Act 2011* relating to the proceeding.¹¹~~
- (6) ~~A notice displayed in pursuance of subsection (5) shall not contain the name or address of any person under the age of 17 years unless the court has stated that in its opinion he would be mentioned in it apart from this subsection and should be mentioned in it for the purpose of avoiding injustice to him.~~
- (7) ~~As soon as practicable after a person is committed for trial, the clerk of the court shall transmit to the Chief Registrar—~~
- (a) ~~the complaint, if in writing;~~
- (b) ~~any written statements put in evidence under section 70 or 72;~~
- (c) ~~the depositions of any witnesses who gave evidence orally under that section and the certificate under section 70(2)(c);~~
- (d) ~~all statements made by the accused before the justices;~~
- (e) ~~all exhibits produced in evidence;~~
- (f) ~~all recognizances;~~
- (g) ~~a statement in writing of the names, addresses and descriptions of the witnesses who are, or are treated as being, bound over conditionally to attend the trial;~~
- ~~and shall notify the Attorney General in writing of the committal.~~

7 — Restrictions on reports of committal proceedings

[P1980/43/8]

- (1) ~~Except as provided by subsection (2), (4) and (9), it shall not be lawful to publish in the Island a written report, or to include in a relevant programme for reception in the Island a report, of any inquiry in the Island containing any matter other than that permitted by subsection (5).¹²~~
- (2) ~~Subject to subsection (3), a court of summary jurisdiction shall, on an application for the purpose made with reference to any inquiry by the accused or one of the accused, as the case may be, order that subsection (1) shall not apply to reports of the inquiry.~~
- (3) ~~Where there is more than one accused, and an application is made for the purpose by one or more, but not all, of the accused, the court shall invite representations from all the accused, and shall not make an order under subsection (2) unless it is satisfied that it is in the interests of justice to do so; and subsection (1) shall apply to proceedings under this subsection.~~
- (4) ~~It shall not be unlawful under this section to publish or include in a relevant programme a report of an inquiry containing any matter other than that permitted by subsection (5) —~~
- ~~(a) — where the court of summary jurisdiction determines not to commit the accused, or any of the accused, for trial, after it so determines;~~
 - ~~(b) — where the court commits the accused or any of the accused for trial, after the conclusion of his trial or as the case may be, the trial of the last to be tried;~~
- ~~and where at any time during the inquiry the court proceeds to try summarily the case of one or more of the accused under section 16, 18 or 19, while committing the other accused or one or more of the other accused for trial, it shall not be unlawful under this section to publish or include in a relevant programme as part of a report of the summary trial, after the court determines to proceed as aforesaid, a report of so much of the inquiry containing any such matter as takes place before the determination.¹³~~
- (5) ~~The following matters may be contained in a report of an inquiry published or included in a relevant programme without an order under subsection (2) before the time authorised by subsection (4) —~~
- ~~(a) — the identity of the court and the names of the justices;~~
 - ~~(b) — the names, addresses and occupations of the parties and witnesses and the ages of the accused and witnesses;~~
 - ~~(c) — the offence or offences, or a summary of them, with which the accused is or are charged;~~
 - ~~(d) — the names of advocates engaged in the proceedings;~~

- ~~(e) — any decision of the court to commit the accused or any of the accused for trial, and any decision of the court on the disposal of the case of any accused not committed;~~
- ~~(f) — where the court commits the accused or any of the accused for trial, the charge or charges, or a summary of them, on which he is committed and the court to which he is committed;~~
- ~~(g) — where the inquiry is adjourned, the date and place to which it is adjourned;~~
- ~~(h) — any arrangements as to bail on committal or adjournment;~~
- ~~(i) — whether legal aid was granted to the accused or any of the accused.¹⁴~~
- ~~(6) — If a report is published or included in a relevant programme in contravention of this section, the following persons —~~
 - ~~(a) — in the case of a publication of a written report as part of a newspaper or periodical, any proprietor, editor or publisher of the newspaper or periodical;~~
 - ~~(b) — in the case of a publication of a written report otherwise than as part of a newspaper or periodical, the person who publishes it;~~
 - ~~(c) — in the case of the inclusion of a report in a relevant programme, any body corporate which is engaged in providing the service in which the programme is included and any person having functions in relation to the programme corresponding to those of an editor of a newspaper;¹⁵~~
 - ~~(d) — [Repealed]¹⁶~~

~~shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.¹⁷~~
- ~~(7) — Proceedings for an offence under this section shall not be instituted otherwise than by or with the consent of the Attorney General.~~
- ~~(8) — Subsection (1) is in addition to, and not in derogation from, the provisions of any other enactment with respect to the publication of reports and proceedings of courts of summary jurisdiction and other courts.~~
- ~~(9) — For the purposes of this section an inquiry shall, in relation to a complaint charging an offence triable on information, be deemed to include any proceedings in the court before it proceeds to inquire into the complaint under section 5; but where a court which has begun to try a complaint summarily discontinues the summary trial in pursuance of section 18(6) and proceeds to inquire into it under section 5, that circumstance shall not make it unlawful under this section for a report of any proceedings on the complaint which was published or included in a relevant programme before the court determined to proceed as aforesaid to have been so published or so included.¹⁸~~

- ~~(10) Any report in a newspaper, and any report included in a relevant programme, of an inquiry in a case where publication is permitted by virtue only of subsection (4), published as soon as practicable after it is so permitted, shall be treated for the purposes of section 8 of the *Libel and Slander Act 1892* (privilege of contemporaneous newspaper reports of court proceedings) and section 9 of the *Defamation Act 1954* (extension of the said section 8 to broadcasting) as having been published or so included contemporaneously with the committal proceedings.¹⁹~~

7A Power to make rulings at pre-trial hearing

P1980/43/8A and drafting

- (1) For the purposes of this section a hearing is a pre-trial hearing if, —
 - (a) it relates to a complaint, —
 - (i) which is to be tried summarily, and
 - (ii) to which the accused has pleaded not guilty, and
 - (b) it takes place before the start of the trial.
- (2) For the purposes of subsection (1)(b), the start of a summary trial occurs when the court begins, —
 - (a) to hear evidence from the prosecution at the trial; or
 - (b) to consider whether to exercise its power under paragraph 2(3) of Schedule 2A (power to make hospital order without convicting the accused).
- (3) At a pre-trial hearing, a court of summary jurisdiction may make a ruling as to any matter mentioned in subsection (4) if, —
 - (a) the condition in subsection (5) is met;
 - (b) the court has given the parties an opportunity to be heard; and
 - (c) it appears to the court that it is in the interests of justice to make the ruling.
- (4) The matters are, —
 - (a) any question as to the admissibility of evidence; and
 - (b) any other question of law relating to the case.
- (5) The condition is that, if the accused is not legally represented, —
 - (a) the court must ask whether the accused wishes to be provided with representation for the purposes of the proceedings under Part II of the Legal Aid Act 1986; and
 - (b) if the accused does wish it, the necessary arrangements must be made for the accused to apply for it and, where appropriate, obtain it.
- (6) A ruling may be made under this section, —
 - (a) on an application by a party to the case; or

- (b) of the court's own motion.
- (7) For the purposes of this section and section 7B, references to the prosecutor are to any person acting as prosecutor, whether an individual or body.

7B Effect of rulings at pre-trial hearing

P1980/43/8B and drafting

- (1) A ruling under section 7A has binding effect from the time it is made until the case against the accused or, if there is more than one, against each of them, is disposed of, but subject to subsections (3) and (6).
- (2) The case against an accused is disposed of if, —
 - (a) the accused is acquitted or convicted;
 - (b) the prosecutor decides not to proceed with the case against the accused; or
 - (c) the complaint is dismissed.
- (3) A court of summary jurisdiction may discharge or vary (or further vary) a ruling under section 7A if, —
 - (a) the condition in section 7A(5) is met;
 - (b) the court has given the parties an opportunity to be heard; and
 - (c) it appears to the court that it is in the interests of justice to do so.
- (4) The court may act under subsection (3)—
 - (a) on an application by a party to the case; or
 - (b) of its own motion.
- (5) No application may be made under subsection (4)(a) unless there has been a material change of circumstances since the ruling was made or, if a previous application has been made, since the application (or last application) was made.
- (6) A ruling under section 7A is discharged in relation to an accused if, —
 - (a) a court of summary jurisdiction sends the accused to a Court of General Gaol Delivery for trial for the offence charged in the complaint; or
 - (b) a count charging the accused with the offence is included in an information by virtue of section 5A of the Criminal Jurisdiction Act 1993.

7C Restrictions on reporting

- (1) Except as provided by this section no report of matters falling within subsection (2) may be published in the Island.
- (2) The following matters fall within this subsection, —
 - (a) a ruling under section 7A;

- (b) proceedings on an application for a ruling under section 7A;
 - (c) an order under section 7B that a ruling under section 7A be discharged, varied or further varied;
 - (d) proceedings on an application under section 7B for a ruling under section 7A to be discharged, varied or further varied.
- (3) A court of summary jurisdiction dealing with any matter falling within subsection (2) may order that subsection (1) does not apply, or does not apply to a specified extent, to a report of the matter.
- (4) Where there is only one accused and he or she objects to the making of an order under subsection (3)—
 - (a) the court may make the order if (and only if) satisfied after hearing the representations of the prosecution and the accused that it is in the interests of justice to do so; and
 - (b) if the order is made, it shall not apply to the extent that a report deals with any such objection or representations.
- (5) Where there are two or more accused and one or more of them objects to the making of an order under subsection (3)—
 - (a) the court may make the order if (and only if) satisfied after hearing the representations of the prosecution and each of the accused that it is in the interests of justice to do so; and
 - (b) if the order is made, it does not apply to the extent that a report deals with any such objection or representations.
- (6) Subsection (1) does not apply to the publication of a report of matters after the case against the accused or, if more than one, against each of them, is disposed of.
- (7) Subsection (1) does not apply to a report which contains only one or more of the following matters, —
 - (a) the identity of the court and the names of the justices;
 - (b) the names, ages, home addresses and occupations of the accused and witnesses;
 - (c) the offence or offences, or a summary of them, with which the accused or any of the accused are charged;
 - (d) the names of the advocates in the proceedings;
 - (e) where the proceedings are adjourned, the date and place to which they are adjourned;
 - (f) any arrangements as to bail;
 - (g) whether, for the purposes of the proceedings, representation was provided to the accused or any of the accused under the Legal Aid Act 1986.

- (8) The addresses that may be included in a report by virtue of subsection (7) are addresses, —
 - (a) at any relevant time; and
 - (b) at the time of their inclusion in the publication.
- (9) In subsection (8), “relevant time” means a time when events giving rise to the charges to which the proceedings relate are alleged to have occurred.
- (10) Nothing in this section affects any prohibition or restriction imposed by virtue of any other enactment on the publication of a report of any matter.
- (11) In this section and section 7D references to publication of a report of matters falling within subsection (2)—
 - (a) include references to inclusion of those matters in any speech, writing, relevant programme or other communication in whatever form which is addressed to the public at large or any section of the public, and for this purpose the following are to be treated as so addressed, —
 - (i) every relevant programme; and
 - (ii) every electronic communication, including any comments made by a member of the public, on a website or other social medium and which is capable of being read by a member of the public without being specifically addressed to him or her; but
 - (b) do not include references to inclusion of those matters in a document prepared for use in particular legal proceedings.
- (12) In this section and section 7D “relevant programme” means a programme included in a programme service, within the meaning of the Communications Act 2021.

7D Offences in connection with reporting

- (1) If a report is published in contravention of section 7C each of the following persons is guilty of an offence, —
 - (a) in the case of a publication of a report as part of a newspaper or periodical, any proprietor, editor or publisher of the newspaper or periodical;
 - (b) in the case of the inclusion of a report in a relevant programme, any body corporate which is engaged in providing the service in which the programme is included and any person having functions in relation to the programme corresponding to those of an editor of a newspaper;
 - (c) in the case of any other publication, any person publishing it.

Maximum penalty — (summary) a level 5 fine on the standard scale.

- (2) Proceedings for an offence under this section may be instituted only by or with the consent of the Attorney General.

Summary trial of complaint

Summary proceedings of complaint

A8 Discontinuance of proceedings in courts of summary jurisdiction

P1985/23/23

- (1) Where the Attorney General has the conduct of proceedings for an offence, this section applies in relation to the preliminary stages of those proceedings.
- (2) In this section, "preliminary stage" in relation to proceedings for an offence does not include, —
- (a) any stage of the proceedings after the court has begun to hear evidence for the prosecution at a summary trial of the offence; or
 - (b) any stage of the proceedings after the accused has been sent for trial for the offence.
- (3) Where, at any time during the preliminary stages of the proceedings, the Attorney General gives notice under this section to the court that the Attorney General does not want the proceedings to continue, they are discontinued with effect from the giving of that notice but may be revived by notice given by the accused under subsection (7).
- (4) Where, in the case of a person charged with an offence ("A") after being taken into custody without a warrant, the Attorney General gives A notice, at a time when no court of summary jurisdiction has been informed of the charge, that the proceedings against him are discontinued, they are discontinued with effect from the giving of that notice.
- (5) The Attorney General must, in any notice given under subsection (3) above, give reasons for not wanting the proceedings to continue.
- (6) On giving any notice under subsection (3) above the Attorney General must inform the accused of the notice and of the accused's right to require the proceedings to be continued; but the Attorney General is not obliged to give the accused any indication of his or her reasons for not wanting the proceedings to continue.
- (7) Where the Attorney General has given notice under subsection (3) above, A must, if A wants the proceedings to continue, give notice to that effect to the court within the prescribed period; and where notice is so given the proceedings are to continue as if no notice had been given by the Attorney General under subsection (3) above.
- (8) Where the court has been so notified by the accused he or she must inform the Attorney General.

- (9) The discontinuance of any proceedings by virtue of this section does not prevent the institution of fresh proceedings in respect of the same offence.

8 Procedure on trial

[P1980/43/9]

- (1) On the summary trial of a complaint, the court shall, if the accused appears, state to him the substance of the complaint and ask him whether he pleads guilty or not guilty.
- (2) The court after hearing the evidence and the parties, shall convict the accused or dismiss the complaint.
- (3) If the accused pleads guilty, the court may convict him without hearing evidence.
- (4) Unless otherwise provided by an enactment, no complaint shall be tried summarily except in open court.

9 Adjournment of trial

[P1980/43/10]

- (1) A court of summary jurisdiction may at any time, whether before or after beginning to try a complaint, adjourn the trial.²⁰
- (2) The court may when adjourning either fix the time and place at which the trial is to be resumed, or, unless it remands the accused, leave the time and place to be determined later by the court; but the trial shall not be resumed at that time and place unless the court is satisfied that the parties have had adequate notice thereof.
- (3) On adjourning the trial of a complaint the court may remand the accused.

10 Non-appearance of accused: general provisions

[1986/21/4(1); P1980/43/11]

- (1) Subject to the provisions of this Act, where at the time and place appointed for the trial or adjourned trial of a complaint the prosecutor appears but the accused does not, the court may proceed in his absence.
- (2) Where a summons has been issued, the court shall not begin to try the complaint in the absence of the accused unless either —
 - (a) it is proved to the satisfaction of the court, on oath or in such other manner as may be prescribed, that the summons was served on the accused within what appears to the court to be a reasonable time before the trial or adjourned trial, or
 - (b) the accused has appeared on a previous occasion to answer to the complaint.
- (3) A court of summary jurisdiction shall not in a person's absence —

- (a) sentence him to imprisonment or detention in a detention centre, or
 - (b) make an order under Part II of Schedule 1 to the *Criminal Law Act 1981* that a suspended sentence passed on him shall take effect.
- (4) A court of summary jurisdiction shall not in a person's absence impose any disqualification on him, except on resumption of the hearing after an adjournment under section 22(1); and where a trial is adjourned in pursuance of this subsection the notice required by section 9(2) shall include notice of the reason for the adjournment.

11 Non-appearance of accused: plea of guilty

[1986/21/1; P1980/43/12]

- (1) Subject to subsection (7), this section shall apply where a summons has been issued requiring a person to appear before a court of summary jurisdiction, other than a ~~juvenile court~~ **youth court**, to answer to a complaint for a summary offence, not being an offence for which the accused is liable to be sentenced to be imprisoned for a term exceeding 6 months, and the clerk of the court is notified by or on behalf of the prosecutor that the following documents have been served upon the accused with the summons —
- (a) a notice containing such statement of the effect of this section as may be prescribed; and
 - (b) a concise statement in the prescribed form of such facts relating to the charge as will be placed before the court by or on behalf of the prosecutor if the accused pleads guilty without appearing before the court.
- (2) Where the clerk of the court receives a notification in writing purporting to be given by the accused or by an advocate acting on his behalf that the accused desires to plead guilty without appearing before court, the clerk of the court shall inform the prosecutor of the receipt of the notification.
- (3) If, after such notification is received by the clerk of the court, the accused does not appear at the time and place appointed for the trial or adjourned trial of the complaint, and it is proved to the satisfaction of the court, on oath or in such other manner as may be prescribed, that the notice and statement of facts referred to in subsection (1) have been served upon the accused with the summons, then —
- (a) the court may proceed to hear and dispose of the case in the absence of the accused, whether or not the prosecutor is also absent, in like manner as if both parties had appeared and the accused had pleaded guilty; or
 - (b) if the court decides not to proceed as aforesaid, the court shall adjourn or further adjourn the trial for the purpose of dealing with the complaint as if the notification aforesaid had not been given.

- (4) If at any time before the hearing the clerk of the court receives an intimation in writing purporting to be given by or on behalf of the accused that he wishes to withdraw the notification, the clerk of the court shall inform the prosecutor thereof and the court shall deal with the complaint as if this section had not been passed.
- (5) Before accepting the plea of guilty and convicting the accused in his absence under subsection (3), the court shall cause the notification and statement of facts, including any submission received with the notification which the accused wishes to be brought to the attention of the court with a view to mitigation of sentence, to be read out before the court.
- (6) If the court proceeds under subsection (3) to hear and dispose of the case in the absence of the accused, the court shall not permit any statement to be made by or on behalf of the prosecutor with respect to any facts relating to the offence charged other than the statement of facts aforesaid except on a resumption of the trial after an adjournment under section 9(3).
- (7) Where a trial is adjourned in pursuance of subsection (3) or on the accused's conviction in his absence under that subsection, the notice required by section 9(2) shall include notice of the reason for the adjournment.
- (8) The Department of Home Affairs may by order provide that this section shall not apply in relation to such offences (in addition to an offence for which the accused is liable to be sentenced to be imprisoned for a term exceeding 6 months) as may be specified in the order, but no such order shall have effect unless it is approved by Tynwald.
- (9) The powers conferred on the court under this section are exercisable by a single justice.

12 Non-appearance of accused: issue of warrant

[P1980/43/13]

- (1) Subject to the provisions of this section, where the court, instead of proceeding in the absence of the accused, adjourns or further adjourns the trial, the court may, if the complaint has been substantiated on oath, issue a warrant for his arrest.
- (2) Where a summons has been issued, the court shall not issue a warrant under this section unless either —
 - (a) it is proved to the satisfaction of the court, on oath or in such other manner as may be prescribed, that the summons was served on the accused within what appears to the court to be a reasonable time before the trial or adjourned trial; or
 - (b) the accused has appeared on a previous occasion to answer to the complaint; or

- (c) it appears to the court that the accused is keeping out of the way of service of the summons.

13 Proceedings invalid where accused did not know of them

[1986/21/3; P1980/43/14]

- (1) Where a summons has been issued requiring a person to appear and answer to a complaint and a court of summary jurisdiction has begun to try the complaint, then, if —
 - (a) the accused, at any time during or after the trial, makes a statutory declaration that he did not know of the summons or the proceedings until a date specified in the declaration, being a date after the court has begun to try the complaint; and
 - (b) within 21 days of that date the declaration is served on the clerk of the court,without prejudice to the validity of the complaint, the summons and all subsequent proceedings shall be void.
- (2) If on the application of the accused it appears to a justice that it was not reasonable to expect the accused to serve such a statutory declaration within the said period of 21 days, the justice may accept service of such a declaration by the accused after that period has expired; and a statutory declaration accepted under this subsection shall be deemed to have been served as required by subsection (1).
- (3) Where a statutory declaration complying with subsection (1) is served on the clerk of a court of summary jurisdiction, he shall —
 - (a) note the receipt of the declaration in the order book against the entry in respect of the trial of the complaint to which the declaration relates; and
 - (b) inform the prosecutor of the receipt of the declaration.
- (4) Where any proceedings have become void by virtue of subsection (1), the complaint shall not be tried again by any of the same justices.

14 Non-appearance of prosecutor

[P1980/43/15]

- (1) Where at the time and place appointed for the trial or adjourned trial of a complaint the accused appears or is brought before the court and the prosecutor does not appear, the court may dismiss the complaint or, if evidence has been received on a previous occasion, proceed in the absence of the prosecutor.
- (2) Where, instead of dismissing the complaint or proceeding in the absence of the prosecutor, the court adjourns the trial, it shall not remand the accused in custody unless he has been brought from custody or cannot be remanded on bail by reason of his failure to find sureties.

15 Non-appearance of both parties

[P1980/43/16]

Subject to sections 10(3) and (4) and 11, where at the time and place appointed for the trial or adjourned trial of a complaint neither the prosecutor nor the accused appears, the court may dismiss the complaint or, if evidence has been received on a previous occasion, proceed in their absence.

Summary trial of offences **Offences** triable on information

15A Initial procedure: accused to indicate intention as to plea

- (1) This section has effect if a person who has attained the age of ~~17~~ **18** years appears or is brought before a court of summary jurisdiction charged with ~~an offence specified in Schedule 2 or an offence triable either way.~~
- (2) Everything that the court is required to do under the following provisions of this section must be done with the accused present in court.
- (3) The court must cause the charge to be written down, if this has not already been done, and to be read to the accused.
- (4) The court must then explain to the accused in ordinary language that he or she may indicate whether (if the offence were to proceed to trial) he or she would plead guilty or not guilty, and that if the accused indicates that he or she would plead guilty, —
 - (a) the court must proceed as mentioned in subsection (6); and
 - (b) the accused may be committed for sentence to a Court of General Gaol Delivery under section 17 if the court is of such opinion as is mentioned in subsection (1B)(d) of that section.
- (5) The court must then ask the accused whether (if the offence were to proceed to trial) he or she would plead guilty or not guilty.
- (6) If the accused indicates that he or she would plead guilty the court must proceed as if —
 - (a) the proceedings constituted a summary trial of the information from the beginning; and
 - (b) section 8(1) were complied with and the accused had pleaded guilty under it.
- (7) If the accused indicates that he or she would plead not guilty the court must proceed ~~as set out in section 16 or section 18 as appropriate~~ **in accordance with section 18.**
- (8) If the accused fails to indicate how he or she would plead the accused is taken to indicate that he or she would plead not guilty.
- (9) ~~Subject to subsection (6), the following do not constitute the taking of a plea —~~

- ~~(a) asking the accused whether (if the offence were to proceed to trial) he or she would plead guilty or not guilty;~~
 - ~~(b) an indication by the accused of how he or she would plead.~~
- (10) If in respect of the offence the court receives a notice under section 18E, the preceding provisions of this section shall not apply, and the court shall proceed in relation to the offence in accordance with section 18C or, as the case may be, section 18D.²¹

15B Intention as to plea: absence of accused

- (1) This section has effect if —
 - (a) a person who has attained the age of ~~17~~ 18 years appears or is brought before a court of summary jurisdiction charged with ~~an offence specified in Schedule 2 or an offence triable either way;~~
 - (b) the accused is represented by an advocate;
 - (c) the court considers that by reason of the accused's disorderly conduct before the court it is not practicable for proceedings under section 15A to be conducted in his or her presence; and
 - (d) the court considers that it should proceed in the absence of the accused.
- (2) In such a case —
 - (a) the court must cause the charge to be written down, if this has not already been done, and to be read to the advocate;
 - (b) the court must ask the advocate whether (if the offence were to proceed to trial) the accused would plead guilty or not guilty.
- (3) If the advocate indicates that the accused would plead guilty the court must proceed as if —
 - (a) the proceedings constituted a summary trial of the information from the beginning; and
 - (b) section 8(1) were complied with and the accused had pleaded guilty under it.
- (4) If the advocate indicates that the accused would plead not guilty the court must proceed ~~as set out in section 16 or section 18 as appropriate~~ in accordance with section 18.
- (5) If the advocate fails to indicate how the accused would plead, the advocate is taken to indicate that the accused would plead not guilty.
- ~~(6) Subject to subsection (3), the following do not constitute the taking of a plea—~~
 - ~~(a) asking the advocate whether (if the offence were to proceed to trial) the accused would plead guilty or not guilty;~~
 - ~~(b) an indication by the advocate of how the accused would plead.~~

- (7) If in respect of the offence the court receives a notice under section 18E, the preceding provisions of this section shall not apply, and the court shall proceed in relation to the offence in accordance with section 18C or, as the case may be, section 18D.²²

15C Intention as to plea: adjournment

A court of summary jurisdiction proceeding under section 15A or 15B may adjourn the proceedings at any time, and on doing so on any occasion when the accused is present may remand the accused, and must remand him or her if —

- (a) on the occasion on which the accused first appeared, or was brought, before the court to answer to the charge he or she was in custody or, having been released on bail, surrendered to the custody of the court; or
- (b) he or she has been remanded at any time in the course of proceedings on the charge,

and if the court remands the accused, the time fixed for the resumption of proceedings is that at which the accused is required to appear or be brought before the court in pursuance of the remand.²³

16 ~~Summary trial of offences listed in Schedule 2~~

- (1) ~~Where a person who has attained the age of 17 is charged before a court of summary jurisdiction with an offence triable on information, being an offence specified in Schedule 2, then, if at any time it appears to the court, having regard to any representations made by the prosecutor in the presence of the accused or by the accused, and to the nature of the case, that —~~
- ~~(a) the punishment that the court has power to inflict under this section would be adequate, and~~
 - ~~(b) the circumstances do not make the offence one of a serious character and do not for other reasons require trial on information,~~
- ~~the court may proceed to try the case summarily.²⁴~~
- (2) ~~A court proceeding to try a case summarily under subsection (1) shall cause the charge to be written down and read to the accused.²⁵~~
- (3) ~~Where under subsection (1) a court of summary jurisdiction has begun to try an offence summarily, the court may at any time before the conclusion of the evidence for the prosecution, discontinue the summary trial and proceed to inquire into the offence.²⁶~~
- (4) ~~If the prosecution is being carried on by the Attorney General, the court shall not proceed under subsection (1) without the Attorney General's consent.²⁷~~

- (5) ~~Subject to section 17, a person summarily convicted under this section of an offence triable on information shall be liable to imprisonment for a term not exceeding 12 months, or to a fine not exceeding level 5 on the standard scale, or to both.²⁸~~
- (6) ~~Where a person is convicted under this section of an offence of inciting to commit a summary offence, he shall not be liable to any greater penalty than he would be liable to on being summarily convicted of the summary offence.~~
- (7) ~~Where a person is convicted under this section of an offence of attempting to commit an offence triable either way, he shall not be liable to any greater penalty than he would be liable to on being summarily convicted of the completed offence.~~
- (8) ~~Where under this section a court of summary jurisdiction, having begun to inquire into a complaint as examining justices, proceeds to try the case summarily, then any evidence already given before the court (otherwise than by a written statement under section 70 or 72) shall be deemed to have been given in and for the purposes of the summary trial.~~
- (9) ~~Where an adult is charged before a court of summary jurisdiction with an offence specified in Schedule 2 and also with an offence under section 23 of the *Firearms Act 1947* (use or possession of firearm), he may not be tried summarily for the first mentioned offence if he is committed for trial of the offence under the said section 23.~~
- (10) ~~The Department of Home Affairs may by order amend Schedule 2 by adding to, removing or varying the entries in that Schedule.²⁹~~
- (11) ~~An order under subsection (10) shall not come into operation unless it is approved by Tynwald.³⁰~~

17 Committal for sentence

[1986/21/7]

- (1) A court of summary jurisdiction may, instead of dealing with a person who has attained the age of ~~17~~ 18 in any manner in which the court has power to deal with him or her, commit him or her in custody or on bail to a Court of General Gaol Delivery for sentence if the conditions set out in subsection (1A) or subsection (1B) are satisfied.³¹
- (1A) The conditions are —
- (a) the person has been convicted (whether or not following a trial) by a court of summary jurisdiction of ~~an offence specified in Schedule 2 or~~ an offence triable either way; and
 - (b) having obtained further information as to the circumstances of the offence during the trial (if any) or information as to the person's character and antecedents, the court thinks that greater punishment should be inflicted than it has power to inflict.³²

- (1B) The conditions are —
- (a) the person has been charged before a court of summary jurisdiction with ~~an offence specified in Schedule 2 or~~ an offence triable either way;
 - (b) the person or the person's advocate has indicated under section 15A or 15B as the case may be that the person would plead guilty were the offence to proceed to trial;
 - (c) the court proceeds as if section 8(1) were complied with and the person had pleaded guilty under it; and
 - (d) the court thinks that greater punishment should be inflicted than it has power to inflict or the circumstances make the offence one of a serious character or for other reasons make it unsuitable for summary trial.³³
- (2) If a person committed for sentence under subsection (1) is, prior to being dealt with by a Court of General Gaol Delivery, convicted of any offence whatsoever that could be dealt with by a court of summary jurisdiction, a court of summary jurisdiction may also commit the person in custody or on bail to a Court of General Gaol Delivery, either at the same time as the original committal or subsequently.³⁴
- (2A) Subsections (1) and (2) apply to any corporation as if the corporation were a person who has attained the age of 17 **18** and as if the words "in custody or on bail" were omitted.³⁵
- (3) An offender so committed shall be committed to a Court of General Gaol Delivery, and the clerk of the court shall notify the Chief Registrar, who shall notify the prosecutor and the governor or other person in charge of the place to which the offender is committed of the date on which the case will be dealt with by that Court.³⁶
- (4) Where an offender is so committed, the Court of General Gaol Delivery shall inquire into the circumstances of the case, and may deal with him as follows —
- (a) in the case of the offence mentioned in subsection (1), in any way in which it could deal with him if he had just been convicted of the offence on information before the Court;
 - (b) in the case of any offence mentioned in subsection (2), in any way in which the court of summary jurisdiction could have dealt with him;
- and any duty or power which, apart from this subsection, would fall to be discharged or exercised by the court of summary jurisdiction shall not be so discharged or exercised but shall instead be discharged or may instead be exercised by the Court of General Gaol Delivery.
- (5) [Repealed]³⁷

~~(6) Section 6 (7) applies to a committal under this section as it applies to a committal for trial.~~

(6) Where a person is committed for sentence under this section, the clerk of the court must transmit to the court such documents as are prescribed in rules of court.

~~18 Summary trial of offences triable either way~~

~~[1981/20/Sch 7]~~

~~(1) Where a person who has attained the age of 14 is charged before a court of summary jurisdiction with an offence triable either way, the court shall proceed as if the offence were triable on information unless on the application of any party to the proceedings it determines to try the offence summarily.~~

~~(2) An application under subsection (1) shall be made before any evidence is called and may be made in the absence of the accused.~~

~~(3) Subject to subsection (4), where a court of summary jurisdiction has pursuant to subsection (1) begun to inquire into the offence, then, if at any time during the inquiry it appears to the court, having regard to any representations made by the prosecutor in the presence of the accused or by the accused, and to the nature of the case, that it is proper to do so, the court may proceed to try the case summarily.~~

~~(4) If the prosecution is being carried on by the Attorney General, the court shall not act pursuant to subsection (3) without the Attorney General's consent.~~

~~(5) A court proceeding to try a case summarily under subsection (3) shall cause the charge to be written down and read to the accused.~~

~~(6) Where under subsection (1) a court of summary jurisdiction has begun to try an offence summarily, the court may at any time before the conclusion of the evidence for the prosecution, discontinue the summary trial and proceed to inquire into the offence.~~

~~(7) Nothing in this section affects any enactment enabling the accused or the prosecutor to claim that a summary offence shall be tried by a jury.~~

18 Decision as to venue

P1980/43/19(1) to (5A))

(1) A court of summary jurisdiction before whom an accused is charged with an offence triable either way (referred to in this section and in sections 18C and 18D as an "either-way offence") must decide whether the offence is more suitable for summary trial or trial on information.

(1A) The accused must be present at the hearing at which the decision described in subsection (1) is made unless –

- (a) the accused has been excused from attending the hearing; and
 - (b) the accused's legal representative is present at the hearing and is instructed by the accused in relation to the hearing.
- (2) Before making a decision under this section the court —
 - (a) must give the prosecutor an opportunity to inform the court of the accused's previous convictions (if any); and
 - (b) must give both the prosecution and the accused (who is referred to in this section and sections 18A to 18E as "A") an opportunity to make representations as to whether summary trial or trial on information would be more suitable.
- (3) In making a decision under this section, the court must consider, —
 - (a) whether the sentence which a court of summary jurisdiction could impose by virtue of section 1A would be adequate; and
 - (b) any representations made by the prosecutor or A under subsection (2)(b).
- (4) Where, —
 - (a) A is charged with 2 or more offences; and
 - (b) it appears to the court that the charges for the offences could be joined in the same information or that the offences arise out of the same or connected circumstances,

subsection (3)(a) has effect as if references to the sentence which a court of summary jurisdiction would have power to impose for the offence were a reference to the maximum aggregate sentence which such a court would have power to impose for all of the offences taken together.
- (5) In this section "previous conviction" means, —
 - (a) a previous conviction by a court in the Island;
 - (b) a previous conviction by a court in any part of the United Kingdom;
 - (c) a previous finding of guilt in proceedings under the *Armed Forces Act 2006* (of Parliament) (whether before the Court Martial, the Service Civilian Court or any other court or person authorised under that Act to award a punishment in respect of any offence).
- (6) If, in respect of the offence, the court receives a notice under section 18E (notices in serious or complex fraud cases), the preceding provisions of this section shall not apply, and the court shall proceed in relation to the offence in accordance with section 18C(1).

18A Procedure where summary trial appears more suitable

Drafting (reflects in part P1980/43/20(1) and (2)).

- (1) If the court decides under section 18 that the offence appears to it to be more suitable for summary trial, the following provisions of this section apply.

- (2) The court must explain to A in ordinary language, —
 - (a) that it appears to the court more suitable for A to be tried summarily for the offence and accordingly, A will be so tried; but
 - (b) that if A is convicted by the court, A may be committed for sentence under section 17 if the court is of the opinion mentioned in subsection (1A)(b) of that section.
- (3) If, in respect of the offence, the court receives a notice under section 18E (notices in serious or complex fraud cases), the preceding provisions of this section shall not apply, and the court shall proceed in relation to the offence in accordance with section 18C(1).

18B Procedure where trial on information appears more suitable

P1980/43/21

- (1) If the court decides under section 18 that the offence appears to it more suitable for trial on information, the court must tell A that the court has decided that it is more suitable for A to be tried on information, and must proceed in relation to the offence in accordance with section 18C.
- (2) If, in respect of the offence, the court receives a notice under section 18E (notices in serious or complex fraud cases), the preceding provision of this section shall not apply, and the court shall proceed in relation to the offence in accordance with section 18C(1).

18C Sending cases to a Court of General Gaol Delivery: adults

P1998/37/51 and drafting

- (1) Where A (being an adult) appears or is brought before a court of summary jurisdiction (referred to in this section and section 18D as “the summary court”) charged with an offence and any of the conditions mentioned in subsection (2) is satisfied, the court must send A forthwith to a Court of General Gaol Delivery for trial for the offence.
- (2) Those conditions are, —
 - (a) that the offence is an offence triable only on information for which the sentence is fixed by law;
 - (b) that the offence is an either-way offence and the summary court is required under section 18B to proceed in relation to the offence in accordance with subsection (1); or
 - (c) that notice is given to the summary court under section 18E (complex fraud) in respect of the offence.
- (3) Where the summary court sends A for trial under subsection (1), it must at the same time send A to a Court of General Gaol Delivery for trial for any either-way or summary offence with which A is charged and which, —

- (a) (if it is an either-way offence) appears to the summary court to be related to the offence mentioned in subsection (1); or
 - (b) (if it is a summary offence) appears to the summary court to be related to the offence mentioned in subsection (1) or to the either-way offence, and which fulfils the requisite condition (as defined in subsection (13)).
- (4) Where A has been sent for trial under subsection (1) and subsequently appears or is brought before a summary court charged with an either-way or summary offence which, —
 - (a) appears to that court to be related to the offence mentioned in subsection (1); and
 - (b) (in the case of a summary offence) fulfils the requisite condition,the summary court may send A forthwith to a Court of General Gaol Delivery for trial for the either-way or summary offence.
- (5) Where, —
 - (a) the summary court sends A for trial under subsection (1) or (3);
 - (b) another adult ("B") appears or is brought before that court on the same or a subsequent occasion charged jointly with A with an either-way offence; and
 - (c) that offence appears to the summary court to be related to an offence for which A was sent for trial under subsection (1) or (3) above,the court must where it is the same occasion, and may where it is a subsequent occasion, send B forthwith to a Court of General Gaol Delivery for trial for the either-way offence.
- (6) Where the court sends B for trial under subsection (5), it must at the same time send B to a Court of General Gaol Delivery for trial for any either-way or summary offence with which B is charged and which, —
 - (a) (if it is an either-way offence) appears to the court to be related to the offence for which that person is sent for trial; and
 - (b) (if it is a summary offence) appears to the court to be related to the offence for which that person is sent for trial or to the either-way offence, and which fulfils the requisite condition.
- (7) Where, —
 - (a) the summary court sends A or B for trial under subsection (1), (3) or (5); and
 - (b) a child or young person ("C") appears or is brought before the court on the same or a subsequent occasion charged jointly with A or B with an offence triable on information for which A or B is sent for trial under subsection (1), (3) or (5), or an either-way offence which appears to the court to be related to that offence,

subject to subsection (8) the court must, if it considers it necessary in the interests of justice to do so, send C forthwith to a Court of General Gaol Delivery for trial for the offence triable on information.

- (8) If C indicates to the summary court that he or she intends to plead guilty to the offences for which C is charged jointly with A or B, the court may instead permit C to enter a plea, and if C pleads guilty –
- (a) commit C to a Court of General Gaol Delivery for sentence; or
 - (b) assign the offences in respect of which C has been charged to the youth court for the sentencing of C.
- (9) Where the court sends C for trial under subsection (7) or for sentence under subsection (8)(a), it may at the same time send C to a Court of General Gaol Delivery for trial or sentence (as the case may be) for any other offence with which C is charged and which, –
- (a) (if it is an offence triable on information) appears to the court to be related to an offence for which C is sent for trial or committed for sentence; and
 - (b) (if it is a summary offence) appears to the court to be related to the offence for which C is sent for trial or to the offence triable only on information, and which fulfils the requisite condition.
- (10) The trial of the complaint charging any summary offence for which a person is sent for trial under this section is to be treated as if the court had adjourned it under section 9 and had not fixed the time and place for its resumption.
- (11) In the case of an adult charged with an offence, –
- (a) if the offence satisfies paragraph (c) of subsection (2), the offence must be dealt with under subsection (1) and not under any other provision of this section or section 18D;
 - (b) subject to paragraph (a), if the offence is one in respect of which the summary court is required to, or would decide to, send the adult to a Court of General Gaol Delivery under, –
 - (i) subsection (5); or
 - (ii) subsection (6) of section 18D,the offence must be dealt with under that subsection and not under any other provision of this section or section 18D.
- (12) The functions of a court of summary jurisdiction under this section may be discharged by a single justice.
- (13) For the purposes of this section an offence “fulfils the requisite condition” if it is punishable with custody or disqualification for holding or obtaining a licence to drive.

18D Sending cases to a Court of General Gaol Delivery: children and young

persons

P1998/37/51A and drafting

- (1) Where a child or young person ("C") appears or is brought before the summary court charged with an offence (and the court has not acted in accordance with section 18C(8)(a) or (b)) and any of the conditions in subsection (2) is satisfied, the court must send C forthwith to a Court of General Gaol Delivery for trial for the offence.
- (2) Those conditions are, —
 - (a) that the offence is one of treason or murder;
 - (b) that the offence is punishable in the case of an adult with more than 2 years' custody and it appears to the summary court that, if C were to be found guilty of that offence, it ought to be possible to sentence C to such a term of custody;
 - (c) that notice is given to the court under section 18E in respect of the offence;
 - (d) that the offence is an offence to which section 38 of the *Criminal Justice Act 2001* (sentences extended for licence purposes) applies and it appears to the summary court that, if C were to be found guilty of the offence, the criteria for the imposition of a sentence under that section would be met.
- (3) Where the summary court sends C for trial under subsection (1), it may at the same time send C to a Court of General Gaol Delivery for trial for any offence triable on information or summary offence with which C is charged and which, —
 - (a) (if it is an offence triable on information) appears to the court to be related to the offence mentioned in subsection (1); or
 - (b) (if it is a summary offence) appears to the court to be related to the offence mentioned in subsection (1) or to the offence triable on information.
- (4) Where C has been sent for trial under subsection (1) and subsequently appears or is brought before a court of summary jurisdiction charged with another offence ("the second offence") which appears to the court to be related to the offence mentioned in subsection (1) the court may send C forthwith to a Court of General Gaol Delivery for trial for the second offence.
- (5) Where, —
 - (a) the court sends C for trial under subsection (1) or (3); and
 - (b) an adult ("A") appears or is brought before the court on the same or a subsequent occasion charged jointly with C with an either-way offence for which C is sent for trial under subsection (1) or (3), or an either-way offence which appears to the court to be related to that offence,

the court must where it is the same occasion, and may where it is a subsequent occasion, send A forthwith to a Court of General Gaol Delivery for trial for the either-way offence.

- (6) Where the court sends A for trial under subsection (5), it must at the same time send A to a Court of General Gaol Delivery for trial for any offence with which A is charged and which appears to the court to be related to the offence for which A was sent for trial.
- (7) The trial of the complaint charging any summary offence for which a person is sent for trial under this section is to be treated as if the court had adjourned it under section 9 and had not fixed the time and place for its resumption.
- (8) Where C is charged with an offence, —
 - (a) if the offence satisfies any of the conditions in subsection (2), the offence must be dealt with under subsection (1) and not under any other provision of this section or section 18C;
 - (b) subject to paragraph (a), if the offence is one in respect of which the requirements of subsection (7) of section 18C for sending the child or young person to a Court of General Gaol Delivery are satisfied, the offence must be dealt with under that subsection and not under any other provision of this section or section 18C.

18E Notices in serious or complex fraud cases

P1998/37/51B and drafting

- (1) A notice may be given by a designated authority under this section in respect of an offence triable on information if the designated authority is of the opinion that the evidence of the offence charged, —
 - (a) is sufficient for the person charged to be put on trial for the offence; and
 - (b) reveals a case of fraud of such seriousness or complexity that it is appropriate that the management of the case should without delay be taken over by a Court of General Gaol Delivery.
- (2) That opinion must be certified by the designated authority in the notice.
- (3) A notice under this section must be given to the court before any summary trial begins.
- (4) The effect of such a notice is that the functions of the court of summary jurisdiction cease in relation to the case, except—
 - (a) for the purposes of notifying the accused and the Court of General Gaol Delivery of the offence or offences for which a person is sent for trial; and
 - (b) as provided by section 18F.

- (5) A decision to give a notice under this section is not subject to appeal or liable to be questioned in any court (whether a court of summary jurisdiction or not).
- (6) In this section “designated authority” means, —
 - (a) the Attorney General; or
 - (b) an advocate, barrister or solicitor authorised by the Attorney General for the purposes of this section.

18F Provisions supplementing section 18C and 18D

P1998/37/52 and drafting

- (1) Subject to section 3 of the *Bail Act 1952*, the court may send a person for trial under section 18C or 18D —
 - (a) in custody, that is to say, by committing him to custody there to be safely kept until delivered in due course of law; or
 - (b) on bail in accordance with the *Bail Act 1952*, that is to say, by directing him to appear before a Court of General Gaol Delivery for trial.
- (2) Where—
 - (a) the person's release on bail under subsection (1)(b) is conditional on his providing one or more sureties; and
 - (b) in accordance with section 3 of the *Bail Act 1952*, the court fixes the amount in which a surety is to be bound with a view to his entering into his recognisance subsequently in accordance with section 6, 7, 8 or 9 of that Act,the court shall in the meantime make an order such as is mentioned in subsection (1)(a).
- (3) If the court sends a person for trial under section 18C or 18D other than in open court—
 - (a) it must do so on bail, and
 - (b) that bail is to be—
 - (i) unconditional, if the accused is not already on bail, or is on unconditional bail, in respect of the charge in question, or
 - (ii) if the accused is already on bail subject to conditions in respect of the charge in question, subject to the same conditions.
- (4) A court of summary jurisdiction may adjourn any proceedings under section 18C or 18D and, if it does, so shall remand the accused in custody or on bail.

18G Restrictions on reporting

P1998/37/52A and drafting

- (1) Except as provided by this section, it is unlawful to publish a report of any proceedings to decide on whether an offence is more suitable for summary trial or trial on information ("venue proceedings") or proceedings for sending an accused to a Court of General Gaol Delivery ("sending proceedings") in the Island if the report contains any matter other than that permitted by this section.
- (2) A court of summary jurisdiction may, with reference to any venue proceedings or sending proceedings, order that subsection (1) does not apply, or does not apply to a specified extent, to a report of those proceedings.
- (3) Where there is only one accused and the accused objects to the making of an order under subsection (2) –
 - (a) the court may make the order if (and only if) it is satisfied after hearing the representations of the prosecution and the accused, that it is in the interests of justice to do so; and
 - (b) if the order is made, it shall not apply to the extent that a report deals with any such objection or representations.
- (4) Where there are two or more accused and one or more of them objects to the making of an order under subsection (2) –
 - (a) the court may make the order if (and only if) satisfied after hearing the representations of the prosecution and each of the accused that it is in the interests of justice to do so; and
 - (b) if the order is made, it does not apply to the extent that a report deals with any such objection or representations
- (5) Subsection (1) does not apply to the publication of a report of matters after the case against the accused or, if more than one, against each of them, is disposed of.
- (6) Subsection (1) does not apply to a report which contains only one or more of the following matters, –
 - (a) the identity of the court and the name of the justices;
 - (b) the names, ages, home addresses and occupations of the accused;
 - (c) in the case of an accused charged with an offence in respect of which notice has been given to the court under section 18E, any relevant business information;
 - (d) the offence or offences, or a summary of them, with which the accused or any of the accused are charged;
 - (e) the names of the advocates in the proceedings;
 - (f) where the proceedings are adjourned, the date and place to which they are adjourned;

- (g) any arrangements as to bail;
 - (h) whether, for the purposes of the proceedings, representation was provided to the accused or any of the accused under the *Legal Aid Act 1986*.
- (7) The addresses that may be published under subsection (5)(b) are addresses —
 - (a) at any relevant time; and
 - (b) at the time of their inclusion in the publication.
- (8) The following is relevant business information for the purposes of subsection (5)(c) —
 - (a) any address used by the accused for carrying on a business on the accused's own account;
 - (b) the name of any business which the accused was carrying on on the accused's own account at any relevant time;
 - (c) the name of any firm in which the accused was a partner at any relevant time or by which the accused was engaged at any such time;
 - (d) the address of any such firm;
 - (e) the name of any company of which the accused was a director at any relevant time or by which the accused was otherwise engaged at any such time;
 - (f) the address of the registered or principal office of any such company;
 - (g) any working address of the accused in the accused's capacity as a person engaged by any such company.
- (9) Nothing in this section affects any prohibition or restriction imposed by virtue of any other enactment on the publication of a report of any matter.
- (10) In this section references to publication of a report of matters falling within subsection (1) —
 - (a) include references to inclusion of those matters in any speech, writing, relevant programme or other communication in whatever form which is addressed to the public at large or any section of the public, and for this purpose the following are to be treated as so addressed —
 - (i) every relevant programme; and
 - (ii) every electronic communication, including any comments made by a member of the public, on a website or other social medium, and which is capable of being read by a member of the public without being specifically addressed to him or her; but

- (b) do not include references to inclusion of those matters in a document prepared for use in particular legal proceedings.

(11) In this section —

“venue proceedings or sending proceedings” means, in relation to an information charging an offence triable on information —

- (a) any proceedings in a court of summary jurisdiction at which matters are considered under any of sections 18 to 18E; and
- (b) any proceedings in a court of summary jurisdiction before the court proceeds to consider any matter mentioned in paragraph (a);

“engaged” in subsection (8) means engaged under a contract of service or a contract for services;

“relevant programme” means a programme included in a programme service (within the meaning of section 6 of the *Communications Act 2021*);

“relevant time” means a time when events giving rise to the charges to which the proceedings relate occurred.

18H Offences in connection with reporting

(1) If a report is published in contravention of section 18G each of the following persons is guilty of an offence —

- (a) in the case of a publication of a report as part of a newspaper or periodical, any proprietor, editor or published of the newspaper or periodical;
- (b) in the case of the inclusion of a report in a relevant programme, any body corporate which is engaged in providing the service in which the programme is included and any person having functions in relation to the programme corresponding to those of an editor of a newspaper;
- (c) in the case of any other publication, any person publishing it.

Maximum penalty — a level 5 fine.

(2) Proceedings for an offence under this section may be instituted only by or with the consent of the Attorney General.

18I Depositions

Paragraphs 4 and 5 of Schedule A1 to the *Criminal Jurisdiction Act 1993* apply in respect of the taking of depositions from witnesses for the purpose of proceedings for an offence for which a person has been sent for trial under section 18C or 18D.

19 Summary trial of child or young person

(1) A court of summary jurisdiction before whom a child or young person is charged with an offence triable on information, ~~other than homicide or an~~

~~offence under the Sexual Offences and Obscene Publications Act 2021, shall deal with him summarily unless.~~

~~(a) — he has attained the age of 14 years and the offence is punishable with custody for 14 years or more; or~~

~~(b) — some other person who is charged jointly with him and has attained the age of 17 years is committed for trial,~~

~~in which case the court may, if thinks it necessary in the interests of justice to do so, commit the child or young person for trial.³⁸ shall deal with the child or young person summarily unless section 18C(7) or (8)(a) or 18D applies.~~

~~(2) — Where a court of summary jurisdiction commits a child or young person for an offence pursuant to subsection (1), the court may also commit him for trial for any other offence triable on information with which he is charged at the same time (whether jointly with a person who has attained the age of 17 years or not) if that other offence arises out of circumstances which are the same as or connected with those giving rise to the first mentioned offence.~~

~~(3) — If on trying a person summarily in pursuance of subsection (1) the court finds him guilty, it may —~~

~~(a) — impose a fine not exceeding level 4 on the standard scale; or³⁹~~

~~(b) — exercise the same powers (other than imposing a fine) as it could have exercised if he had been found guilty of an offence for which it could have sentenced him to custody for a term not exceeding 6 months.~~

(3) Subject to subsection (4), if on trying a person summarily in pursuance of subsection (1) the court of summary jurisdiction finds the accused guilty (whether or not following a trial), the court may impose such penalty as is permitted by section 1A.

(4) The court of summary jurisdiction may, instead of sentencing the person under subsection (3) commit the person in custody or on bail to a Court of General Gaol Delivery for sentence if the conditions set out in subsection (6) are satisfied.

(5) The conditions are —

(a) the person has been convicted by the court of summary jurisdiction of an offence triable on information; and

(b) having obtained further information as to the circumstances of the offence during the trial (if any) the court of summary jurisdiction thinks that greater punishment should be inflicted than the court of summary jurisdiction has power to inflict.

(6) An offender so committed shall be committed to a Court of General Gaol Delivery, and the clerk of the court shall notify the Court of General Gaol Delivery, who shall notify the prosecutor and the governor or other person

in charge of the place to which the offender is committed of the date on which the case will be dealt with by that Court.

- (7) Where an offender is so committed, the Court of General Gaol Delivery shall inquire into the circumstances of the case and may deal with the offender in any way in which it could deal with the offender if the offender had just been convicted of the offence on information before the Court.
- (8) Any duty or power which, apart from subsection (7), would fall to be discharged or exercised by the court of summary jurisdiction shall not be so discharged or exercised but shall instead be discharged or may instead be exercised by the Court of General Gaol Delivery.
- (9) Where a person is committed for sentence under this section, the clerk of the court must transmit to the Court of General Gaol Delivery such documents as are prescribed in rules of court.⁴⁰

20 Effect of conviction or dismissal

- (1) Where on the summary trial of a complaint for an offence triable on information the court convicts the accused, the conviction shall have the same effect as a conviction on information.
- (2) Where on the summary trial of a complaint for such an offence the court dismisses the complaint, the dismissal shall have the same effect as an acquittal on information.

Right to claim trial by jury

~~21 Right to claim trial by jury for certain summary offences~~

~~[1986/21/5]~~

- ~~(1) Where a person who has attained the age of 14 is charged before a court of summary jurisdiction with an offence in respect of which he is liable on summary conviction to imprisonment for a term exceeding 6 months, he may, on appearing in person and before pleading to the charge, apply to the court to be tried by jury.⁴¹~~
- ~~(1A) If on an application under subsection (1) it appears to the court that, having regard to the nature of the case, the circumstances do not make the offence one which for any reason requires trial on information, the court may proceed to try the case summarily.⁴²~~
- ~~(2) A court of summary jurisdiction before which a person is charged with a summary offence for which he may apply to be tried by jury shall, before asking whether he pleads guilty,—~~
 - ~~(a) inform him of his right,~~

~~(b) — if the court thinks it desirable for his information, tell him that if tried by a jury he would be tried before a Court of General Gaol Delivery and explain what is meant by being tried summarily; and shall then ask him whether he wishes to apply to be tried by a jury.⁴³~~

~~(3) — [Repealed]⁴⁴~~

Remand for reports

22 Remand for social inquiry reports

- (1) A court of summary jurisdiction may, after a person has been convicted and before he has been sentenced or otherwise dealt with, adjourn the case for the purpose of enabling inquiries to be made or of determining the most suitable method of dealing with him, and may remand the offender.
- (2) The court shall not adjourn a case under subsection (1) for any single period exceeding 6 weeks.⁴⁵
- (3) Where a case has been adjourned under subsection (1), the offender may be sentenced or otherwise dealt with for the offence in question by any court of summary jurisdiction, but if the court by which he is sentenced or otherwise dealt with does not wholly consist of the same justices as the court by which he was convicted, the court shall inquire into the circumstances of the case before sentencing or otherwise dealing with him.

23 Remand for medical reports

[1974/34/Sch 4]

- (1) Without prejudice to any powers under section 22, where a person is charged before a court of summary jurisdiction with an offence punishable with imprisonment, and the court is satisfied that he did the act or made the omission charged but is of opinion that an inquiry ought to be made into his physical or mental condition before the method of dealing with him is determined, the court shall adjourn the case and remand him for such period or periods, no single period exceeding 6 weeks, as the court thinks necessary to enable a medical examination and report to be made.⁴⁶
- (2) Where a person is remanded on bail under this section it shall be a condition of the recognizance that he shall —
 - (a) undergo medical examination by a registered medical practitioner or, where the inquiry is into his mental condition and the recognizance so specifies, 2 such practitioners; and⁴⁷
 - (b) for that purpose, attend at an institution or place, or on any such practitioner, specified in the recognizance and, where the inquiry is into his mental condition, comply with any directions which may be given to him for the said purpose by any person of any class so specified;

and, if arrangements have been made for his reception, it may be a condition of the recognizance that he shall, for the purpose of the examination, reside until the expiration of such period as may be specified in the recognizance or he is discharged therefrom, whichever occurs first, at an institution or place so specified, not being an institution or place to which he could have been committed.

- (3) Where a person charged before a court of summary jurisdiction with an offence triable on information is committed for trial at a Court of General Gaol Delivery and is remanded on bail, and the court is of opinion that an inquiry ought to be made into his physical or mental condition, the conditions of the recognizance taken for the purpose may, in addition to a condition for his appearance, include the like conditions as could be included in a recognizance under subsection (2).
- (4) On exercising the powers conferred by this section a court of summary jurisdiction shall send to the institution or place to which he is committed or at which he is to be examined, or to the person by whom he is to be examined, as the case may be, a statement of the reasons for which the court is of opinion that an inquiry ought to be made into his physical or mental condition, and any information before the court as to his physical or mental condition.

23A Deferment orders

- (1) This section applies where a person ("P") who has been convicted is before a court of summary jurisdiction, a report having been provided to the court under section 22.
- (2) Despite section 22(3), the court may make an order (a "deferment order") deferring the sentencing of P for a period not exceeding 6 months beginning on the date on which the order is made ("deferment period").
- (3) A deferment order –
 - (a) is to enable the court, when sentencing P, to have regard to P's conduct after conviction or any change in P's circumstances;
 - (b) may require P to comply with such requirements as the deferment order may specify.
- (4) A deferment order may be made if –
 - (a) a deferment order has not been previously made in respect of the offence;
 - (b) P consents to the making of the deferment order;
 - (c) P undertakes to comply with such requirements as may be specified in the deferment order;
 - (d) the court is satisfied, having regard to the nature of the offence and the character and circumstances of P, that it would be in the interests of justice to make the deferment order.

- (5) A court which makes a deferment order must forthwith give a copy of the order —
- (a) to P;
 - (b) the probation officer who has been appointed to act as a supervisor to P.
- (6) A court which makes a deferment order shall specify in the order the date on which P is to return to the court for sentencing, and for these purposes, the court is regarded as having adjourned the trial under section 9.
- (7) If a deferment order is made, the probation officer appointed under subsection (5)(b) must —
- (a) monitor P's compliance with the deferment requirements,
 - (b) report to the court if P has failed to comply with any requirements imposed by the deferment order; and
 - (c) provide the court which deals with P for any offence in respect of which the order was made with such information as the court may require relating to P's compliance with the deferment requirements.
- (8) If the supervisor appointed under subsection (5)(b) has reported to the court that P has failed to comply with any deferment requirements, or if P commits another offence during the deferment period, the court may —
- (a) issue a summons requiring P to appear before the court at the time and place specified in the summons, or
 - (b) issue a warrant for P's arrest which requires P to be brought before the court at the time and place specified in the warrant.
- (9) If P does not appear on the date specified in the order under subsection (6), the court may —
- (a) issue a summons requiring P to appear before the court at the time and place specified in the summons, or
 - (b) issue a warrant for P's arrest which requires P to be brought before the court at the time and place specified in the warrant.
- (10) Subsection (11) applies where P is being dealt with by a court for any offence in respect of which a deferment order was made, whether —
- (a) at the end of the period of deferment, in accordance with the deferment order;
 - (b) following P's failure to comply with a deferment requirement; or
 - (c) following P's conviction of an offence during the deferment period.
- (11) The court may deal with P for the offence in any way in which the original court could have dealt with P for the offence if it had not made a deferment order.

- (12) Where the court is dealing with P under subsection (11), the court may deal with P for the offence in any way in which the original court could have dealt with P for the offence if it had not made a deferment order, including committing P to the Court of General Gaol Delivery for sentence under section 17.
- (13) Where a court deals with P by committing P to the Court of General Gaol Delivery under section 17, the power of the Court of General Gaol Delivery to deal with P includes the same power to make a deferment order as if P had just been convicted of the offence on information before it.

Powers in respect of offenders

24 Consecutive terms of imprisonment

[P1980/43/133]

- (1) A court of summary jurisdiction imposing imprisonment on any person may order that the term of imprisonment shall commence on the expiration of any other term of imprisonment imposed by that or any other court; but, subject to the provisions of this section, where the court imposes 2 or more terms of imprisonment to run consecutively the aggregate of such terms shall not exceed ~~12 months~~ 24 months.⁴⁸
- (2) [Repealed]⁴⁹
- (3) Subsection (1) does not operate to reduce the aggregate of the terms that the court may impose in respect of any offence below the term which the court has power to impose in respect of any one of those offences.⁵⁰
- (4) Notwithstanding anything in this section or any other enactment, where a person has been sentenced by a court of summary jurisdiction to imprisonment in default of payment of a fine, the court may order that the sentence shall begin at the expiration of any term of imprisonment imposed for that offence in addition to the fine.
- (5) For the purpose of this section a term of imprisonment is imposed in respect to an offence if it is imposed as a sentence or in default of payment of a sum adjudged to be paid by the conviction.

25 Mitigation of penalties, etc

[P1980/43/34]

- (1) Where under any statutory provision (whenever made) a court of summary jurisdiction has power to sentence an offender to imprisonment for a period specified by the provision, or to a fine of an amount specified by the provision, the court may sentence him to imprisonment for less than that period or, as the case may be, to a fine of less than that amount.

- (2) Where under any such provision an offender sentenced on summary conviction to imprisonment or a fine is required to enter into a recognizance with or without sureties to keep the peace or observe any other condition, the court convicting him may dispense with or modify the requirement.
- (3) Where under any such provision a court of summary jurisdiction has power to sentence an offender to imprisonment or other detention but not to a fine, the court may, instead of sentencing him to imprisonment or other detention, impose a fine which —
 - (a) shall not exceed level 5 on the standard scale; and⁵¹
 - (b) for a summary offence, shall not be of such an amount as would subject the offender, in default of payment of the fine, to a longer term of imprisonment or detention than the term to which he is liable on conviction of the offence.

26 Fixing amount of fine

[P1980/43/35]

In fixing the amount of a fine, a court of summary jurisdiction shall take into consideration among other things the means of the person on whom the fine is imposed, so far as they appear or are known to the court.

~~27 Restriction on fines on children and young persons~~

~~[P1980/43/36]~~

- ~~(1) — Where a child or young person is found guilty by a court of summary jurisdiction of an offence for which, apart from this section, it would have power to impose a fine of an amount exceeding level 4 on the standard scale, the amount of any fine imposed by the court shall not exceed level 4 on the standard scale.^{52, 53}~~

27A Mentally disordered persons

Schedule 2A shall have effect in relation to the powers of courts of summary jurisdiction in relation to mentally disordered persons.⁵⁴

Costs

~~28 Power to award costs in trial or committal proceedings~~

~~[P1973/14/2]~~

- ~~(1) — On the summary trial of a complaint that a person has, or is suspected of having, committed an offence, a court of summary jurisdiction may —~~
 - ~~(a) — on dismissal of the complaint, make such order as to costs to be paid by the complainant to the accused; or~~

- (b) ~~on conviction, make such order as to costs to be paid by the accused to the complainant,~~
as it thinks just and reasonable.
- (2) ~~Where the accused is a child or young person, the amount of the costs ordered to be paid under subsection (1)(b) shall not exceed the amount of any fine ordered to be paid by him.~~
- (3) ~~Where a complaint is made against any person for an offence triable on information, and a court of summary jurisdiction does not deal with the complaint summarily but dismisses the complaint, the court may, if it is of opinion that the complaint was not made in good faith, order the complainant to pay the whole or any part of the costs of the accused.~~
- (4) ~~An order under this section or section 29 shall specify the amount to be paid in pursuance of the order.~~
- (5) ~~No appeal shall lie against an order under subsection (3) unless the amount ordered to be paid exceeds £500.~~
- (6) ~~An order under subsection (3) may be made in addition to an order under section 29, and where an order under that section is made the costs shall be primarily payable under that order, but notice of any order under subsection (3) shall be sent to the Treasury.~~

29 — ~~Power to award costs out of Government funds~~

- (1) ~~A court of summary jurisdiction inquiring into any offence triable on information may order the payment out of money provided by Tynwald of the costs of the prosecution.~~
- (2) ~~A court of summary jurisdiction inquiring into any such offence and determining not to commit the accused for trial may order the payment out of money provided by Tynwald of the costs of the defence.~~
- (2A) ~~A court of summary jurisdiction by which an offence triable on information is dealt with summarily may order the payment out of money provided by Tynwald of the costs of the prosecution or the defence or both.⁵⁵~~
- (3) ~~The costs payable under subsection (1), (2) or (2A) shall be such sums as (subject to regulations under section 53(2) of the *Criminal Jurisdiction Act 1993*) appear to the court to be reasonably sufficient —~~
- (a) ~~to compensate the complainant or the accused, as the case may be, for the expenses properly incurred by him in carrying on the prosecution or the defence, and~~
- (b) ~~to compensate any witness for the prosecution or the defence, as the case may be, for the expense, trouble and loss of time properly incurred in or incidental to his attendance.⁵⁶~~

- (4) ~~Notwithstanding that the court makes no order under subsection (2) or (2A), it may order the payment out of money provided by Tynwald of such sums as (subject to such regulations) appear to the court to be reasonably sufficient to compensate any witness for the defence for the expense, trouble and loss of time properly incurred in or incidental to his attendance.⁵⁷~~
- (5) ~~No sum shall be payable in pursuance of an order under this section to or in respect of a witness as to character only unless the court certifies that the interests of justice required his attendance.~~
- (6) ~~The amount of costs ordered to be paid to any person under this section shall be ascertained as soon as practicable by the clerk of the court, who in the case of an order under subsection (1) shall —~~
- ~~(a) forthwith pay to him any sums due for travelling or personal expenses in respect of his attendance to give evidence; and~~
 - ~~(b) forward a certificate of the amount due, less any sums paid under paragraph (a), to the Chief Registrar with the other documents to be sent on committal;~~
- ~~and in the case of an order under subsection (2) or (4) shall forthwith pay to him the amount due under the order.~~
- (7) ~~A certificate given under subsection (6)(b) shall be laid before the Court of General Gaol Delivery to which the accused is committed, and that Court shall either —~~
- ~~(a) direct the clerk of the court of summary jurisdiction to pay the amount so certified in accordance with the order of that court, or such lesser amount as the Court of General Gaol Delivery considers should have been allowed; or~~
 - ~~(b) include the amount so certified, or such lesser amount as aforesaid, in the amount payable under any order made by the Court of General Gaol Delivery under section 53(1) of the *Criminal Jurisdiction Act 1993* at the trial of the accused.⁵⁸~~
- (8) ~~The Treasury shall make available to clerks of courts of summary jurisdiction sums sufficient to make payments to be made by them under this section.~~

Miscellaneous

30 Prosecutions

- (1) [Repealed]⁵⁹
- (2) Subject to subsection (3), where under any statutory provision a person is liable on summary conviction to any fine, forfeiture or other pecuniary penalty, a complaint may be laid by the Attorney General or any constable, or by any person aggrieved.

- (3) Subsection (2) does not apply where the statutory provision in question expressly confines the power to prosecute for the offence to a named person or persons.

30A Offences committed at sea

[VI p389/29]

- (1) An offence that is triable in the court of summary jurisdiction that is committed –
- (a) within the seaward limits of the territorial sea adjacent to the Island, or
 - (b) on a British ship whilst at sea but first arriving in the Island after the commission of the offence,
- may be tried and punished as if it had been committed within the Island.
- (2) In a complaint or summons for or relating to an offence referred to in subsection (1) the offence shall be averred to have been committed at sea.
- (3) In this section “British ship” means –
- (a) a Manx ship within the meaning of the *Merchant Shipping Registration Act 1991*; and
 - (b) any other ship which is a British ship within the meaning of section 2 of the *Merchant Shipping Act 1988* (an Act of Parliament), as it has effect in the United Kingdom.

31 Offences relating to criminal damage

[1981/20/Sch 7]

No rule of law ousting the jurisdiction of courts of summary jurisdiction to try offences where a dispute of property is involved shall preclude those courts from trying offences of destroying or damaging property.

32 Corporations

- (1) ~~Where a corporation is charged, whether alone or jointly with another person, before a court of summary jurisdiction with an offence triable on information, the court, if it is of opinion that the evidence offered on the part of the prosecution is sufficient to put the accused corporation on trial, may make an order empowering the Attorney General to lay an information in respect of the offence specified in the order; and subject to the following provisions of this section, such an order shall be deemed to be a committal for trial.~~
- (2) ~~Where the offence is an offence which in the case of an adult may be dealt with summarily and the corporation either –~~
- ~~(a) does not appear before the court by a representative, or~~
 - ~~(b) so appears and consents to the offence being so dealt with,~~

~~the court may deal with the offence summarily.~~

- ~~(3) Where a corporation is charged before a court of summary jurisdiction with an offence in the case of which an individual is entitled to claim to be tried by a jury, and the corporation either —~~

~~(a) does not appear by a representative, or~~

~~(b) so appears but does not claim to be so tried,~~

~~the court may, subject to the provisions of this section, deal with the case summarily.~~

- ~~(4) Where any person is charged jointly with a corporation before a court of summary jurisdiction with any offence, and either that person or the corporation by its representative —~~

~~(a) in the case of an offence triable on information, does not consent that the offence should be dealt with summarily, or~~

~~(b) in the case of a summary offence, claims to be tried by a jury,~~

~~the court may not deal summarily with the offence in the case of the other offender.~~

- ~~(5) Any answers to the questions to be put under section 16(3) or 21(2) may be made on behalf of a corporation by its representative.~~

- ~~(6) In this section “representative”, in relation to a corporation, means a person duly appointed by the corporation to represent it for the purpose of doing anything which the representative of a corporation may do under this section; but a person so appointed shall not be thereby qualified to act on behalf of the corporation for any other purpose.~~

- ~~(7) A representative for the purposes of this section may be appointed under hand; and a statement in writing purporting to be signed by a director, manager or secretary of the corporation or by any other person having or being one of the persons having the management of the affairs of the corporation, to the effect that the person named therein has been appointed as the representative of the corporation for the purposes of this section, shall be admissible without further proof as evidence that that person has been so appointed.~~

32 Corporations

- (1) This section sets out modifications to the procedure prescribed for dealing with offences in the courts of summary jurisdiction in the case of corporations.
- (2) Where the offence is an offence which in the case of an adult may be dealt with summarily, the court may deal with the offence summarily.
- (3) Where a corporation is charged before a court of summary jurisdiction with an offence in the case of which an individual may be tried by a Court

of General Gaol Delivery, the court may deal with the case summarily (and may do so whether or not the corporation appears).

- (4) A corporation may appear for the purposes of this section by its representative, and any answers to questions put for the purposes of determining the mode of trial may be made on behalf of a corporation by its representative.
- (5) In this section “representative”, in relation to a corporation, means a person duly appointed by the corporation to represent it for the purpose of doing anything which the representative of a corporation may do under this section; but a person so appointed shall not be thereby qualified to act on behalf of the corporation for any other purpose.
- (6) A representative for the purposes of this section may be appointed under hand; and a statement in writing purporting to be signed by a director, manager or secretary of the corporation or by any other person having or being one of the persons having the management of the affairs of the corporation, to the effect that the person named in the statement has been appointed as the representative of the corporation for the purposes of this section, shall be admissible without further proof as evidence that that person has been so appointed.

33 Power of court of summary jurisdiction to re-open cases to rectify sentencing etc, mistakes

[P1980/43/142(1)-(1A)]

- (1) A court of summary jurisdiction 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.
- (2) The power in subsection (1) 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.
- (3) The power conferred on a court of summary jurisdiction by subsection (1) shall not be exercisable in relation to any sentence or order imposed or made by it when dealing with an offender if —
 - (a) the High 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 court of summary jurisdiction 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.
- (4) Where a sentence or order is varied under subsection (1), 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.⁶⁰

33ZA Person brought before summary court in connection with proceedings in Court of General Gaol Delivery

P1980/43/43A

Where a person in custody in pursuance of a warrant issued by a Court of General Gaol Delivery ("the defendant") with a view to the defendant's appearance before a Court of General Gaol Delivery is brought before a court of summary jurisdiction in pursuance of section 5(1) of the *Criminal Law Act 1981*, —

- (a) the court of summary jurisdiction must either commit the defendant in custody or release the defendant on bail until the defendant can be brought or appear before a Court of General Gaol Delivery at a time appointed by that court; and
- (b) if the warrant is endorsed for bail, but the defendant is unable to satisfy the conditions endorsed, the court of summary jurisdiction may vary those conditions if satisfied that it is proper to do so.

33A Power of court of summary jurisdiction to re-open cases to rectify mistaken conviction

[P1980/43/142(2), (2A), (3) and (5)]

- (1) A court of summary jurisdiction (a reviewing court) may vary or revoke a conviction of a person by another court of summary jurisdiction ("the convicting court") if —
 - (a) it appears to the convicting court that it would be in the interests of justice that the case be heard again by a reviewing court; and
 - (b) the convicting court has directed that the case be so heard.
- (2) The members of the reviewing court must be different to the members of the convicting court.
- (3) A convicting court shall not make a direction under subsection (1)(b) nor shall a reviewing court hear a case under subsection (1) if —
 - (a) the High Court has determined an appeal against —
 - (i) the conviction;
 - (ii) any sentence or order imposed or made by the convicting court when dealing with the offender in respect of that 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.⁶¹

34 Disposal of property in possession of police etc

[P1972/71/58]

- (1) Where any property has come into the possession of the police or any other person in connection with their investigation of a suspected offence, or under section 28 (search for stolen goods) of the *Theft Act 1981* or section 6 (search for things intended to commit damage) of the *Criminal Damage Act 1981*, a court of summary jurisdiction may, on application either by a constable or by a claimant of the property, —⁶²
 - (a) make an order for the delivery of the property to the person appearing to the court to be the owner thereof, or
 - (b) if the owner cannot be ascertained, make such order with respect to the property as the court thinks fit.
- (2) Without prejudice to the generality of subsection (1), an order under this section may authorise the sale of any such property and the application of the proceeds of sale, and the application of any money whose owner cannot be ascertained, to all or any of the following purposes —
 - (a) the expenses of executing the order;
 - (b) the payment of reasonable compensation to any person by whom the property has been delivered into the possession of the police;
 - (c) the making of payments for the benefit of discharged prisoners, or of persons dependent on prisoners or discharged prisoners; or
 - (d) such other purposes as the court may consider expedient.
- (3) Where any such property is perishable, or its custody involves unreasonable expense or inconvenience, it may be sold by the police at any time; and an application under this section may be made in respect of the proceeds of sale in the same manner as could have been made in respect of the property.
- (4) An order under this section shall not affect the right of any person, within a period of 6 months from the date of the order, to take proceedings for the recovery of the property against any person in possession of it by virtue of the order, but such right shall cease on the expiration of that period.

35 Return of property taken from accused

[P1980/43/48]

- (1) Where a summons or warrant has been issued requiring any person to appear or be brought before a court of summary jurisdiction to answer to a complaint, or any person has been arrested without a warrant for an

offence, and property has been taken from him after the issue of the summons or warrant or, as the case may be, on or after his arrest without a warrant, the police shall report the taking of the property, with particulars of the property, to the court of summary jurisdiction which deals with the case.

- (2) If the court, being of opinion that the whole or any part of the property can be returned to the accused consistently with the interests of justice and the safe custody of the accused, it may direct that the property, or such part of it as the court directs, shall be returned to the accused or to such other person as he may require.

36 [Repealed]⁶³

36A Alternative verdicts

- (1) Where, on the trial of a person before a court of summary jurisdiction for any offence —
- (a) the court finds that person not guilty of the offence specifically charged in the complaint; but
 - (b) the allegations in the complaint amount to or include (expressly or by implication) an allegation of another offence,
- the court may find that person guilty of that other offence or of an offence of which that person could be found guilty on a complaint specifically charging that other offence.
- (2) Before the court convicts the person of another offence under subsection (1) it must —
- (a) tell the person that the court is considering convicting that person of the offence; and
 - (b) explain that offence to the person; and
 - (c) give that person or that person's counsel the opportunity to address the court in respect of that offence.
- (3) For the purposes of subsection (1) an allegation of an offence shall be taken as including an allegation of attempting to commit that offence.
- (4) If on the trial of a person before a court of summary jurisdiction for an offence the court is satisfied that the offence charged (or some other offence of which the defendant might on that charge be found guilty) was committed, but find the defendant not guilty of it, the court may find the defendant guilty of any offence under section 7(1) of the *Criminal Law Act 1981* (act to impede apprehension or prosecution of offender) of which it is satisfied that the offender is guilty in relation to the offence charged (or that other offence).⁶⁴

- (5) On the trial of a person before a court of summary jurisdiction of attempting to commit an offence, that person may be convicted of the offence charged even though shown to be guilty of the completed offence, but that person is not afterwards liable to be prosecuted for the completed offence.
- (6) Subsection (5) is without prejudice to the power of the Attorney General, at any time before a verdict, to enter a *nolle prosequi*.
- (7) Subsections (1) to (4) apply to a complaint containing more than one charge as if each were a separate complaint.
- (8) This section is additional to but does not prejudice any other statutory provision that provides for alternative verdicts in specific cases.⁶⁵

PART III – ~~JUVENILE COURTS~~ YOUTH COURTS

37 Constitution of ~~juvenile courts~~ youth courts

- (1) Courts of summary jurisdiction constituted in accordance with this section and sitting for the purposes of —
 - (a) hearing any charge against a child or young person, or
 - (b) exercising any other jurisdiction conferred on ~~juvenile courts~~ youth courts by any enactment,
 shall be known as on ~~juvenile courts~~ youth courts.
- (2) A panel of justices specially qualified for dealing with ~~juvenile cases~~ cases falling within subsection (1)(a) or (b) shall be formed, and no justice shall be qualified to sit as a member of a ~~juvenile court~~ youth court unless he is a member of the panel.
- (3) Rules made by the Governor shall provide —
 - (a) for the formation and periodical revision of the said panel of justices;
 - (b) for limiting the age and number of justices who may sit as members of a ~~juvenile court~~ youth court, and for the manner in which they are to be selected; and
 - (c) for one of the justices to act as chairman of the court and for the manner in which the chairman is to be selected.

38 Assignment of certain matters to ~~juvenile courts~~ youth courts

- (1) Subject to subsections (2) to (6), no charge against a child or young person, and no application the hearing of which is assigned by rules to on ~~juvenile courts~~ youth courts, shall be heard by a court of summary jurisdiction which is not a ~~juvenile court~~ youth court.

- (2) A charge made jointly against a child or young person and a person who has attained the age of ~~17~~ 18 years shall be heard by a court of summary jurisdiction other than a ~~juvenile court~~ youth court.
- (3) Where a child or young person is charged with an offence, the charge may be heard by a court of summary jurisdiction which is not a ~~juvenile court~~ youth court if a person who has attained the age of ~~17~~ 18 years is charged at the same time with aiding, abetting, causing, procuring, allowing or permitting that offence.
- (4) A court of summary jurisdiction which is not a ~~juvenile court~~ youth court may hear a charge against a child or young person of —
 - (a) aiding, abetting, causing, procuring, allowing or permitting an offence with which a person who has attained the age of ~~17~~ 18 years is charged at the same time; or
 - (b) an offence arising out of circumstances which are the same as or connected with those giving rise to an offence with which a person who has attained the age of ~~17~~ 18 years is charged at the same time.
- (5) Where, in the course of any proceedings before a court of summary jurisdiction other than a ~~juvenile court~~ youth court, it appears that the person to whom the proceedings relate is a child or young person, nothing in subsection (1) prevents the court, if it thinks fit to do so, from continuing with the hearing and determination of those proceedings.
- (6) No requirement in any enactment that a charge shall be brought before a ~~juvenile court~~ youth court restricts the powers of any justice to entertain an application for bail or for a remand, and to hear such evidence as may be necessary for the purpose.

39 Procedure in ~~juvenile courts~~ youth courts

- (1) ~~Juvenile courts~~ youth courts shall sit as often as necessary for the purpose of exercising any jurisdiction conferred on them by any enactment.
- (2) A ~~juvenile court~~ youth court shall normally not sit in a room in which sittings of a court other than a ~~juvenile court~~ youth court are held, if a sitting of that other court has been or will be held there within an hour before or after the sitting of the ~~juvenile court~~ youth court, unless the court otherwise determines.
- (3) No person shall be present at any sitting of a ~~juvenile court~~ youth court except —
 - (a) members and officers of the court;
 - (b) parties to the case before the court, their advocates and witnesses and other persons directly concerned in that case;
 - (c) bona fide representatives of newspapers or news agencies; and
 - (d) such other persons as the court may specially authorise.

40 Miscellaneous powers of ~~juvenile courts~~ youth courts

- (1) ~~A juvenile court sitting for the purpose of hearing a charge against a person who is believed to be a child or young person may, if it thinks fit to do so, proceed with the hearing and determination of the charge, notwithstanding that it is discovered that the person in question is not a child or young person.~~
- (1) A youth court sitting for the purpose of hearing a charge against a person who is believed to be under the age of 18 years may, if it thinks fit to do so, proceed with the hearing and determination of the charge, despite it being discovered that the person in question is not under that age.
- (2) The attainment of the age of ~~17~~ 18 years by a person in whose case a probation order or an order for conditional discharge has been made, or on whom a suspended sentence of imprisonment or youth custody has been passed, shall not deprive a ~~juvenile court~~ youth court of jurisdiction to enforce his attendance and deal with him in respect of any failure to comply with the requirements of the probation order or the commission of a further offence, or to amend or discharge the probation order.
- (3) Where a ~~juvenile court~~ youth court has remanded a child or young person for information to be obtained with respect to him, any other ~~juvenile court~~ youth court —
- (a) may in his absence extend the period for which he is remanded, but so that he appears before a court or a justice at least once in every 28 days; and
 - (b) when the required information has been obtained, may deal with him finally.

41 [Repealed]⁶⁶**PART IV – CIVIL JURISDICTION AND PROCEDURE****42 Application of Part IV**

This Part applies to any complaint to a court of summary jurisdiction, other than a complaint that a person has, or is suspected of having, committed an offence.

43 Hearing

[1983/13/57 and 58; P1980/43/51-54]

- (1) Subject to the provisions of this Part, where a complaint is made to a justice or to the clerk of a court of summary jurisdiction upon which the court has power to make an order against any person, the justice or clerk may fix a time and place for the hearing of the complaint by a court of summary jurisdiction; and the complainant shall cause particulars of the complaint and notice of the time and place of the hearing to be served on that person.

- (2) On the hearing of the complaint, the court shall, if the defendant appears, state to him the substance of the complaint.
- (3) The court, after hearing the evidence and the parties, shall make the order for which the complaint is made or dismiss the complaint.
- (4) Where the complaint or petition is for an order for —
 - (a) the payment of a sum of money, or
 - (b) the variation of the rate of any periodical payments ordered by a court of summary jurisdiction to be made, or
 - (c) such other matter as may be prescribed,the court may make the order with the consent of the defendant without hearing evidence.
- (5) A court of summary jurisdiction may at any time, whether before or after beginning to hear a complaint, adjourn the hearing.⁶⁷
- (6) The court may when adjourning either —
 - (a) fix the time and place at which the hearing is to be resumed or,
 - (b) unless it remands the defendant under section 44, leave the time and place to be determined later by the court;but the hearing shall not be resumed at a time and place so determined unless the court is satisfied that the parties have had adequate notice thereof.

44 Non-appearance of defendant

[1983/13/59; P1980/43/55]

- (1) Subject to subsection (3), where at the time and place appointed for the hearing or adjourned hearing of a complaint the complainant appears but the defendant does not, the court may proceed in his absence.
- (2) Where the court, instead of proceeding in the absence of the defendant adjourns, or further adjourns the hearing, the court may, if the complaint has been substantiated on oath, issue a warrant for his arrest.
- (3) The court shall not begin to hear a complaint in the absence of the defendant or issue a warrant under this section unless either —
 - (a) it is proved to the satisfaction of the court, on oath or in such other manner as may be prescribed, that notice of the time and place of the hearing or adjourned hearing was served on the defendant within what appears to the court to be a reasonable time before the hearing, or
 - (b) the defendant has appeared on a previous occasion to answer to the complaint.

- (4) Where the defendant fails to appear at an adjourned hearing, the court shall not issue a warrant under this section unless it is satisfied that he has had adequate notice of the time and place of the adjourned hearing.
- (5) Subject to subsection (6), where the defendant is arrested under a warrant issued under this section, the court may, on any subsequent adjournment of the hearing, remand him.
- (6) The court shall not issue a warrant or remand a defendant under this section, or further remand him under section 85, after he has given evidence in the proceedings.
- (7) Where the court remands the defendant, the time fixed for the resumption of the hearing shall be that at which he is required to appear or to be brought before the court in pursuance of the remand.

45 Non-appearance of complainant

[1983/13/60; P1980/43/56]

Where at the time and place appointed for the hearing or adjourned hearing of a complaint the defendant appears but the complainant does not, the court may —

- (a) dismiss the complaint, or
- (b) if evidence has been received on a previous occasion, proceed in the absence of the complainant.

46 Non-appearance of both parties

[1983/13/61; P1980/43/57]

Where at the time and place appointed for the hearing or adjourned hearing of a complaint neither the complainant nor the defendant appears, the court may dismiss the complaint.

47 Costs

[1983/13/67; P1980/43/64]

- (1) **Subject to subsections 1A and 1B**, on the hearing of a complaint, a court of summary jurisdiction may in its discretion make such order as to costs —

- (a) on making the order for which the complaint is made, to be paid by the defendant to the complainant;
- (b) on dismissing the complaint, to be paid by the complainant to the defendant,

as it thinks just and reasonable.

- (1A) **Subject to the provisions of this or any other Act and to rules of court, the costs of and incidental to all domestic proceedings in a court of summary jurisdiction shall be in the discretion of the court, and the court shall have full power to determine by whom and to what extent the costs are to be paid.**

- (1B) If the complaint is for an order for the variation of an order for the periodic payment of money, or for the enforcement of such an order, the court may, whatever adjudication it makes, order either party to pay the whole or any part of the other's costs.
- (2) The amount of any sum ordered to be paid under subsection (1) shall be specified in the order, or order of dismissal, as the case may be.
- (3) This section has effect subject to any other enactment enabling a court of summary jurisdiction to order one party to pay another party's costs.
- (4) Nothing in this section applies to costs in criminal proceedings (see Part 5 of the *Justice Reform Act 2021*).

PART V – DOMESTIC PROCEEDINGS

Domestic proceedings

DIVISION 1: DOMESTIC PROCEEDINGS

48 Meaning of “domestic proceedings”

[1983/13/53; P1980/43/53]

- (1) Subject to subsection (2), in this Part “domestic proceedings” means proceedings under any of the following enactments —
- (a) [Repealed]⁶⁸
 - (b) [Repealed]⁶⁹
 - (c) and (d) [Repealed]⁷⁰
 - (e) section 106 of the Social Security Administration Act 1992 (as that section has effect on the Island);⁷¹
 - ~~(f) section 25 of the Matrimonial Proceedings Act 2001;⁷²~~
 - (g) the *Maintenance Orders (Reciprocal Enforcement) Act 1995*;⁷³
 - (h) Part 3 of the *Matrimonial Proceedings Act 2003*;⁷⁴
 - (ha) paragraphs 59 to 61 of Schedule 5 to the *Civil Partnership Act 2011*;⁷⁵
 - (i) Part 1 or 2 of, or paragraph 3 of Schedule 3 to, the *Children and Young Persons Act 2001*;⁷⁶
 - (j) section 55.⁷⁷
- (1A) “domestic proceedings also includes
- (a) any proceedings in respect of a domestic abuse protection order under *the Domestic Abuse Act 2020*;
 - (b) any “family proceedings” within the meaning of the *Domestic Abuse Act 2020*.

- (2) Subject to subsection (3), “domestic proceedings” does not include —
- (a) proceedings for the enforcement of any order made, confirmed or registered under any of the enactments mentioned in subsection (1);
 - (b) proceedings for the variation of a periodical payments order made, confirmed or varied under any of those enactments; or
 - (c) proceedings in respect of the commission of an offence under any of those enactments.
- (3) The court before whom there fall to be heard any of the following proceedings —
- (a) proceedings for the enforcement of any order made, confirmed or registered under any of the enactments mentioned in subsection (1);
 - (b) proceedings for the variation of a periodical payments order made, confirmed or varied under any of those enactments;
 - (c) proceedings for an attachment of earnings order in relation to a maintenance order within the meaning of the *Administration of Justice Act 1981* or for the discharge or variation of such an order;
- may if it thinks fit order that those proceedings and any other proceedings to be heard therewith shall, notwithstanding anything in subsection (2), be treated as domestic proceedings for the purposes of this Part.
- (4) Where the same parties are parties —
- (a) to proceedings which are domestic proceedings by virtue of subsection (1), and
 - (b) to proceedings which the court has power to treat as domestic proceedings by virtue of subsection (3),
- and the proceedings are heard together by a court of summary jurisdiction, the whole of those proceedings shall be treated as domestic proceedings for the purpose of this Part.
- (5) No appeal shall lie from the making of, or refusal to make, an order under subsection (3).

49 Composition of courts for domestic proceedings

[1983/13/55; P1980/43/66]

- (1) Subject to subsection (2), a court of summary jurisdiction when hearing domestic proceedings shall be composed of the High Bailiff or not more than 3 justices, including, so far as practicable, both a man and a woman.
- (2) A court of summary jurisdiction when hearing an application in domestic proceedings (except proceedings falling within section 48(1)(g)) for the making of an order for financial provision for or in respect of a child who

is not a marital child shall consist of the High Bailiff unless the father has parental responsibility for the child.⁷⁸

- (3) Nothing in subsection (2) precludes any other court of summary jurisdiction from making an order varying, revoking or reviving such an order.⁷⁹
- (4) In this section “marital child” and “parental responsibility” have the same meanings as in the *Children and Young Persons Act 2001*.⁸⁰

50 Sitings of courts for domestic proceedings

[1983/13/56; P1980/43/56]

- (1) The business of courts of summary jurisdiction shall, so far as is consistent with the due dispatch of business, be arranged in such manner as may be requisite for separating the hearing and determination of domestic proceedings from other business.
- (2) No person shall be present during the hearing and determination of domestic proceedings by a court of summary jurisdiction except —
 - (a) officers of the court;
 - (b) parties to the case before the court, their advocates, witnesses and other persons directly concerned in the case;
 - (c) bona fide representatives of newspapers or news agencies;
 - (d) any other person whom the court may in its discretion permit to be present, but so that permission shall not be withheld from a person who appears to the court to have adequate grounds for his attendance.
- (3) When hearing domestic proceedings, a court of summary jurisdiction may, if it thinks necessary in the interests of the administration of justice or of public decency, direct that any persons (except officers of the court, the parties to the case, the parties’ advocates or other persons directly concerned in the case), be excluded during the taking of any indecent evidence.
- (4) The powers conferred on a court of summary jurisdiction by this section shall be in addition and without prejudice to any other powers of the court to hear proceedings in camera.

51 Restrictions on reports of domestic proceedings

[1983/13/62; P1980/43/71]

- (1) It shall not be lawful to publish in the Island a written report, or to include in a relevant programme for reception in the Island a report, of any domestic proceedings containing any matter other than —
 - (a) the names, addresses and occupations of the parties and witnesses;

- (b) the grounds of the complaint, and a concise statement of the charges, defences and counter-charges in support of which evidence has been given;
 - (c) submissions on any point of law arising in the course of the proceedings and the decision of the court on the submissions;
 - (d) the decision of the court, and any observations made by the court in giving it.⁸¹
- (2) If a report is published, or included in a relevant programme in contravention of this section, the following persons —
 - (a) in the case of a publication of a written report as part of a newspaper or periodical, any proprietor, editor or publisher of the newspaper or periodical;
 - (b) in the case of a publication of a written report otherwise than as part of a newspaper or periodical, the person who publishes it;
 - (c) in the case of the inclusion of a report in a relevant programme, any body corporate which is engaged in providing the service in which the programme is included and any person having functions in relation to the programme corresponding to those of an editor of a newspaper;⁸²
 - (d) [Repealed]⁸³

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.⁸⁴
- (3) Proceedings for an offence under this section shall not be instituted otherwise than by or with the consent of the Attorney General.
- (4) Nothing in this section prohibits the printing or publishing of any matter in a newspaper or periodical of a technical character bona fide intended for circulation among members of the legal or medical professions.

52 Report by probation officer on parties' means

[1983/13/63; P1980/43/72]

- (1) In any domestic proceedings in which an order may be made for the payment of money by any person, or in any proceedings for the enforcement or variation of any such order, a court of summary jurisdiction may request a probation officer to investigate the means of the parties to the proceedings, and the court may direct the probation officer to report the result of his investigations to the court in accordance with this section.
- (2) No direction under subsection (1) shall be given until the court has determined all issues arising in the proceedings other than the amount to be directed to be paid by such an order.

- (3) Where the court gives a direction under subsection (1), the court may require the probation officer to furnish a statement in writing, or to make an oral statement, about his investigations.
- (4) Where the court requires a probation officer to make a statement in writing under subsection (3) —
 - (a) a copy of the statement shall be given to each party to the proceedings or to his advocate at the hearing; and
 - (b) the court may, if it thinks fit, require that the statement, or such part of it as the court may specify, shall be read aloud at the hearing.
- (5) The court may, and if requested to do so at the hearing by a party to the proceedings or his advocate shall, require the probation officer to give evidence about his investigation, and if the officer gives such evidence, any party to the proceedings may give or call evidence with respect to any matter referred to either in the statement or in the evidence given by the officer.
- (6) Any statement made by a probation officer in a statement furnished or made by him under subsection (3), or any evidence which he is required to give under subsection (4), may be received by the court as evidence, notwithstanding any enactment or rule of law relating to the admissibility of evidence.

53 Examination of witnesses by court

[1983/13/64; P1980/43/73]

Where in any domestic proceedings, or in any proceedings for the enforcement or variation of an order made in domestic proceedings, it appears to a court of summary jurisdiction that any party to the proceedings who is not legally represented is unable effectively to examine or cross-examine a witness, the court shall ascertain from the party what are the matters about which the witness may be able to depose or on which he ought to be cross-examined, as the case may be, and shall put, or cause to be put, to the witness such questions in the interests of that party as may appear to the court to be proper.

DIVISION 2: THE PROHIBITION ON CROSS-EXAMINATION

53A Prohibition of cross-examination in person: introductory

In this Division “**witness**”, in relation to any proceedings, includes a party to the proceedings.

53B Prohibition of cross-examination in person: victims of offences

- (1) In family proceedings, no party to the proceedings who has been convicted of or given a caution for, or is charged with, a specified offence

may cross-examine in person a witness who is the victim, or alleged victim, of that offence.

- (2) In family proceedings, no party to the proceedings who is the victim, or alleged victim, of a specified offence may cross-examine in person a witness who has been convicted of, or given a caution for, or is charged with, that offence.
- (3) Subsections (1) and (2) do not apply to a conviction or caution that is spent for the purposes of the Rehabilitation of Offenders Act 2001 unless evidence in relation to the conviction or caution is admissible in, or may be required in, the proceedings by virtue of section 5(2), (3) or (4) of that Act.
- (4) Cross-examination in breach of subsection (1) or (2) does not affect the validity of a decision of the court in the proceedings if the court was not aware of the conviction, caution or charge when the cross-examination took place.
- (5) In this section, —

“caution” means, —

- (a) a caution given in the Island by a police officer or any other person authorised to do so in respect of an offence which, at the time the caution is given, the person to whom it is given has admitted;
- (b) a conditional caution given under section 22 of the Criminal Justice Act 2003 (of Parliament);
- (c) a youth conditional caution given under section 66A of the Crime and Disorder Act 1998 (of Parliament);
- (d) any other caution given to a person in England and Wales or Northern Ireland in respect of an offence which, at the time the caution is given, that person has admitted;
- (e) anything corresponding to a caution falling within paragraph (a), (b), (c) or (d) (however described) which is given to a person in respect of an offence under the law of Scotland;

“conviction” means, —

- (a) a conviction before a court in the Island;
- (b) a conviction before a court in England and Wales, Scotland or Northern Ireland;
- (c) a conviction in service disciplinary proceedings (in the Island or elsewhere);
- (d) a finding in any criminal proceedings (including a finding linked with a finding of insanity) that the person concerned has committed an offence or done the act or made the omission charged;

and “convicted” is to be read accordingly;

“service disciplinary proceedings” means, —

- (a) any proceedings (whether or not before a court) in respect of a service offence within the meaning of the Armed Forces Act 2006 (of Parliament) (except proceedings before a civilian court within the meaning of that Act);
- (b) any proceedings under the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957 (each an Act of Parliament) (whether before a court-martial or before any other court or person authorised under any of those Acts to award a punishment in respect of an offence);
- (c) any proceedings before a Standing Civilian Court established under the Armed Forces Act 1976 (of Parliament);

“specified offence” means an offence under the *Domestic Abuse Act 2020* or any other offence specified, or of a description specified, in regulations made by the Department.

Tynwald procedure — approval required.

- (6) The following provisions (which deem a conviction of a person discharged not to be a conviction) do not apply for the purposes of this section to a conviction of a person for an offence in respect of which an order has been made discharging the person absolutely or conditionally, —
 - (a) section 6 of the *Criminal Justice Act 1963*;
 - (b) section 14 of the Powers of Criminal Courts (Sentencing) Act 2000 (of Parliament);
 - (c) section 187 of the Armed Forces Act 2006 (of Parliament);

or any corresponding earlier Manx or Parliamentary enactment.

- (7) For the purposes of this section “offence” includes an offence under a law that is no longer in force.

53C Prohibition of cross-examination in person: persons protected by injunctions etc

- (1) In family proceedings, no party to the proceedings against whom an on-notice protective injunction is in force may cross-examine in person a witness who is protected by the injunction.
- (2) In family proceedings, no party to the proceedings who is protected by an on-notice protective injunction may cross-examine in person a witness against whom the injunction is in force.
- (3) Cross-examination in breach of subsection (1) or (2) does not affect the validity of a decision of the court in the proceedings if the court was not aware of the protective injunction when the cross-examination took place.

- (4) In this section “protective injunction” means an order or injunction specified, or of a description specified, ~~in rules of court~~ in regulations made by the Department.

Tynwald procedure — approval required.

- (5) For the purposes of this section, a protective injunction is an “on-notice” protective injunction if, —
- (a) the court is satisfied that there has been a hearing at which the person against whom the protective injunction is in force asked, or could have asked, for the injunction to be set aside or varied, or
 - (b) the protective injunction was made at a hearing of which the court is satisfied that both the person who applied for it and the person against whom it is in force had notice.

53D Direction for prohibition of cross-examination in person: other cases

- (1) In family proceedings, the court may give a direction prohibiting a party to the proceedings from cross-examining (or continuing to cross-examine) a witness in person if, —
- (a) neither section 53B nor section 53C operates to prevent the party from cross-examining the witness, and
 - (b) it appears to the court that, —
 - (i) the quality condition or the significant distress condition is met, and
 - (ii) it would not be contrary to the interests of justice to give the direction.
- (2) The “quality condition” is met if the quality of evidence given by the witness on cross-examination, —
- (a) is likely to be diminished if the cross-examination (or continued cross-examination) is conducted by the party in person, and
 - (b) would be likely to be improved if a direction were given under this section.
- (3) The “significant distress condition” is met if, —
- (a) the cross-examination (or continued cross-examination) of the witness by the party in person would be likely to cause significant distress to the witness or the party, and
 - (b) that distress is likely to be more significant than would be the case if the witness were cross-examined other than by the party in person.
- (4) A direction under this section may be made by the court, —
- (a) on an application made by a party to the proceedings, or
 - (b) of its own motion.

- (5) In determining whether the quality condition or the significant distress condition is met in the case of a witness or party, the court must have regard, among other things, to, —
- (a) any views expressed by the witness as to whether or not the witness is content to be cross-examined by the party in person;
 - (b) any views expressed by the party as to whether or not the party is content to cross-examine the witness in person;
 - (c) the nature of the questions likely to be asked, having regard to the issues in the proceedings;
 - (d) any behaviour by the party in relation to the witness in respect of which the court is aware that a finding of fact has been made in the proceedings or any other family proceedings;
 - (e) any behaviour by the witness in relation to the party in respect of which the court is aware that a finding of fact has been made in the proceedings or any other family proceedings;
 - (f) any behaviour by the party at any stage of the proceedings, both generally and in relation to the witness;
 - (g) any behaviour by the witness at any stage of the proceedings, both generally and in relation to the party;
 - (h) any relationship (of whatever nature) between the witness and the party.
- (6) Any reference in this section to the quality of a witness's evidence are to its quality in terms of completeness, coherence and accuracy.
- (7) For this purpose "coherence" refers to a witness's ability in giving evidence to give answers which, —
- (a) address the questions put to the witness, and
 - (b) can be understood, both individually and collectively.

53E Directions under section 53D: supplementary

- (1) A direction under section 53D has binding effect from the time it is made until the witness in relation to whom it applies is discharged.
- (2) But the court may revoke a direction under section 53D before the witness is discharged, if it appears to the court to be in the interests of justice to do so, either, —
- (a) on an application made by a party to the proceedings, or
 - (b) of its own motion.
- (3) The court may revoke a direction under section 53D on an application made by a party to the proceedings only if there has been a material change of circumstances since, —
- (a) the direction was given, or

- (b) if a previous application has been made by a party to the proceedings, the application (or the last application) was determined.
- (4) The court must state its reasons for, —
 - (a) giving a direction under section 53D;
 - (b) refusing an application for a direction under section 53D;
 - (c) revoking a direction under section 53D;
 - (d) refusing an application for the revocation of a direction under section 53D.

53F Alternatives to cross-examination in person

- (1) This section applies where a party to family proceedings is prevented from cross-examining a witness in person by virtue of section 53B, 53C or 53D.
- (2) The court must consider whether (ignoring this section) there is a satisfactory alternative means, —
 - (a) for the witness to be cross-examined in the proceedings, or
 - (b) of obtaining evidence that the witness might have given under cross-examination in the proceedings.
- (3) If the court decides that there is not, the court must, —
 - (a) invite the party to the proceedings to arrange for an advocate to act for the party for the purpose of cross-examining the witness, and
 - (b) require the party to the proceedings to notify the court, by the end of a period specified by the court, of whether an advocate is to act for the party for that purpose.
- (4) Subsection (5) applies if, by the end of the period specified under subsection (3)(b), either, —
 - (a) the party has notified the court that no advocate is to act for the party for the purpose of cross-examining the witness, or
 - (b) no notification has been received by the court and it appears to the court that no advocate is to act for the party for the purpose of cross-examining the witness.
- (5) The court must consider whether it is necessary in the interests of justice for the witness to be cross-examined by an advocate appointed by the court to represent the interests of the party.
- (6) If the court decides that it is, the court must appoint an advocate (chosen by the court) to cross-examine the witness in the interests of the party.
- (7) An advocate appointed by the court under subsection (6) is not responsible to the party.
- (8) For the purposes of this section a reference to cross-examination includes (in a case where a direction is given under section 53D after the party has

begun cross-examining the witness) a reference to continuing to conduct cross-examination.

53G Costs of advocates appointed under section 53F

- (1) After consulting the Deemsters, the Treasury may by regulations make provision for the payment out of the General Revenue of the Island of sums in respect of, —
 - (a) fees or costs properly incurred by an advocate appointed under section 53F, and
 - (b) expenses properly incurred in providing such a person with evidence or other material in connection with the appointment.
- (2) The regulations may provide for the amounts to be determined by the Treasury or such other person as the regulations may specify.
- (3) The regulations may provide for the amounts paid to be calculated in accordance with, —
 - (a) a rate or scale specified in the regulations, or
 - (b) other provision made by or under the regulations.

Tynwald procedure for regulations under this section — approval required.

~~Orders in domestic proceedings~~

DIVISION 3: ORDERS IN DOMESTIC PROCEEDINGS

54 Periodical payment through Chief Registrar

[1983/13/68; 1985/7/1/3; P1980/43/59]

- (1) Where a court of summary jurisdiction makes a periodical payments order, the court may order that the payments shall be made to the Chief Registrar.⁸⁵
- (2) The court shall exercise its power under subsection (1) on making an order under —
 - (a) Schedule 1 to the *Children and Young Persons Act 2001*;
 - (b) Part 3 of the *Matrimonial Proceedings Act 2003*; or
 - (c) Schedule 6 to the *Civil Partnership Act 2011*,
 unless satisfied that it is undesirable to do so because of representations expressly made about the matter by the recipient of the periodical payments.⁸⁶
- (3) Without prejudice to subsections (1) and (2), a court of summary jurisdiction making a periodical payments order may order that the payment shall be made to some third party on behalf of the person for

whose benefit the payments are to be made instead of directly to that person.

- (4) Nothing in this section affects any right of a person to proceed in his own name for the recovery of sums payable on his behalf under an order of any court.
- (5) The accounts of the Chief Registrar relating to the sums paid to or through him under this section shall be inspected in accordance with the *Audit Act 2006*.⁸⁷

55 Revocation etc of periodical payments orders

[1983/13/69; P1980/43/60]

- (1) Where a court of summary jurisdiction has made a periodical payments order, the court may by order revoke, revive or vary the order.
- (2) The power to vary an order by virtue of this section includes power to suspend the operation of any provision of the order temporarily and to revive the operation of any provision so suspended.

56 Periodical payments due under more than one order

[1983/13/70; P1980/43/61]

- (1) Where periodical payments are required to be made to any person by another person under more than one periodical payments order, proceedings for the recovery of the payments may be brought by way of one complaint.
- (2) Where 2 or more periodical payments orders require payments to be made by a person to the Chief Registrar and —
 - (a) one of those orders requires payments to be made for the benefit of a minor who has his home with the person to whom the payments fall to be made, and
 - (b) one or more of those orders requires payment to be made to that person either for his own benefit or for the benefit of another minor who has his home with him,

any sums paid to the Chief Registrar under those orders which are less than the total sums required to be paid to him under them shall be apportioned in such manner as may be prescribed.⁸⁸

- (3) Any payments required under a periodical payments order to be made to a minor shall for the purposes of subsection (1) or (2) be treated as if they were required to be made to the person with whom the minor has his home.

57 Payments to be made to a minor etc

[1983/13/71; P1980/43/62]

(1) Where —

- (a) periodical payments are required to be made, or a lump sum is required to be paid, to a minor under an order made by a court of summary jurisdiction; or
- (b) periodical payments are required to be made to a minor under an order registered in a court of summary jurisdiction,

any sum required under the order to be paid to the minor may be paid to the person with whom the minor has his home, and that person —

- (i) may proceed in his own name for the variation, revival or revocation of the order, and
- (ii) may either proceed in his own name for the recovery or any sum required to be paid under the order or, in the case of a periodical payments order, request the Chief Registrar to proceed under section 93 for the recovery of that sum.⁸⁹

(2) Where a minor has a right under any enactment to apply for the revival of an order made by a court of summary jurisdiction which provided for the making of periodical payments to or for the benefit of the minor, the person with whom the minor has his home may proceed in his own name for revival of that order.

(3) Where any person by whom periodical payments are required to be made to a minor under an order made by a court of summary jurisdiction makes a complaint for the variation or revocation of that order, the person with whom the minor has his home may answer the complaint in his own name.

(4) Nothing in subsections (1) and (2) affects the right of a minor to proceed in his own name for the variation, revival or revocation of an order or for the recovery of any sum payable thereunder.

(5) For the purposes of this section and section 56(3) the person with whom a minor has his home —

- (a) in the case of a minor who is being looked after by the Department of Health and Social Care (within the meaning of the *Children and Young Persons Act 2001*), is that Department;⁹⁰
- (b) otherwise, is the person who, disregarding any absence of the minor at a hospital or boarding school and any other temporary absence, has the care of him.⁹¹

58 Power to remit arrears

[1983/13/74; P1980/43/95]

On the hearing of a complaint for the enforcement, variation, revival or revocation of a periodical payments order, the court may remit the whole or any part of the sum due under the order.

PART VI – WITNESSES AND EVIDENCE*Witnesses***59 Attendance of witnesses**

[P1980/43/97]

(1) Where a justice is satisfied —

- (a) that any person is likely to be able to give material evidence, or produce any document or thing likely to be material evidence, at an inquiry, at the summary trial of an offence, or on the hearing of a complaint by a court of summary jurisdiction, and
- (b) that the person will not voluntarily attend as a witness or produce the document or thing,

the justice shall issue a summons directed to that person requiring him to attend before the court at the time and place appointed in the summons to give evidence or to produce the document or thing.

(2) If a justice is satisfied by evidence on oath of the matters mentioned in subsection (1), and also that it is probable that a summons under that subsection would not procure the attendance of the person in question, the justice may instead of issuing a summons issue a warrant to arrest that person and bring him before such a court at a time or place specified in the warrant.

(3) On the failure of any person to attend before a court of summary jurisdiction in answer to a summons under this section, if —

- (a) the court is satisfied by evidence on oath that he is likely to be able to give material evidence or produce any document or thing likely to be material evidence in the proceedings; and
- (b) it is proved on oath, or in such other manner as may be prescribed, that he has been duly served with the summons, and that a reasonable sum has been paid or tendered to him for costs and expenses; and
- (c) it appears to the court that there is no just excuse for the failure,

the court may issue a warrant to arrest him and bring him before the court at a time and place specified in the warrant.

(4) Without prejudice to subsection (3), where —

- (a) a person is summoned under this section to attend before a court of summary jurisdiction, and
- (b) a reasonable sum is paid or tendered to him for costs and expenses, and
- (c) he fails without reasonable excuse to attend in answer to the summons,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.⁹²

- (5) If any person attending or brought before a court of summary jurisdiction refuses without just excuse to be sworn or give evidence, or to produce any document or thing, the court may commit him to custody until the expiration of such period not exceeding 7 days as may be specified in the warrant or until he sooner gives evidence or produces the document or thing.
- (6) The powers conferred by subsection (5) may be exercised from time to time after adjournment of the proceedings, but so that the total period of imprisonment shall not exceed 28 days in the case of the summary trial of an offence or the hearing of a complaint.
- (7) At an inquiry by a court of summary jurisdiction, the court may bind any witness by recognizance to appear at the trial of the accused and give evidence against him, and if a witness refuses to be bound the court may by warrant commit him to prison until the trial unless in the meantime he enters into a recognizance.
- (8) Where a witness has been committed under subsection (7) and afterwards the person accused is discharged, the court shall order the witness also to be discharged.

60 Protection from civil arrest

- (1) Any person who is in good faith summoned from any place outside the Island as a witness to appear, or who attends from any such place at the request of any party, at any trial or inquiry before a court of summary jurisdiction shall not be liable to be arrested in any civil proceedings from the time of his arrival in the Island until the expiration of 10 days after the end of the trial or inquiry.
- (2) The court before whom such a person is summoned or attends shall discharge him from any arrest in civil proceedings unless he waives his privilege under subsection (1).
- (3) Where a person has waived any privilege to which he is entitled under subsection (1), he may not afterwards object to any such arrest.
- (4) Any arrest knowingly made contrary to subsection (1) shall be void and shall constitute a contempt, on the part of the person on behalf of whom it

is made, of the court before whom the person concerned is summoned or attends.

- (5) The privilege conferred by subsection (1) extends only to exemption from arrest, and not to the service of a summons (except in the case of service in the presence of the court).

61 Binding over of witnesses

- (1) This section applies where a person charged before a court of summary jurisdiction with an offence triable on information is committed for trial, and it appears to the court, after taking into account any representations made by the prosecutor or the accused, that the attendance at the trial of any witness who has been examined before them is unnecessary by reason of —
- (a) anything contained in a statement by the accused, or
 - (b) the accused having pleaded guilty to the charge, or
 - (c) the evidence of the witness being merely of a formal nature.
- (2) If the witness has not already been bound over, the court may bind him over to attend the trial conditionally on notice given to him.
- (3) If the witness has already been bound over, the court may direct that he shall be treated as having been bound over to attend only conditionally on notice given to him.
- (4) The court shall on committing the accused for trial inform him of his right to require the attendance at the trial of any such witnesses, and of the steps which he must take for enforcing their attendance.

Evidence: general

62 Evidence on oath

[P1980/43/98]

Subject to the provisions of any enactment or rule of law authorising the reception of unsworn evidence, evidence given before a court of summary jurisdiction shall be given on oath.

62A Confessions by mentally handicapped persons

In any case where at the summary trial of a person for an offence it appears to the court that a warning under section 17 (confessions by mentally handicapped persons) of the *Criminal Jurisdiction Act 1993* would be required if the trial were on information, the court shall treat the case as one in which there is a special need for caution before convicting the accused on his confession.⁹³

63 Note of evidence

- (1) On the summary trial of a complaint, a court of summary jurisdiction —
 - (a) if required by either party or his advocate, or
 - (b) if the court considers it expedient to do so,shall take or cause to be taken a note in writing of the evidence, or so much of it as is material, in a book to be kept by the clerk of the court.
- (2) The note of the evidence shall be signed by one of the justices by whom the complaint is heard on the day on which it is determined.

64 Proof of non-payment of fine etc

[1983/13/66; 1985/7/1/2; P1980/43/99]

Where a court of summary jurisdiction has ordered a person to pay to another any sum of money, and proceedings are taken before any court to enforce payment of that sum then —

- (a) if the person to whom the sum is ordered to be paid is the Chief Registrar, a certificate purporting to be signed by the Chief Registrar that the sum has not been paid to him;⁹⁴
- (b) if that person is a Department, a Statutory Board or a local authority, a certificate purporting to be signed by an officer of the Department, Board or authority that the sum has not been paid to it;
- (c) in any other case, a document purporting to be a statutory declaration by the person to whom the sum is ordered to be paid that the sum has not been paid to him,

shall be admissible in evidence that the sum has not been so paid, unless the court requires the Chief Registrar, officer or other person to be called as a witness.⁹⁵

65 Statement of wages to be evidence

[1983/13/65; P1980/43/100]

A statement in writing to the effect that wages of any amount have been paid to a person during any period, purporting to be signed by or on behalf of his employer, shall be evidence of the facts stated therein in any proceedings before a court of summary jurisdiction for enforcing payment by the person to whom the wages are stated to have been paid of a sum adjudged to be paid by a summary conviction or order.

66 Onus of proving exceptions etc

[P1980/43/101]

- (1) Where the defendant to a complaint relies in his defence on any exception, exemption, proviso, excuse or qualification, whether or not it accompanies the description of the offence or matter of complaint in the statutory provision creating the offence or on which the complaint is founded, the

burden of proving the exception, exemption, proviso, excuse or qualification shall be on him.

- (2) Subsection (1) applies notwithstanding that the complaint contains an allegation negating the exception, exemption, proviso, excuse or qualification.

67 Proof of convictions

[P1980/43/104]

Where a person is convicted of an offence by a ~~court of summary conviction~~ **court of summary jurisdiction**, other than a ~~juvenile court~~ **youth court**, and —

- (a) it is proved to the satisfaction of the court, on oath or in such other manner as may be prescribed, that not less than 7 days previously a notice was served on the accused in the prescribed form and manner and specifying any alleged previous conviction of the accused of a summary offence proposed to be brought to the notice of the court in the event of his conviction of the offence charged; and
- (b) the accused is not present in person before the court,

the court may take account of any such previous conviction so specified as if the accused had appeared and admitted it.

68 Deposition of dying person

[P1980/43/105; SI81/552/33]

- (1) Where a person (“the deponent”) appears to a justice to be able and willing to give material information relating to an offence triable on information or to a person accused of such an offence, and —
 - (a) the justice is satisfied on a representation made by a registered medical practitioner that the deponent is dangerously ill and not likely to recover; and⁹⁶
 - (b) it is not practicable for examining justices to take the evidence of the deponent in accordance with the provisions of this Act and of rules,

the justice may take in writing the deposition of the deponent on oath.

- (2) Where a deposition under subsection (1) relates to an offence with which a person has been charged, the justice shall give the person, whether the prosecutor or the accused, against whom it is proposed to use it reasonable notice of the intention to take the deposition, and shall give that person or his advocate full opportunity of cross-examining the deponent.
- (3) The justice shall sign the deposition and add to it a statement of his reason for taking it, the date when and the place where it was taken and the names of any persons present when it was taken, and shall send the deposition with the statement to the Chief Registrar.

- (4) A deposition under this section may be given in evidence at an inquiry into a complaint against the accused or in respect of the offence to which the deposition relates, if it is proved to the satisfaction of the court that subsection (2) was complied with in relation thereto.

69 Certificate of conviction or order

- (1) If so required by either party to any proceedings in a court of summary jurisdiction, the ~~clerk of the~~ court shall, on payment of the prescribed fee, deliver to him a certificate in the prescribed form of any conviction or order made in the proceedings, signed by the justice or one of the justices who made it.
- (2) A certificate under subsection (1) shall be a good form of conviction or order for any purpose for which any form of conviction or order may be required.
- (3) A certificate under subsection (1), signed in accordance with that subsection, shall be conclusive evidence of the conviction or order in question; and a certificate of a conviction or order purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

Committal proceedings

70 ~~Evidence at inquiry~~

- ~~(1) Subject to section 71, evidence may be adduced at an inquiry either orally or by written statements in accordance with subsection (4), or both.~~
- ~~(2) Subject to subsection (3), where evidence at an inquiry is given orally —~~
- ~~(a) it shall be given in the presence of the accused, and he or his advocate may put questions to the witness;~~
- ~~(b) the court shall cause the evidence of each witness to be put into writing, and the deposition to be read to him in the presence and hearing of the accused, and require the witness to sign the deposition; and~~
- ~~(c) the depositions shall be authenticated by a certificate signed by one of the justices.~~
- ~~(3) Oral evidence at an inquiry may be given, and any deposition read, in the absence of the accused if —~~
- ~~(a) the court considers that by reason of his disorderly conduct before them it is not practicable for the evidence to be given or the deposition read in his presence; or~~
- ~~(b) he cannot be present for reasons of health but is represented by an advocate and has consented to the evidence being given or the deposition read in his absence; or~~

- ~~(c) — the court is satisfied that there are exceptional reasons which make it impracticable for the accused to be present and that —~~
 - ~~(i) — the accused has consented to the evidence being given or the deposition being read in his absence; and~~
 - ~~(ii) — he is represented by an advocate; and~~
 - ~~(iii) — no prejudice is likely to be caused to the accused by his absence.⁹⁷~~
- ~~(4) — A written statement may not be put in evidence at an inquiry unless it complies with the following conditions —~~
 - ~~(a) — it purports to be signed by the maker;~~
 - ~~(b) — it contains a declaration by the maker to the effect that it is true to the best of his knowledge and belief and —~~
 - ~~(i) — that he makes it knowing that, if it is put in evidence, he will be liable to prosecution if he wilfully states in it anything which he knows to be false or does not believe to be true;~~
 - ~~(ii) — if it indicates under paragraph (d) that he is under the age of 14 years, that he understands the importance of telling the truth in it;~~
 - ~~(c) — a copy of it is given by the party tendering it to every other party to the proceedings;~~
 - ~~(d) — if the maker is under the age of 18 years, it gives his age;~~
 - ~~(e) — if he cannot read, it is read to him before he signs it and is accompanied by a declaration by the person so reading it to the effect that it was so read;~~
 - ~~(f) — if it refers to any other document as an exhibit, the copy given to any other party under paragraph (c) is accompanied by a copy of that document or by such information as may be necessary in order to enable the party to whom it is given to inspect that document or a copy of it.~~
- ~~(5) — In respect of statements made outside the Island —~~
 - ~~(a) — subsection (4)(a) shall not apply if the statement has been obtained pursuant to a letter of request issued under section 20 of the *Criminal Justice Act 1991*; and~~
 - ~~(b) — sub paragraphs (i) and (ii) of subsection (4)(b) shall not apply.⁹⁸~~

71 — Written statements: further provisions

- ~~(1) — So much of any written statement as is put in evidence at an inquiry shall, unless the court commits the accused for trial under section 6(2) or it otherwise directs, be read aloud at the inquiry; and where the court so directs, an account shall be given orally of so much of any statement as is not read aloud.~~

- (2) ~~Any document or object referred to as an exhibit and identified in a written statement shall be treated as if it had been produced as an exhibit and identified in court by the maker of the statement.~~
- (3) ~~The maker of a written statement shall be treated for the purpose of section 61 as a person who has been bound over to attend the trial conditionally on notice.~~
- (4) ~~If any person in a written statement intentionally makes a statement material to the inquiry which he knows to be false or does not believe to be true, he shall be guilty of an offence and liable on conviction on information to imprisonment for a term not exceeding 2 years or a fine or both.~~
- (5) ~~The *Perjury Act 1952* shall have effect as if subsection (4) were contained in that Act.~~
- (6) ~~Subsections (4) and (5) do not apply to a written statement made outside the Island.~~
- (7) ~~Notwithstanding that a written statement made by any person may be admissible at an inquiry by virtue of section 70, the court may of its own motion or on the application of any party to the proceedings require him to attend before the court and give evidence.~~
- (8) ~~In this section "written statement" means a statement put in evidence at an inquiry under section 70.~~

72 — Evidence of children

[P1980/43/103; P1988/33/33]

- (1) ~~At any inquiry by a court of summary jurisdiction into an offence to which this section applies —~~
 - (a) ~~a child shall not be called as a witness for the prosecution; but~~
 - (b) ~~any statement made by or taken from a child shall be admissible in evidence of any matter of which his oral testimony would be admissible,~~

~~except where the operation of this section is excluded by subsection (3).~~
- (2) ~~This section applies to —~~
 - (a) ~~any offence which involves an assault on, or injury or a threat of injury to, a person;~~
 - (b) ~~an offence under section 1 (cruelty) of the *Children and Young Persons Act 1966*;~~
 - (c) ~~an offence under —~~
 - (i) ~~the *Sexual Offences Act 1992*;~~
 - (ii) ~~Schedule 2 or 3 to the *Criminal Justice Act 2001*; or~~
 - (iii) ~~the *Sexual Offences and Obscene Publications Act 2021*;⁹⁹~~

- (d) ~~an offence consisting of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling within paragraph (a), (b) or (c).~~
- (3) ~~This section does not apply —~~
- (a) ~~where at or before the time when the statement is tendered in evidence the defence objects to its admission; or~~
- (b) ~~where the prosecution requires the attendance of the child for the purpose of establishing the identity of any person; or~~
- (c) ~~where the court is satisfied that it has not been possible to obtain from the child a statement that may be given in evidence under this section; or~~
- (d) ~~where the inquiry into the offence takes place after the court has discontinued to try it summarily and the child has given evidence in the summary trial.~~

False statements

73 False statements in certificates etc

[P1980/43/107]

If, in any solemn declaration, certificate or other writing made or given for the purpose of its being used in pursuance of any provision of this Act or of rules as evidence of the service of any document or the handwriting or seal of any person, a person —

- (a) makes a statement that he knows to be false in a material particular, or
- (b) recklessly makes a statement that is false in a material particular,
- he shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale, or both.¹⁰⁰

PART VII – PROCEDURE- GENERAL PROVISIONS

Appearances

74 Appearance by an advocate

[P1980/43/122]

- (1) A party to any proceedings before a court of summary jurisdiction may be represented by an advocate.
- (2) Appearance by a party by an advocate shall not satisfy any statutory provision or a condition of a recognizance expressly requiring his presence

in person; but otherwise an absent party so represented shall be deemed not to be absent.

Limitation of time

75 Limitation of time

[1981/20/Sch 7; P1980/43/127]

- (1) Except as otherwise expressly provided by any statutory provision and subject to subsection (2) **or (2A)**, a court of summary jurisdiction shall not hear a complaint unless the complaint was made within 6 months from the time when the offence was committed or the matter of complaint arose.
- (2) Nothing in —
 - (a) subsection (1), or
 - (b) subject to subsection (4), any other statutory provision (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 court of summary jurisdiction to try a complaint summarily or impose a limitation on the time for taking summary proceedings,shall apply in relation to an offence triable on information.
- (2A) Nothing in, —**
 - (a) subsection (1); or**
 - (b) subject to subsection (4), any other statutory provision (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 court of summary jurisdiction (~~whether including the High Bailiff or not~~) to try a complaint summarily or impose a limitation on the time for taking summary proceedings,**

applies to an offence which is triable summarily and in respect of which a maximum period of custody that exceeds six months or a maximum fine that exceeds level 5 on the standard scale.
- (3) Without prejudice to the generality of paragraph (b) of subsection (2), 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 Attorney General or some other specified authority).
- (4) Where, as regards any offence triable on information, there is imposed by any enactment (however framed or worded, and whether or not falling within subsection (2)(b)) a limitation on the time for taking proceedings on information for that offence, no summary proceedings for that offence shall be taken after the latest time for taking proceedings on information.

*Forms of proceedings***76 Forms of complaint etc**

- (1) Any complaint, summons, warrant or other document issued or made for the purpose of or in connection with any proceedings before a court of summary jurisdiction shall contain —
 - (a) in the case of proceedings for an offence, a short statement describing the offence with which the accused is charged, including a reference to the statutory provision creating the offence, together with such particulars as may be necessary for giving reasonable information as to the nature of the charge;
 - (b) in any other case, a short statement of the cause of complaint.
- (2) Any statement or particulars under subsection (1) shall use ordinary language and avoid as far as possible the use of technical terms.
- (3) In the case of an offence created by a provision contained in an Act of Parliament, or in an instrument of a legislative character made under any such Act, and having effect in the Island (whether by virtue of any such Act or instrument or by virtue of an Act of Tynwald or of an instrument made under any such Act), the statement under subsection (1)(a) may refer to the provision “as it has effect in the Isle of Man”, without more.
- (4) Any summons or warrant so issued shall be signed by the justice by whom it is issued **or a person authorised by that witness.**
- (5) No warrant of arrest may be signed in blank.

77 Defect in process

[P1980/43/123]

- (1) No objection shall be allowed to any complaint, or to any summons or warrant to procure the presence of the accused or defendant, for any defect in it in substance or form, or for any variance between it and the evidence adduced on behalf of the complainant at the hearing of the complaint.
- (2) If it appears to a court of summary jurisdiction that any variance between a summons or warrant and the evidence adduced on behalf of the complainant is such that the accused or defendant has been misled by the variance, the court shall on the application of the accused or defendant adjourn the hearing.

78 Order books

- (1) The Chief Registrar shall keep order books for the entry therein of convictions or orders made by courts of summary jurisdiction.¹⁰¹
- (2) Order books shall be in such form as the Chief Registrar, after consultation with the High Bailiff, may determine.¹⁰²

- (3) [Repealed]¹⁰³
- (4) After a complaint is heard and determined by a court of summary jurisdiction, the court shall cause an entry to be made in the order book setting out the substance of the charge or application and the decision, and such other particulars as may be required by the form of the book.
- (5) Every entry under subsection (4) shall be made by a justice present or by the clerk of the court under his direction, and a justice present shall sign at the end the entries to which the proceedings relate.
- (6) An entry so made shall be deemed for all purposes to be a conviction or order of the court, as the case may be.

79 Copies of proceedings

- (1) Copies of any proceedings of a court of summary jurisdiction shall be furnished to any party requiring the same by the Chief Registrar, on payment of such fee as may be prescribed.¹⁰⁴
- (2) Any such copy certified under the hand of the Chief Registrar shall be received in evidence in all courts.¹⁰⁵
- (3) No copy of any proceedings, other than a complaint, may be furnished before the close of the proceedings except by leave of the court.

79A Methods of authenticating court records and other documents

Despite any statutory provision or other rule of law requiring, —

- (a) an order or a record of a decision of a court summary jurisdiction;
or
- (b) any other document issued by such a court, or a High Bailiff or a justice,

to be signed by a High Bailiff or a justice, it may instead be authenticated in any manner provided for by rules.

Summonses and warrants

80 Service of process

[1986/21/2 and 4; 1983/13/54; SI81/552/99; SI83/523/15]

- (1) Service of any summons issued by a justice on a person other than a corporation may be effected —
 - (a) by delivering it to the person to whom it is directed; or
 - (b) by leaving it for him with some person at his last known or usual place of abode; or
 - (c) by sending it by post in a letter addressed to him at his last known or usual place of abode.

- (2) Subject to subsection (3), if the person summoned fails to appear, service of a summons in the manner authorised by subsection (1)(b) or (c) shall not be treated as proved unless it is proved that the summons came to his knowledge; and for that purpose any letter or other communication purporting to be written by him or on his behalf in such terms as reasonably to justify the inference that the summons came to his knowledge shall be admissible as evidence of that fact.
- (3) Subsection (2) shall not apply to any summons in respect of a summary offence served in the manner authorised by subsection (1)(b) or, if the summons was sent to an address in the British Islands in a registered letter or by the recorded delivery service, subsection (1)(c).
- (4) Service of a summons issued by a justice on a corporation may be effected by delivering it at, or sending it by post to, the registered office of the corporation, if that office is in the British Islands or, if there is no registered office in the British Islands, any place in the British Islands where the corporation trades or carries on business.
- (5) Any of the following matters, namely —
 - (a) the service of any summons;
 - (b) the proper addressing, pre-paying and posting or registration for the purposes of service of a letter containing a summons; or
 - (c) the place, date and time of posting or registration of any such letter;may be proved in any proceedings before a court of summary jurisdiction by a document purporting to be a certificate signed by the person by whom the service was effected or the letter posted or registered.
- (6) References in this section to a person's last known or usual place of abode include references to an address given by that person for the purpose of service of a summons.
- (7) Subject to subsections (8) and (9), this section and section 13 apply with any necessary modifications to the service of notice of the time and place appointed for the hearing or adjourned hearing of a complaint as they apply to the service of a summons.
- (8) Service of such a notice shall not be effected in the manner authorised by subsection (1)(c) where the defendant is a member of the naval, military or air forces of the Crown and the complaint relates to the maintenance of his child (whether legitimate or illegitimate).
- (9) [Repealed]¹⁰⁶

81 Backing of warrant issued in UK or Channel Islands

- (1) This section applies to a warrant for the arrest or commitment of any person signed or issued by any court, judge, justice of the peace or

magistrate (by whatever title called) in any part of the United Kingdom or the Channel Islands.

- (2) If the person against whom such a warrant is issued is or resides, or is suspected to be or to reside, in the Island, a justice may endorse the warrant in the prescribed form for execution in the Island.
- (3) A warrant endorsed in accordance with this section shall be sufficient authority to the person bringing it, and to any constable, to execute the warrant.

82 Validity of warrants

[P1980/43/125]

- (1) A warrant of arrest issued by a justice shall remain in force until it is executed or withdrawn.
- (2) A warrant of arrest, warrant of commitment or search warrant issued by a justice may be executed anywhere in the Island by any person to whom it is directed, or by any constable.
- (3) A warrant to 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.¹⁰⁷
- (3A) The warrants to which subsection (3) applies are —
 - (a) a warrant to arrest a person in connection with an offence;
 - (b) without prejudice to paragraph (a), a warrant under section 186(3) of the Army Act 1955 (an Act of Parliament), section 186(3) of the Air Force Act 1955 (an Act of Parliament), section 105(3) of the Naval Discipline Act 1957 (an Act of Parliament) or Schedule 5 to the Reserve Forces Act 1980 (an Act of Parliament);
 - (c) a warrant under —
 - (i) section 109(8) of the *Matrimonial Proceedings Act 2003* (protection of parties to marriage and children of family); or¹⁰⁸
 - (ii) section 44, 59, 95 or 96 of this Act.¹⁰⁹
- (4) Where under any statutory provision there is power to arrest a person without warrant, a justice may issue a warrant for his arrest.

83 Warrant endorsed for bail

- (1) A justice, on issuing a warrant for the arrest of any person, may endorse the warrant with a direction that that person shall on arrest be released on his entering into such a recognizance conditioned for his appearance before a court of summary jurisdiction as may be specified in the

endorsement, which shall fix the amount in which he and the sureties (if any) are to be bound.

- (2) Where such an endorsement has been made, then —
 - (a) where the person arrested is to be released on bail on his entering into a recognizance without sureties, it shall not be necessary to take him to a police station, but if he is so taken, he shall be released from custody on his entering into the recognizance; and
 - (b) where he is to be released on his entering into a recognizance with sureties, he shall be taken to a police station on his arrest, and the custody officer there shall (subject to his approving any surety tendered in compliance with the endorsement) release him from custody as directed in the endorsement.¹¹⁰

Remand

84 Remand in custody or on bail

[P1952/55/105]

- (1) Where a court of summary jurisdiction has power to remand any person, then, subject to any enactment modifying that power, the court may —
 - (a) remand him in custody, that is, commit him to custody to be brought before the court at the end of the period of remand or at such earlier time as the court may require; or
 - (b) remand him on bail, that is, take from him a recognizance in accordance with the *Bail Act 1952*.
- (2) Instead of taking recognizances under subsection (1)(b), the court may fix the amount of the recognizances with a view to their being taken subsequently in accordance with section 7 of the *Bail Act 1952*, and may in the meantime commit him to custody under subsection (1)(a).
- (3) Where a person is brought before the court after remand, the court may further remand him.
- (4) Subject to sections 84A, 85 and 86, a court of summary jurisdiction shall not remand a person for a period exceeding 8 clear days except in the following circumstances —
 - (a) in the case of a remand on bail, if he and the other party consent; or
 - (b) where the trial is adjourned under section 22 or 23, in which case he may be remanded for the period of the adjournment; ~~or~~
 - ~~(c) where an inquiry is adjourned under section 5(2), in which case he may be remanded until the next occasion on which it will be practicable for a court to deal with the case summarily to be constituted.~~¹¹¹

84A Remands in custody for more than eight days

- (1) A court of summary jurisdiction may remand a person in custody for a period exceeding 8 days if —
 - (a) it has previously remanded him in custody for the same offence; and
 - (b) he is an adult; and
 - (c) he consents.
- (2) A person shall not be remanded in custody under subsection (1) for a period exceeding 28 days.
- (3) The court shall not exercise the power conferred by subsection (1) unless the accused person is before the court.
- (4) A consent under subsection (1) may be withdrawn at any time by giving written notice of the withdrawal to the person in charge of the institution in which the accused is detained and that person shall forthwith cause the notice to be delivered to the clerk.
- (5) On receipt of a notice of withdrawal of consent the clerk shall make arrangements for the accused person to appear before a court of summary jurisdiction as soon as is practicable and in any event not later than 72 hours after receipt of the notice.

112

85 Further remand

[1985/15/2/2(1); P1952/55/106]

- (1) If a court of summary jurisdiction 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 84(4) shall not apply.
- (2) Where a person remanded on bail is bound by the recognizance to appear before a court of summary jurisdiction at any time, the court may in his absence enlarge the recognizance and those of his sureties, if any, to a later time; and the enlargement of the recognizance shall be deemed to be a further remand.

86 Remand of accused already in custody

[P1980/43/131]

- (1) Where a court of summary jurisdiction remands an accused person in custody and he is already detained under a custodial sentence, the court shall inquire as to the expected date of his release from that detention, and he may be remanded —

- (a) if it appears that he will be released before 28 clear days have expired, for a period not exceeding 8 clear days or (if longer) a period ending on that date; or
 - (b) otherwise, for a period not exceeding 28 clear days;and section 84(4) shall not apply.
- (2) So long as a person so remanded is detained under a custodial sentence, an application for him to be further remanded in custody may be made and determined without his appearance in court, provided that he is represented by an advocate who signifies the person's consent to the application being heard in his absence.

Recognizances

87 Exercise of power to bind over

- (1) A justice may on complaint order a person to enter into a recognizance and find sureties to keep the peace, or to be of good behaviour towards another person.
- (2) A court of summary jurisdiction, in default of compliance with such an order, may commit the defendant in custody for a period not exceeding 6 months.
- (3) Where a person has been committed to custody under subsection (2), a court of summary jurisdiction may, on application made by him or on his behalf, inquire into his case; and if upon new evidence produced to the court, or on proof of a change of circumstances, the court thinks that it is just to do so, having regard to all the circumstances of the case, it may —
 - (a) reduce the amount for which a surety is to be bound, or
 - (b) dispense with a surety, or
 - (c) otherwise deal with the case as the court thinks just.

87A Confirmation of powers to bind over

- (1) It is declared that a court of summary jurisdiction has, as ancillary to its criminal jurisdiction, the power to order a person who or whose case is before the court, to enter into a recognizance and find sureties to keep the peace, or to be of good behaviour towards another person.
- (2) Where, after the commencement of this section, the person concerned is in default of compliance with such an order, subsections (2) and (3) of section 87 shall apply in respect of an order under subsection (1) as they apply in respect of an order under subsection (1) of that section.
- (3) Nothing in this section affects any other power of a court of summary jurisdiction.¹¹³

88 Enforcement of recognizances

[1981/20/5(4)]

- (1) Where a recognizance is conditioned for a person doing some matter or thing to be done in, to or before a court of summary jurisdiction, or in a proceeding in or under any order made by a court of summary jurisdiction, the court may, if the recognizance appears to the court to be forfeited, declare it to be forfeited.
- (2) Where a recognizance conditioned to keep the peace or to be of good behaviour, or not to do or commit any act or thing, has been entered into by any person before a court of summary jurisdiction, that or any other court of summary jurisdiction, upon proof —
 - (a) of the conviction of the person bound as principal of any offence which is in law a breach of the condition, or
 - (b) in the case of a recognizance conditioned to be of good behaviour, that the person bound as principal has since the date of the recognizance been guilty of conduct which is a breach of the condition,may declare the recognizance to be forfeited.
- (3) Where a surety to a recognizance to keep the peace or to be of good behaviour has reason to suspect that the person bound as principal has been or is about to be guilty of conduct which was or would be a breach of the conditions of the recognizance, he may lay a complaint before any justice, who may if he thinks fit issue a warrant or summons against that person.
- (4) The court before which a person is brought or appears pursuant to a warrant or summons under subsection (3) may either —
 - (a) order him to enter into a fresh recognizance, with or without sureties; or
 - (b) deal with him in the same manner as if he were a person who had failed to comply with an order referred to in section 87(1);and shall in either case order that the first recognizance be discharged.
- (5) Where any person charged with or convicted of an offence has entered into a recognizance conditioned for his appearance before a court of summary jurisdiction and in breach of that recognizance he fails to appear, the court may, without prejudice to its power to enforce the recognizance, issue a warrant for his arrest.
- (6) This section, so far as it relates to a recognizance entered into pursuant to an order for conditional discharge, is without prejudice to section 7 (breach of condition) of the *Criminal Justice Act 1963*.

89 Forfeiture of recognizances

- (1) Where a recognizance is declared to be forfeited by a court of summary jurisdiction, the court may by order —
 - (a) discharge the recognizance or reduce the amount due under it; or
 - (b) adjudge the persons bound thereby, whether as principal party or as surety, or any of them, to pay the sum in which they are respectively bound.
- (2) All sums paid in respect of a recognizance so declared to be forfeited shall be applied as fines imposed by the court.

*Contempt of court***90 Power to commit and fine for contempt**

If any person intentionally insults any justice sitting in a court of summary jurisdiction, or commits any other contempt of such a court, the court may by order (which need not be in writing) direct —

- (a) that he be removed from the court; or
- (b) that he be taken into custody,

and at any time before the rising of the court, it may by warrant commit him to custody for any period not exceeding 14 days or impose on him a fine not exceeding level 4 on the standard scale.¹¹⁴

*Rules of court***91 Rules of court**

~~[1986/23/4(4)]~~

- ~~(1) The Clerk of the Rolls may make rules for regulating the procedure of courts of summary jurisdiction and the procedure in any legal proceedings which under any enactment are to be taken before a court of summary jurisdiction.~~
- ~~(2) Rules may prescribe forms for use in any such proceedings; and in any such forms —~~
 - ~~(a) the party at whose instance the proceedings are taken may be called “the complainant”; and~~
 - ~~(b) the decision of the court may be called an “order”, whether it is a conviction or otherwise.~~
- ~~(3) Rules may provide that sections 13 and 80 shall with any necessary modifications apply to any document (other than a notice referred to in section 80(7)) issued or made in relation to proceedings in a court of summary jurisdiction as they apply to a summons.~~

- ~~(4) Rules may —~~
- ~~(a) assign to juvenile courts the hearing of applications cognisable by justices or courts of summary jurisdiction if, in the opinion of the Clerk of the Rolls, it is desirable in the interests of the children and young persons concerned that they be heard by juvenile courts; and~~
 - ~~(b) modify in relation to juvenile courts such of the provisions of this Act and of any enactments relating to offences triable on information as regulate procedure.~~
- ~~(5) Rules shall be laid before Tynwald as soon as may be after they are made.~~

91 Rules of court and court forms

[1986/23/4(4) and drafting]

- (1) The Deemsters may make rules of court for regulating the procedure of courts of summary jurisdiction and the procedure in any legal proceedings which under any enactment are to be taken before the High Bailiff or a court of summary jurisdiction (whether judicial or administrative).
Tynwald procedure for any rules made under this Act—laying only
- (2) Rules of court may provide that sections 13 and 80 shall with any necessary modifications apply to any document (other than a notice referred to in section 80(7)) issued or made in relation to proceedings in a court of summary jurisdiction as they apply to a summons.
- (3) The Deemsters may prepare or approve forms for use in proceedings in courts of summary jurisdiction.
- (4) Rules of court may —
 - (a) prescribe the manner in which such forms are to be published; and
 - (b) require the use, in such circumstances or for such purposes as are specified in the rules, of a relevant form so published (including a form published after the making of the rules).
- (5) Rules of court may —
 - (a) assign to youth courts the hearing of applications cognisable by justices or courts of summary jurisdiction if, in the opinion of the Deemsters, it is desirable in the interests of the children and young persons concerned that they be heard by youth courts;
 - (b) modify in relation to youth courts such of the provisions of this Act and of any enactments relating to offences triable on information as regulate procedure; and
 - (c) provide for the allocation of any proceedings to such court of summary jurisdiction as the Chief Registrar thinks convenient, having regard to the nature of the proceedings, the offence to which the proceedings relate, the complexity of the case and any other

matter which the Chief Registrar may consider to be relevant in the circumstances .

- (6) Subject to rules of court and any directions of the First Deemster, where any proceedings have been commenced in a court of summary jurisdiction but the court has not begun to hear evidence in the proceedings, it may, on an application by any party or of its own motion, order that they be transferred to such other court of summary jurisdiction as appears to it more convenient and is specified in the order; and where such an order is made, the proceedings shall be deemed to have been commenced in the court so specified.
- (7) Rules of court may make provision —
 - (a) authorising or requiring the use of electronic communications for the purposes of giving specified information in the course of, or otherwise in connection with, proceedings;
 - (b) specifying technical standards to be met in relation to the method and manner (including methods of authentication) of giving such information;
 - (c) specifying the effect of giving (or not giving) information in accordance with standards under paragraph (b);
 - (d) specifying how a requirement for a signature in or in connection with the giving of such information is to be met.
- (8) Subsections (5) and (6) of section 4 of the *Electronic Transactions Act 2000* (which give an extended meaning to the expression “give information”) apply for the purposes of subsection (7) as they apply for the purposes of that section.
- (9) Rules of court may make provision, in respect of proceedings against any person for such offences as may be prescribed in the rules —
 - (a) requiring the prosecutor to do such things as may be prescribed for the purpose of securing that the accused or a person representing the accused is furnished with, or can obtain, advance information concerning all, or any prescribed class of, the facts and matters of which the prosecutor proposes to adduce evidence; and
 - (b) for requiring a court of summary jurisdiction, if satisfied that any requirement imposed by virtue of paragraph (a) above has not been complied with, to adjourn the proceedings pending compliance with that requirement unless the court is satisfied that the conduct of the case for the accused will not be substantially prejudiced by non-compliance with the requirement.
- (10) Rules made under subsection (9)(a) —
 - (a) may require the prosecutor to do as provided in the rules either —
 - (i) in all cases; or
 - (ii) only if so requested by or on behalf of the accused; and

- (b) may exempt facts and matters of any prescribed description from any requirement imposed by the rules, and may make the opinion of the prosecutor material for the purposes of any such exemption.
- (11) It shall not be open to a person convicted of an offence to appeal against the conviction on the ground that a requirement imposed by virtue of subsection (9) was not complied with by the prosecutor.
- (12) Nothing in subsections (2) to (11) limits the scope of subsection (1).
- (13) Until the first rules of court are made under this section to regulate the procedure of courts of summary jurisdiction or the procedure in any legal proceedings in respect of a particular matter, the procedure shall be such as the court shall determine in relation to the matter before it.

91A Live video and audio links

- (1) Regulations made by the Department of Home Affairs after consultation with the Deemsters may authorise the use of a live audio link or a live video link, —
 - (a) in, or in connection with, prescribed proceedings in a court of summary jurisdiction, and
 - (b) in, or in connection with, prescribed proceedings before the High Bailiff (including proceedings of an administrative character).Tynwald procedure – approval required.
- (2) Prescribed proceedings are conducted wholly as audio proceedings if —
 - (a) directions have been given by the court or the High Bailiff (as the case requires) for all of the persons taking part in the proceedings to do so through a live audio link, and
 - (b) all of those persons take part in the proceedings in accordance with those directions.
- (3) Prescribed proceedings are conducted wholly as video proceedings if —
 - (a) directions have been given by the court or the High Bailiff (as the case requires) for all of the persons taking part in the proceedings to do so through a live video link, and
 - (b) all of those persons take part in the proceedings in accordance with those directions.
- (4) In this section —

“live audio link”, in relation to a person (P) taking part in prescribed proceedings, is a live telephone link or other arrangement which —

 - (a) enables P to hear all other persons taking part in the proceedings who are not in the same location as P, and
 - (b) enables all other persons taking part in the proceedings who are not in the same location as P to hear P;

“live video link”, in relation to a person (P) taking part in prescribed proceedings, is a live television link or other arrangement which —

- (a) enables P to see and hear all other persons taking part in the proceedings who are not in same location as P, and
- (b) enables all other persons taking part in proceedings who are not in the same location as P to see and hear P; and

“prescribed proceedings” are proceedings, or proceedings of a class, prescribed in or under the regulations.

- (5) For the purposes of subsection (4) disregard —
 - (a) the extent (if any) to which a person is unable to —
 - (i) see by reason of any impairment of eyesight, or
 - (ii) hear by reason of any impairment of hearing; and
 - (b) the effect of any direction or order which provides for one person taking part in proceedings to be prevented by means of a screen or other arrangement from seeing another person taking part in the proceedings.

91B Requirement to attend court: perjury

- (1) A person who takes part in prescribed proceedings in accordance with a direction under section 91A is to be treated as complying with any requirement however imposed or expressed for that person to attend or appear before court, or to surrender to the custody of the court, for the purposes of participation in those proceedings.
- (2) A person who takes part in prescribed proceedings in accordance with a live audio link direction or a live video link direction under section 91A is to be treated as present in court for the purposes of those proceedings.
- (3) A statement made on oath by a witness outside the Island and given in evidence through a live audio link or a live video link in accordance with a direction under section 91A is to be treated for the purposes of section 1 of the *Perjury Act 1952* as having been made in the proceedings in which it is given in evidence.

PART VIII - ENFORCEMENT

Orders for payment of money

92 Power to dispense with immediate payment

[1983/13/72; P1980/43/75]

- (1) A court of summary jurisdiction by whose conviction or order a sum is adjudged to be paid may, instead of requiring immediate payment, do all or any of the following —

- (a) allow time for payment;
 - (b) order payment by instalments;
 - (c) direct that the person liable to make the payment enter into a recognizance for the payment of the sum or any instalment of it.
- (2) Where a court of summary jurisdiction has allowed time for payment, it may on an application by or on behalf of the person liable to make the payment allow further time or order payment by instalments, or vary an order for payment by instalments previously made.
- (3) Where a court of summary jurisdiction has ordered payment by instalments and default is made in the payment of any one instalment, proceedings may be taken as if the default has been made in the payment of all the instalments ordered.
- (4) This section is without prejudice to rules of court under section 27 (instalment orders) of the *Administration of Justice Act 1981*.

93 Recovery of periodical payments by Chief Registrar

- (1) If —
- (a) a periodical payments order has been made by any court;
 - (b) payments are required to be made to the Chief Registrar;
 - (c) any sums payable are in arrears; and
 - (d) the person for whose benefit the payment should have been made so requests in writing,
- the Chief Registrar, unless it appears unreasonable to him or her in the circumstances to do so, must proceed in his or her own name for the recovery of those sums.
- (2) However, the person for whose benefit the payment should have been made has the same liability for all the costs properly incurred in consequence of the proceedings as if the person had taken those proceedings.
- (3) This section does not affect any right of a person to proceed in his or her own name for the recovery of sums payable under a periodical payments order.¹¹⁵

94 Methods of enforcement

- (1) A court of summary jurisdiction may grant an execution order for the amount of any sum —
- (a) ordered to be paid by a court of summary jurisdiction;
 - (aa) registered or recorded with such a court in connection with the non-payment of a fixed penalty imposed under an enactment;

- (b) in the case of any other sum ordered to be paid to the Chief Registrar under section 1 of the *Collection of Fines etc. Act 1985*, on an application by the Chief Registrar under section 4(1) of that Act.
- (2) The execution order may be enforced in accordance with Part II of the *Administration of Justice Act 1981* or —
 - (a) in the case of a periodical payments order, in accordance with Part III of that Act;
 - (b) in any other case in accordance with sections 94A to 94F.¹¹⁶

94A Enforcement by attachment of earnings or application for benefit deductions

P2003/39/Sch 5 para 7-9

- (1) If the conditions set out in subsections (3) and (4) are met a court of summary jurisdiction may make —
 - (a) an order directing a person's employer to make such payments out of the person's earnings as the order may specify (an "attachment of earnings order"); or
 - (b) subject to section 94E(1), an application to the Treasury requesting deductions from any amounts payable by way of the benefit to a person (an "application for benefit deductions"),¹¹⁷

whether or not an execution order has been granted under section 94.

- ~~(2) Subsection (1) does not limit the possibility of making, at a later date, whichever of the order or application mentioned in subsection (1)(a) or (b) was not made earlier.~~

- (2) The powers conferred by subsection (1) may be exercised more than once, and accordingly an order under subsection (1)(a) and an application under subsection (1)(b) may be made at different times, and the making of one does not preclude the making of the other.

- (3) The conditions are that it appears to the court —
 - (a) the person liable to pay a sum adjudged to be paid by conviction or order of a court a relevant sum is in employment or entitled to a specified benefit as the case may be; and
 - (b) it is not impracticable or inappropriate to make the order or application as the case may be.
- (4) The conditions are —
 - (a) that the person liable to pay the sum the relevant sum consents to the court's making the order or application; or
 - (b) if the person liable to pay the sum the relevant sum does not consent, the court considers that it is in the interests of justice to make the order or application.

- (5) When making an order or application under this section the court may include in it any amount outstanding in respect of ~~any sum previously adjudged to be paid by conviction or order of any court in the Island~~ **any relevant sum**.¹¹⁸
- (6) Where, ~~on or after the commencement of this section, a sum is adjudged to be paid by conviction or order of a court~~ **on or after the amendment of this section by section 28 of the Justice Reform Act 2021, a relevant sum is outstanding** but no order or application has been made under this section, the Chief Registrar may apply to a court of summary jurisdiction for such an order or application to be made and no previous decision in respect of the matter shall bind the court.
- (7) A court of summary jurisdiction must direct —
- (a) that an order or application under this section is to take effect immediately; or
 - (b) that it is to take effect only if so directed by the Chief Registrar.
- (8) If a person in respect of whom the court has made a direction under subsection (7)(b) is paying a sum by instalments and misses an instalment, the Chief Registrar may, in his or her discretion, direct that an order or application is to take effect.
- (9) An order or application under this section may be varied by a court of summary jurisdiction and the court has the power to revoke or suspend the order or application or substitute an alternative sentence or method of enforcement of ~~the sum~~ **the relevant sum**.
- (10) But despite section 114(8), if the other method of enforcement is to issue a warrant committing the person to custody under section 95 (committal in default of payment), this power is not exercisable by a single justice.
- (11) **In this section “relevant sum” also includes a periodical payments order.**¹¹⁹

94B Duty of employer under attachment of earnings order

1981/8/31

A person to whom an attachment of earnings order is directed (the “employer”) must —

- (a) comply with the order;
- (b) give to the person liable to pay ~~the sum in question~~ **the relevant sum** a statement in writing specifying any payment made by the employer pursuant to the order and any sums deducted, in accordance with rules of court made under section 94G in respect of clerical and administrative expenses; and
- (c) immediately inform the Chief Registrar that the person is no longer in the employer’s employment if —
 - (i) at the time of the service on the employer of a copy of the order, the person is not so employed and the employer is

- satisfied that the absence from employment of that person is not merely of a temporary nature; and
- (ii) at any time after the service on the employer of a copy of the order, the person has ceased to be so employed.¹²⁰

94C Statement of earnings

1981/8/32

- (1) If an attachment of earnings order is about to be made or revived, a court of summary jurisdiction may, at any time before making or varying the order —
- (a) direct the person liable to pay ~~the sum in question~~ **the relevant sum** to furnish, within such time as may be specified in the direction, a statement of —
- (i) the name and address of the person's employer, or of each of his or her employers if more than one;
- (ii) such particulars as to the person's earnings as may be so specified; and
- (iii) such other particulars as may be so specified for the purpose of enabling the person to be identified by any of his or her employers; and
- (b) direct any person appearing to be an employer of the person to furnish, within such time as may be specified in the direction, a statement signed by or on behalf of that employer of such particulars as may be so specified of all the earnings of the person that fall to be paid by the employer during such period as may be so specified.
- (2) The power of the court under subsection (1) may be exercised by the Chief Registrar.
- (3) A document purporting to be any such statement as is referred to in subsection (1) shall, in proceedings before the court, be received in evidence and be taken to be such a statement, without further proof, until the contrary be shown.¹²¹

94D Offences in relation to attachment of earnings orders

1981/8/33

A person who —

- (a) without reasonable excuse, fails to comply with any provision of section 94B or with any direction under section 94C;
- (b) gives any statement or information required to be given under section 94B or section 94C, knowing that such statement or information is false in a material particular; or

- (c) recklessly gives such a statement or such information which is false in a material particular,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.¹²²

94E Recovery of sums due by deductions from benefit

P1991/53/24

- (1) Before making an application for benefit deductions, a court of summary jurisdiction —
 - (a) must make an enquiry as appears appropriate as to the person's means;
 - (b) may require the person to provide prescribed information in connection with an application.
- (2) If a court of summary jurisdiction has made an application for benefit deductions, the Treasury must, in accordance with regulations under subsection (3), deduct sums from any specified benefit payable to the person and pay them to the Chief Registrar towards the satisfaction of ~~any sum adjudged to be paid by conviction or order of a court~~ a relevant sum.¹²³
- (3) The Treasury may make regulations —
 - (a) specifying the social security benefits for the purposes of this section;
 - (b) as to the circumstances and manner in which and the times at which sums are to be deducted and paid;
 - (c) as to the calculation of such sums (which may include provision to secure that amounts payable to the offender by way of social security benefit do not fall below prescribed figures);
 - (d) as to any amount of social security benefit to be disregarded in making the calculation;
 - (e) as to the prioritisation of deductions where other deductions are being made at source;
 - (f) as to the circumstances in which it is to cease making deductions;
 - (g) allowing or requiring adjudication as regards an application, and provision as to appeals to appeal tribunals constituted under Chapter I of Part I of the Social Security Act 1998 (of Parliament) as it applies to the Island and decisions under section 9 or 10 of that Act.¹²⁴
- (4) The Treasury must notify the person, in a prescribed manner and at any prescribed time, of the total amount of sums deducted up to the time of notification.¹²⁵

- (5) If the whole amount to which the application relates has been paid, the Chief Registrar must give notice of that fact to the Treasury.¹²⁶
- (6) A person who fails to provide information as required by subsection (1)(b) commits an offence.
- (7) A person who, in providing information as required by subsection (1)(b) —
 - (a) makes a statement which he or she knows to be false in a material particular;
 - (b) recklessly provides a statement which is false in a material particular; or
 - (c) knowingly fails to disclose any material fact,commits an offence.
- (8) A person guilty of an offence under subsection (6) or subsection (7) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.¹²⁷
- (9) In this section “prescribed” means prescribed by regulations made by the Treasury.¹²⁸
- (10) Regulations under this Act shall not have effect unless approved by Tynwald.¹²⁹

94F Disclosure of information in connection with attachment of earnings or application for benefit deductions

P2003/39/Sch 5 para 9A-9C

- (1) The Chief Registrar may apply to the Treasury for an information direction to facilitate the court’s deciding whether or not it is practicable or appropriate to make an order or application under section 94A in respect of a person liable to pay ~~a sum~~ **a relevant sum**.¹³⁰
- (2) An information direction is a direction for the disclosure of some or all of the following information in relation to that person, namely the person’s —
 - (a) full name;
 - (b) address (or any of the person’s addresses);
 - (c) date of birth;
 - (d) national insurance number;
 - (e) details of earnings declared or benefit status, as the case may be.
- (3) On receiving an information direction the Treasury must disclose the information requested to the Chief Registrar.¹³¹
- (4) The Chief Registrar may apply to a court of summary jurisdiction for an order for the purposes of obtaining information from the police or other

bodies as to the whereabouts or address of a person liable to pay ~~a sum adjudged to be paid by conviction or order of the court~~ **a relevant sum** for the purposes of the court's deciding whether or not it is practicable or appropriate to make an order or application under section 94A in respect of that person, and the court must grant the application if satisfied that it is in the interests of justice to do so.

- (5) A person may disclose the information mentioned in subsection (2) or subsection (4) to any person to whom its disclosure is necessary or expedient in connection with facilitating the making of a decision by the court as to whether it is practicable or appropriate to make an order or application under section 94A.

- (6) A person to whom such information is disclosed who —
- (a) discloses or uses the information; and
 - (b) the disclosure is not authorised by subsection (5) or its use is not for the purpose of facilitating the making of a decision mentioned in that subsection,

commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.¹³²

- (7) However, it is not an offence under subsection (6) —
- (a) to disclose any information in accordance with any enactment or order of a court or for the purpose of any proceedings before a court; or
 - (b) to disclose any information that has previously been lawfully disclosed to the public.

- (8) It is a defence for a person charged with an offence under subsection (6) to prove that he or she reasonably believed that the disclosure or use was lawful.

- (9) Nothing in this section authorises the making of a disclosure that contravenes the *Data Protection Act 2002*¹³³.

- (10) In this section —

“benefit status”, in relation to a person liable to pay ~~a sum adjudged to be paid by conviction or order of the court~~ **a relevant sum**, means whether or not the person is in receipt of any specified benefit and if so (in the case of each benefit) —

- (a) which benefit it is;
- (b) where it is already subject to deductions under any enactment, the nature of the deductions concerned; and
- (c) the amount received by the person by way of the benefit, after allowing for any such deductions;

“information” means information in any form.¹³⁴

94G Rules of court

1981/8/34

- (1) Rules of court may make provision relating to attachment of earnings orders and applications for benefit deductions and their variation.
- (2) In the case of attachment of earnings orders the rules may make provision in particular —
 - (a) as to the prioritisation of deductions where other deductions are being made at source;
 - (b) the sums that may be deducted, by the employer to whom an attachment of earnings order is directed, from a person's earnings in connection with that employer's clerical and administrative costs in complying with that order.¹³⁵

95 Committal in default of payment

~~(1) In any case where a court of summary jurisdiction adjudges any sum to be paid, the court may order that, in default of payment, the person by whom it is to be paid shall be imprisoned for a term not exceeding that specified in subsection (4); and if default is made, a justice may issue a warrant committing him to custody.~~

~~(2) Where default is made in paying a sum adjudged to be paid by a conviction or order of a court of summary jurisdiction and no order has been made under subsection (1), such a court may issue a warrant committing the defaulter to custody for a term not exceeding that specified in subsection (4).~~

(1) If —

- (a) a court of summary jurisdiction adjudges a sum to be paid on conviction; or
- (b) a sum is registered or recorded with a court of summary jurisdiction for enforcement as if it were such a sum;

the court may order that, in default of payment, the person liable to pay it (the "liable person") is to be detained for a term not exceeding that specified in subsection (4).

(1A) If the liable person defaults in paying a sum falling within subsection (1)(a) or (b), a justice may issue a warrant committing the liable person to custody for the term specified in the order, but subject to subsection (4).

(2) If —

- (a) a liable person has defaulted in paying a relevant sum; and
- (b) no order has previously been made under subsection (1),

a court of summary jurisdiction may issue a warrant committing the liable person to custody for a term not exceeding that specified in subsection (4).

- (2A) Before issuing a warrant under subsection (2) in a case falling within subsection (1)(b) the court must inquire into the liable person's means and must consider —
- (a) whether the sum outstanding may be recovered by any other means; and
 - (b) whether it would be appropriate, with the consent of the liable person, to make a community service order instead of committing the liable person to custody.
- (2B) An inquiry under subsection (2A) must take place in the presence of the liable person unless —
- (a) the liable person appeared at such an inquiry on an earlier occasion; or
 - (b) it is proved to the satisfaction of the court that the liable person was notified of the date, time and place of the hearing in accordance with rules under section 94G.
- (3) Where a court of summary jurisdiction has power to issue a warrant under subsection (2), it may, if it thinks it expedient to do so, fix a term of ~~imprisonment~~ **custody** and postpone the issue of the warrant until such time and on such conditions, if any, as the court thinks just.
- (4) The term for which a person may be ordered to be ~~imprisoned~~ **detained** under subsection (1), or for which a person may be committed on a warrant ~~under subsection (2)~~ **under subsection (1A) or (2)**, shall not in any case exceed ~~6 months~~ **2 years (but without prejudice to subsection (4A))**; and where the amount ~~due~~ **outstanding** does not exceed an amount specified in column 1 of the following table, that term shall not exceed the corresponding period specified in column 2 of the table —

<i>Amount</i>	<i>Period</i>
£100	7 days
£200	14 days
£500	1 month
£1,000	2 months
£2,500	3 months.

Amount of fine etc.	Maximum term
Not over £25	7 days
Over £25 but not over £50	14 days
Over £50 but not over £200	4 weeks
Over £200 but not over £500	8 weeks
Over £500 but not over £1,000	3 months
Over £1,000 but not over £2,000	6 months
Over £2,000 but not over £10,000	12 months
Over £10,000 but not over £50,000	18 months

Over £50,000.

2 years

136

(4A) Where —

- (a) the amount by reference to which a term of custody is to be fixed exceeds £100,000; and
- (b) it appears to the court that it would be appropriate to fix a term in default longer than that provided for in subsection (4),

the court may commit the liable person to a Court of General Gaol Delivery (on bail or in custody) to be dealt with in accordance with section 27 of the *Criminal Jurisdiction Act 1993* as if a Court of General Gaol Delivery had made the order requiring the sum to be paid, and Schedule 1 to that Act applies accordingly.

- (5) Where a person is ordered to be ~~imprisoned~~ **detained** or committed to prison for any term under this section, that term shall, on payment of part of the sum due, be reduced by such number of days as bears to the total number of days in the term less one day the same proportion as the sum paid bears to the sum for non-payment of which he was ordered to be imprisoned or committed; and in calculating the reduction a fraction of a day shall be left out of account.
- (6) Where a person is committed to ~~prison~~ **an institution** under this section, he shall be released on payment of the sum due with any costs of the commitment, unless he is in custody for some other cause.
- (7) This section is without prejudice to section 94.

95A Fine defaulters: community service orders

- (1) Subsection (2) applies in any case where a court of summary jurisdiction has power under this Part to issue a warrant of commitment for default in ~~paying a sum adjudged to be paid by a conviction of such a court~~ **a relevant sum**.
- (2) The court may, subject to subsections (3) to (5), make a community service order, in respect of the person in default instead of issuing a warrant of commitment.
- (3) The court may postpone the making of an order under subsection (2) if it thinks it expedient to do so subject to such conditions, if any, as it thinks just.
- (4) In this section “community service order” has the same meaning as in the *Criminal Law Act 1981* and the provisions of Schedule 3 to that Act shall have effect in relation to an order under subsection (2) as it has effect in relation to an order in respect of an offender.
- (5) In the case of an amount in default which is described in the first column of the following table, the period of community service specified in an

order under subsection (2) shall not be less than the number of hours set out opposite that amount in the second column of the table nor more than the number of hours in the third column of the table.

TABLE		
AMOUNT	MINIMUM HOURS	MAXIMUM HOURS
Not exceeding £200	20 hours	40 hours
Exceeding £200 but not exceeding £500	40 hours	60 hours
Exceeding £500	60 hours	100 hours. ¹³⁷

TABLE		
AMOUNT	MINIMUM HOURS	MAXIMUM HOURS
Not exceeding £400	20 hours	40 hours
Exceeding £400, but not exceeding £1,000	40 hours	60 hours
Exceeding £1,000	60 hours	100 hours.

96 Enforcement of periodical payments orders

[1983/13/75(2)]

- (1) Where a periodical payments order has been enforced in accordance with Part II of the *Administration of Justice Act 1981* and a certificate has been issued under section 8 of that Act, a justice may issue a warrant to arrest the person by whom the payments under the order should have been made and to bring him before a court of summary jurisdiction.
- (2) Where periodical payments under an order of any court are required to be paid to the Chief Registrar and any sums payable under the order are in arrear, a justice may issue a summons directed to the person by whom the payments should have been made requiring him to appear before a court of summary jurisdiction.¹³⁸
- (3) Where —
 - (a) a person fails to comply with a summons under subsection (2), or
 - (b) it appears to the court that a summons under subsection (2) cannot be served on such a person as is mentioned in that subsection,
 a justice may issue a warrant to arrest that person and to bring him before a court of summary jurisdiction.
- (4) Where a person appears or is brought before a court of summary jurisdiction in pursuance of a summons or warrant under subsection (1), (2) or (3), and it appears to the court that any sum due under the relevant order has not been paid, ~~the court shall issue a warrant committing him to custody for a term not exceeding 3 months, unless the court is of opinion that the non-payment of any sum due under the order was not caused by~~

~~his wilful refusal or culpable neglect~~ the court may issue a warrant of commitment committing him to custody for a term not exceeding 3 months where the court is of the opinion that the non-payment of the sum due under the order was caused by his wilful refusal or culpable neglect.

- (5) Where a court of summary jurisdiction has power to issue a warrant under subsection (4) it may, if it thinks it expedient to do so, fix a term of imprisonment and postpone the issue of the warrant until such time and on such conditions, if any, as the court thinks just.
- (6) Any person for the time being under an obligation to make payments in pursuance of any order for the payment of money made in domestic proceedings shall give notice of any change of address to such person, if any, as may be specified in the order; and any person who without reasonable excuse fails to give such a notice shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale.¹³⁹

97 Effect of committal on non-payment

[1983/13/73 and 75(4)]

Where a person is committed to custody for failure to pay a sum due under —

- (a) an order made in domestic proceedings for the payment of money, or
- (b) an order providing for periodical payments to be made to the Chief Registrar,¹⁴⁰

no arrears shall accrue while he is in custody unless the court that commits him otherwise directs, but such committal shall not otherwise operate to satisfy or extinguish any obligation under the order.

98 Allowing time for payment of fine etc

- (1) A warrant committing a person to prison in respect of non-payment of a sum adjudged to be paid by a conviction or order of a court of summary jurisdiction shall not be issued forthwith unless —
 - (a) the court is satisfied that he has sufficient means to enable him to pay the sum forthwith; or
 - (b) on being asked by the court whether he desires time for payment, he does not express any such desire; or
 - (c) he fails to satisfy the court that he has a fixed abode within the Island; or
 - (d) the court for any other special reason expressly directs that no time be allowed.
- (2) Subject to subsection (3), where any such person desires to be allowed time for payment, the court in deciding what time shall be allowed shall

consider any representation made by him; but the time allowed shall not be less than 7 clear days **him**.

- (3) If before the expiration of the time allowed for payment the person surrenders himself to a court of summary jurisdiction and states that he prefers immediate committal to awaiting the expiration of the time allowed, the court may, if it thinks fit, forthwith issue a warrant committing him to prison.
- (4) Where a person allowed time for payment appears to the court to be not less than 16 and not more than 21 years of age, the court may, if it thinks fit, order that he be placed under the supervision of such person as may be specified in the order until the sum in question is paid.
- (5) In a case mentioned in subsection (4), before issuing a warrant committing the offender to prison in respect of non-payment of the sum in question a court of summary jurisdiction shall consider any report as to the conduct and means of the offender which is made by the person under whose supervision he is placed.
- (6) In any case where time is not allowed for payment, the reason for the immediate committal shall be stated in the warrant of commitment.

99 Application of money found on defaulter

[P1980/43/80]

~~(1) — Where a court of summary jurisdiction has adjudged a person to pay a sum by a conviction or order, the court may order him to be searched.~~

- (1) **A court of summary jurisdiction may order a person before it to be searched if, —**
 - (a) **such a court has adjudged a person to pay a sum by a conviction or order; or**
 - (b) **the person is before the court for the purposes of an inquiry into the person's means in a case falling within section 95(2A) in connection with the registration or recording with such a court of a sum under section 94(1).**
- (2) Any money found on the arrest of a person adjudged to pay such a sum, or on such a search, or on his being taken to a prison or other place of detention in default of payment of such a sum, may, unless the court otherwise directs, be applied towards payment of the said sum; and the balance, if any, shall be returned to him.
- (3) A court shall not allow the application of any money found on a person under subsection (2) if it is satisfied —
 - (a) that the money does not belong to him, or
 - (b) that the loss of the money would be more injurious to his family than his detention would be.

100 Remission of fines

[1981/20/27; P1980/43/85]

- (1) Where a fine is imposed on conviction by a court of summary jurisdiction, such a court may on a subsequent application by the offender, on inquiring into his means, remit the whole or any part of the fine if the court thinks it just to do so, having regard to any change in his circumstances since the conviction.
- (2) Where the court remits the whole or part of a fine after a term of imprisonment has been fixed in default of payment of the fine, the court shall also reduce the term by an amount which bears the same proportion to the whole term as the amount remitted bears to the whole fine, or shall remit the whole term, as the case may be.
- (3) In calculating the reduction in a term under subsection (2) a fraction of a day shall be left out of account.
- (4) References in this section to a fine do not include any other sum adjudged to be paid on conviction, whether as a pecuniary penalty, forfeiture, compensation or otherwise, or any sum recoverable as a penalty in consequence of a conviction.

101 Exercise of mercy in certain cases

- (1) ~~Her Majesty~~ **His Majesty**, or the Governor, may extend the Royal mercy to any person in custody for non-payment of any fine, although the fine is not payable to the Crown.
- (2) Where on remission of any fine a person remains in custody for non-payment of costs or any other sum, he shall continue as a prisoner for debt only.

101A Register of sums adjudged to be paid on conviction

P2003/39/98

- (1) The Chief Registrar is to maintain a register, in accordance with rules of court, of sums to be paid to him or her under section 1 of the *Collection of Fines etc. Act 1985* and the names and addresses of persons who have defaulted in their payment.
- (2) The rules may, —
 - (a) provide exemptions from the requirement of sums (or classes of them) to be registered;
 - (b) prescribe circumstances in which an entry in the register is to be cancelled; and
 - (c) provide for sums to be registered only in such circumstances or subject to such conditions as the rules may prescribe.
- (3) The Treasury may fix charges to be made for —

- (a) making information in an entry in the register available for inspection;
 - (b) carrying out an official search of the register;
 - (c) supplying a certified copy of information in an entry in the register.
- (4) The proceeds of those charges are to be applied in paying the expenses incurred in maintaining the register; and any surplus is to be paid into the General Revenue of the Island.¹⁴¹

Orders other than for payment of money

102 Enforcement of other orders

[1983/13/76; 1986/1/2/109; P1980/43/63; P1981/49/17]

- (1) Where a court of summary jurisdiction has power to require the doing of anything other than the payment of money, or to prohibit the doing of anything, any order of the court for the purpose of exercising that power may contain such provisions for —
 - (a) the manner in which anything is to be done,
 - (b) the time within which anything is to be done, or during which anything is not to be done, and
 - (c) generally giving effect to the order,
 as the court thinks fit.
- (2) A court of summary jurisdiction may by order made on complaint suspend or revoke any such order.
- (3) Subject to subsection (4), where a person disobeys an order of a court of summary jurisdiction to do anything other than the payment of money or to abstain from doing anything, the court may, either on application or of its own motion —
 - (a) order him to pay a fine not exceeding level 5 on the standard scale; or¹⁴²
 - (b) commit him to custody until he has remedied his default or for a period not exceeding 2 months **and may suspend such committal until such time and on such conditions, if any, as the court thinks just.**
- (4) A person against whom an order is made under subsection (3)(a), or who is committed to custody under subsection (3)(b), shall not be ordered to pay more than £2,000 or committed for more than 2 months in all for doing or abstaining from doing the same thing contrary to the order (without prejudice to the operation of subsection (3) in relation to any subsequent default).
- (4A) If under subsection (3) a court of summary jurisdiction has power to commit a person to custody for breach of —

- (a) an occupation order or non-molestation order under Part 5 of the *Matrimonial Proceedings Act 2003*;
 - (b) an exclusion requirement included by virtue of section 36 of the *Children and Young Persons Act 2001* in an interim care order made under section 35 of that Act; or
 - (c) an exclusion requirement included by virtue of section 43 of that Act in an emergency protection order under section 42 of that Act;
- the court may by order direct that the execution of the order of committal is to be suspended for such period or on such terms and conditions as it may specify.¹⁴³
- (4B) A court of summary jurisdiction has the same power to make —
 - (a) a hospital order or guardianship order under paragraph 2 of Schedule 2A, or
 - (b) an interim hospital order under paragraph 3 of that Schedule,
 in the case of a person suffering from mental illness or severe mental impairment who could otherwise be committed to custody for breach of an order or requirement mentioned in subsection (4)(a), (b) or (c) as it has under those paragraphs in the case of a person convicted of an offence punishable on summary conviction with custody.¹⁴⁴
 - (5) Subsections (1) to (4) do not apply to any order for the enforcement of which provision is made by any other enactment.¹⁴⁵

102A Interpretation for this Part

In this Part a reference to a “relevant sum” is a reference to any of the following, —

- (a) a sum adjudged to be paid on conviction;
- (b) a sum adjudged to be paid by or under an order of a court which is enforceable as if it were a sum payable on conviction;
- (c) a sum registered or recorded (in whatever terms) with a court of summary jurisdiction as a sum which is enforceable as if it were a sum payable on conviction;
- (d) a periodical payments order.

Example for paragraph (c) – a fixed penalty notice issued under Schedule 5A to the *Road Traffic Regulation Act 1985* or section 20A of the *Public Health (Tobacco) Act 2006*.

PART IX – APPEALS

Criminal appeals

103 Right of appeal against conviction or sentence

- (1) A person convicted by a court of summary jurisdiction may appeal to the High Court —
 - (a) if he pleaded guilty, against his sentence;
 - (b) if he did not, against the conviction or sentence or both.
- (2) A person sentenced by a court of summary jurisdiction for an offence in respect of which a probation order, has been previously made against him may appeal to the High Court against the sentence.
- (3) A person against whom a probation order or an order for the payment of costs has been made by a court of summary jurisdiction may, with the leave of that court, appeal to the High Court against the order.
- (4) In this section “sentence” includes any order made on conviction by a court of summary jurisdiction except —
 - (a) an order under section 3 of the *Cruelty to Animals Act 1997*, and¹⁴⁶
 - (b) an order made in pursuance of an enactment under which the court has no discretion as to the making of an order in the terms thereof.

Appeals in domestic proceedings

104 Appeals in domestic proceedings

[1983/13/77; 1986/22/2/13]

- (1) An appeal shall lie to the High Court from —
 - (a) the making of any order of a court of summary jurisdiction in domestic proceedings; or
 - (b) the refusal by the court to make such an order; or
 - (c) the revocation, revival or variation by the court of such an order,except where it is provided by an enactment that no appeal shall lie from the making of, or refusal to make, such an order.
- (2) On an appeal under this section the High Court may make such orders as may be necessary to give effect to its determination of the appeal, including such incidental or consequential orders as appear to the Court to be just.
- (3) In the case of an appeal from a decision of a court of summary jurisdiction made on an application for or in respect of a periodical payments order, the High Court may order that its determination shall have effect from such date as the Court thinks fit, not being earlier than —

- (a) the date of the making of the application to the court of summary jurisdiction, or
 - (b) in a case where there was made to that court an application for a maintenance order and an application for an agreement order, and the term of the periodical payments was or might have been ordered to begin on the date of the making of the application for a maintenance order, the date of the making of that application.
- (4) Without prejudice to the generality of subsection (3), where on an appeal in respect of a periodical payments order, the High Court reduces the amount of the periodical payments or revokes the order, the Court may —
- (a) order the person entitled to payments under the periodical payments order to pay to the person liable to make payments under the order such sum in respect of payments already made in compliance with the order as the Court thinks fit; and
 - (b) if any arrears are due under the order, remit the payment of those arrears or any part thereof.

(5) [Repealed]¹⁴⁷

(6) In this section —

“agreement order” means an order under section 64 of the *Matrimonial Proceedings Act 2003*,¹⁴⁸

“interim custody order” [Repealed]

“interim maintenance order” [Repealed]¹⁴⁹

“maintenance order” means an order under section 2 of that Act.

Procedure

105 Procedure on appeals

- (1) An appeal from a court of summary jurisdiction to the High Court shall be commenced by the appellant lodging in the General Registry, within 28 days after the day on which the decision of the court of summary jurisdiction was given, a notice of appeal stating the grounds of appeal and signed by him or his advocate.
- (2) Where the court of summary jurisdiction has adjourned the trial of a complaint after the conviction of the appellant, the said period of 28 days shall commence on the day when the court sentences or otherwise deals with the appellant.
- (3) The appellant shall within the said period of 28 days serve a copy of the notice on the clerk of the court of summary jurisdiction and on the other party.

- (4) Any court of summary jurisdiction may extend the time for doing any of the acts mentioned in subsections (1) and (3) on such terms (if any) as the justice of the case requires, and may do so even where the application therefor is not made until after the time for so doing has expired.
- (5) Where the appellant is in custody, a court of summary jurisdiction may, if it thinks fit, release the appellant from custody either —
 - (a) on the appellant entering into a recognizance, with or without sureties, in such reasonable sum as the court thinks necessary, to appear at the hearing of the appeal, or
 - (b) with the consent of the court, on his giving such other security for his appearance as the court thinks proper.
- (6) The clerk of the court shall forthwith send to the Chief Registrar any recognizance, and a statement as to any other security, given under subsection (5) and shall send a copy to the Attorney General.

106 Hearing and decision on appeal

- (1) The High Court may from time to time adjourn the hearing of an appeal from a court of summary jurisdiction.
- (2) On an appeal from a court of summary jurisdiction the High Court may —
 - (a) confirm, reverse or vary any part of the decision of the court of summary jurisdiction, including a determination not to impose a separate penalty in respect of an offence, or¹⁵⁰
 - (b) remit the matter with their opinion to the same or another court of summary jurisdiction, or
 - (c) make such other order in the matter as they think just, and by such order exercise any power which the court of summary jurisdiction might have exercised;and any order made by the High Court shall have the like effect and may be varied, suspended, revoked or reviewed and enforced in the like manner as if it had been made by the court of summary jurisdiction.
- (3) On an appeal against a conviction or sentence, the powers of the High Court under subsection (2) include power to award any punishment, whether more or less severe than that awarded by the court of summary jurisdiction, which that court might have awarded.
- (4) The Chief Registrar shall send to the clerk of the court of summary jurisdiction by whom the decision appealed against was given a certified copy of the notice of appeal and the order made thereon by the High Court, and the clerk shall endorse a memorandum thereon in the order book containing the decision.
- (5) Whenever a copy or certificate of the decision appealed against is made, a copy of the memorandum made under subsection (4) shall be added and

shall be evidence of the decision of the High Court in any case where the copy or certificate would be sufficient evidence of the decision appealed against.

107—Costs

- ~~(1) On an appeal to the High Court from a decision of a court of summary jurisdiction the High Court may —~~
 - ~~(a) make such order as it thinks just as to the costs or any parties to the appeal, including an order dealing with the costs properly incurred by any party in the proceedings before the court of summary jurisdiction;~~
 - ~~(b) instead of directing a taxation of costs, award a lump sum to be paid by way of costs by any party to the appeal; and~~
 - ~~(c) grant execution on any order as to costs.~~
- ~~(2) The High Court shall in awarding costs under this section have regard to the means of any party to the appeal.~~

108 Abandonment of appeal

- (1) Where any person appeals to the High Court from a decision of a court of summary jurisdiction, he may abandon the appeal by giving notice in writing to the Chief Registrar not less than 3 days before the day fixed for hearing the appeal, and the Chief Registrar shall thereupon give notice of the abandonment to the other party to the appeal and to the clerk of the court of summary jurisdiction.
- (2) Where notice to abandon an appeal has been given by the appellant —
 - (a) the court of summary jurisdiction against whose decision the appeal was brought may take any steps for enforcing the decision, subject to anything already suffered or done under it by the appellant; and
 - (b) that court may, on the application of the other party to the appeal, order the appellant to pay to that party such costs as appear to the court to be just and reasonable in respect of expenses properly incurred by that party in connection with the appeal before notice of abandonment was given to that party.
- (3) The Chief Registrar shall return to the clerk of the court of summary jurisdiction any recognizance entered into by the appellant in connection with the appeal, and any such recognizance shall have effect as if it were for the appearance of the appellant before the court at a time and place to be notified to him by the clerk of the court.

Case stated etc.

109 Appeal by way of case stated

[P1980/43/111 and 114]

- (1) Any person who was a party to any proceedings before a court of summary jurisdiction or is aggrieved by the conviction, order, determination or other decision of the court may question the decision on the ground that it is wrong in law or is in excess of jurisdiction by applying to the court to state a case for the opinion of the High Court on the question of law or jurisdiction involved.
- (2) An application under subsection (1) shall be made in writing within 14 days after the day on which the decision of the court of summary jurisdiction was given, and shall specify the question of law or jurisdiction involved.
- (3) Where the court of summary jurisdiction has adjourned the trial of a complaint after conviction of the appellant, the day on which the decision of the court is given shall be the day when the court sentences or otherwise deals with the appellant.
- (4) ~~Except in the case of an application made by or under the direction of the Attorney General, a court~~ A court of summary jurisdiction to whom an application under subsection (1) is made may direct the applicant to enter into a recognizance —
 - (a) to prosecute the matter without delay, and
 - (b) to submit to the judgment of the High Court and pay such costs as may be awarded;and shall not be required to state a case for the opinion of the High Court until the applicant has complied with the direction.
- (5) If the court of summary jurisdiction is of opinion that an application under this section is frivolous, it may refuse to state a case and, if the applicant so requires, shall give him a certificate to that effect; but the court shall not refuse to state a case on an application made by or under the direction of the Attorney General.
- (6) Where a court of summary jurisdiction refuses to state a case, the High Court may, on the application by way of petition of dolence of the person who applied for the case to be stated, make an order requiring the justices to state a case.¹⁵¹
- (7) The High Court may send a case back to the court of summary jurisdiction for amendment, and the court shall amend the case in accordance with the directions of the High Court.
- (8) Subject to subsection (7), the High Court shall hear and determine the question of law or jurisdiction arising on a case stated, and may exercise

any other powers which it may exercise on an appeal from the decision of a court of summary jurisdiction.

109A Review of sentences passed by courts of summary jurisdiction

[1993/9/41; P1988/33/35 and 36]

- (1) If it appears to the Attorney General that —
 - (a) the sentencing of a person sentenced by a court of summary jurisdiction for any offence has been unduly lenient; or
 - (b) a court of summary jurisdiction has erred in law as to its powers of sentencing for such an offence,he may, with the leave of the High Court, refer the case to it for review of the sentencing of that person.
- (2) On such a reference in relation to any person the High Court may —
 - (a) quash any sentence passed on him by the court of summary jurisdiction in the same proceedings; and
 - (b) in place of it pass on him such sentence as it thinks appropriate for the case and as the court of summary jurisdiction had power to pass in dealing with him.
- (3) For the purpose of this section, any 2 or more sentences are to be treated as passed in the same proceedings if —
 - (a) they are passed on the same day; or
 - (b) they are passed on different days but the court in passing any one of them states that it is treating that one together with the other or others as substantially one sentence;and consecutive terms of custody and terms which are wholly or partly concurrent are to be treated as a single term.
- (4) Section 2(4) (judges not to review own decisions) of the *High Court Act 1991* applies to a review under this section as it applies to an appeal.
- (5) In this section, “sentence” has the same meaning as in section 103(4).
- (6) This section is without prejudice to section 49 of the *High Court Act 1991*.¹⁵²

109B Custody etc pending review

[1993/9/42; P1988/33/Sch 3]

- (1) The time during which a person whose case is referred for review under section 109A is in custody pending the review shall be reckoned as part of the term of any sentence to which he is for the time being subject.
- (2) The term of any sentence passed by the High Court under section 109A shall, unless it otherwise directs, begin to run from the time when it would have begun to run if passed in the proceedings in relation to which the reference was made.

- (3) On a reference under section 109A the Treasury shall pay out of money provided by Tynwald to the person whose case is referred such sums as are reasonably sufficient to compensate him for expenses properly incurred by him relation to the reference; and the amount of such sums shall be ascertained as soon as practicable by the Chief Registrar.¹⁵³

110 [Repealed]¹⁵⁴

PART X – MISCELLANEOUS AND SUPPLEMENTAL

Miscellaneous

111 Powers of Deemsters

- (1) Any jurisdiction, power or authority conferred by any statutory provision on a court of summary jurisdiction may be exercised by a Deemster, who shall (as nearly as may be) in so doing follow the like procedure as applies in such courts.
- (2) Any party to proceedings before a Deemster by virtue of this section shall be entitled to the like rights, remedies and privileges as those to which he would be entitled before a court of summary jurisdiction.
- (3) When exercising jurisdiction under this section in a criminal cause or matter, a Deemster may exercise any power conferred on a High Bailiff.

112 Protection of justices

Schedule 3 shall have effect with respect to the protection of justices against liability for acts done in the performance or purported performance of their functions, and matters relating thereto.

112A Effect of sealed orders etc

Any summons, judgment, order or other document issuing out of a court of summary jurisdiction shall, if sealed or stamped with the seal of the Court, have the same effect as if such summons, judgment, order or document were signed by the High Bailiff or a justice.

113 Indemnification of justices and clerks

[P1979/55/53]

- (1) Subject to the provisions of this section, a justice or the clerk of a court of summary jurisdiction may be indemnified by the Treasury out of money provided by Tynwald in respect of —
- (a) any costs reasonably incurred by him in or in connection with proceedings against him in respect of anything done or omitted in

the exercise or purported exercise of the duty of his office, or in taking steps to dispute any claim which might be made in such proceedings;

- (b) any damages awarded against him or costs ordered to be paid by him in any such proceedings or claim; or
- (c) any sums payable by him in connection with a reasonable settlement of any such proceedings or claim;

and shall be entitled to be so indemnified if, in respect of the matters giving rise to the proceedings or claim, he acted reasonably and in good faith.

- (2) Any question whether or to what extent a person is to be indemnified under this section shall be determined by the Attorney General; and a determination under this subsection with respect to any such costs or sums as are mentioned in subsection (1)(a) or (c) may, if the person claiming to be indemnified so requests, be made in advance before those costs are incurred or the settlement is made, as the case may be.
- (3) A determination in advance for indemnity in respect of costs to be incurred shall be subject to such limitation, if any, as the Attorney General thinks proper and to the subsequent determination of the amount of the costs reasonably incurred, and shall not affect any other determination which may fall to be made in connection with the proceedings or claim in question.
- (4) An appeal shall lie to the High Court on the part of a person claiming to be indemnified, from any decision of the Attorney General under subsection (2), other than a decision to postpone until after the conclusion of the proceedings any determination with respect to his own costs or to impose limitations on making a determination in advance for indemnity with respect to such costs, and the decision of the High Court shall be final.

Supplemental

114 Interpretation

[P1980/43/150]

- (1) In this Act —

“adult” means a person who in the opinion of the court before whom he is brought is of the age of ~~17~~ 18 years or upwards;

“application for benefit deductions”, in relation to a specified benefit, means an application under section 94A(1)(b);¹⁵⁵

“attachment of earnings order” means an order made under section 94A(1)(a);¹⁵⁶

“broadcast” [Repealed]

“cable programme” [Repealed]¹⁵⁷

"the clerk", in relation to a court of summary jurisdiction, means such person as is assigned by the Chief Registrar to act as clerk of the court;¹⁵⁸

"the Clerk to the Justices" [Repealed]¹⁵⁹

"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;

"complaint" includes a petition, an application and an appeal, and **"complainant"** and **"defendant"** shall be construed accordingly;

"domestic proceedings" has the meaning given by section 48;

"impose imprisonment" means pass a sentence of imprisonment or fix a term of imprisonment for failure to pay any sum of money or to do or abstain from doing anything required to be done or left undone;

~~**"inquiry"** means an inquiry under section 5 by a court of summary jurisdiction into an offence triable on information;~~

"justice" means a justice of the peace;

"offence" includes an alleged offence;

"offence triable on information" means an offence which, if committed by an adult is triable on information, whether it is exclusively so triable or also triable summarily;

"offence triable either way" means an offence which, if committed by an adult, is (apart from any enactment contained in Part II) triable either on information or summarily;

"periodical payments order" means an order made in domestic proceedings by a court of summary jurisdiction requiring the making of periodical payments;

"prescribed" means prescribed by rules;

"publish", in relation to a report, means publish the report either by itself or as part of a newspaper or periodical, for distribution to the public;

"relevant programme" means a programme included in a programme service (within the meaning of the *Communications Act 2021*);¹⁶⁰

"rules", except in section 37, means rules under section 91;

"social security benefit" means any benefit payable in accordance with an order made under section 1 or 1A of the *Social Security Act 2000*;¹⁶¹

"specified benefit" means a social security benefit from which the Treasury may make deductions by virtue of regulations made under section 94E(3)(a).¹⁶²

(2) Anything required or authorised by this Act to be done by justices may, where 2 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 court of summary jurisdiction includes 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.
- (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 court of summary jurisdiction, 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 have been his age at that time.
- (5) Any reference in this Act to an offence punishable with imprisonment shall be construed without regard to any restriction on the imprisonment of young offenders.
- (6) No provision of this Act authorising a court of summary jurisdiction on conviction of an offender to pass sentence or make an order instead of dealing with him in any other way shall be construed as taking away any power to order him to pay costs, damages or compensation.
- (7) Any power of a justice or a court of summary jurisdiction to order a person to enter into a recognizance, or to take a recognizance from any person, includes power to order him to enter into, or to take from him, a recognizance with sureties.
- (8) In the following provisions a reference to a court or to a court of summary jurisdiction includes a reference to a single justice —
 - (a) ~~section 5;~~
 - (b) section 9;
 - (c) section 43(5) and (6);
 - (d) section 94(1);
 - (e) section 94A(6) to (9);
 - (f) section 94E(1) and (2);
 - (g) section 94F(4).¹⁶³

115 Transitional provisions and amendments

- (1) The transitional provisions in Schedule 4 shall have effect.
- (2) The enactments specified in Schedule 5 are amended in accordance with that Schedule.
- (3) [Repealed]¹⁶⁴

116 Short title and commencement

- (1) This Act may be cited as the Summary Jurisdiction Act 1989.

- (2) This Act shall come into operation on such day as the Governor in Council may by order appoint.¹⁶⁵

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SCHEDULE 1

FORMS OF OATH

Sections 1 and 2 [1983/23/Sch 1]

PART I – OATHS OF HIGH BAILIFF

Oath of Allegiance

“I,, do swear by Almighty God that I will be faithful and bear true allegiance to ~~Her Majesty Queen Elizabeth the Second~~ **His Majesty King Charles the Third**.

SO HELP ME GOD.”

Judicial Oath

“I,, do swear by Almighty God that I will well and truly serve ~~our Sovereign Lady Queen Elizabeth the Second~~ **our Sovereign Lord of Man King Charles the Third** in the office of the High Bailiff (or Deputy High Bailiff), and I will do right to all manner of people after the laws and usages of this Isle, without fear or favour, affection or illwill.

SO HELP ME GOD.”

In the above forms, the name of the Sovereign for the time being shall from time to time be substituted for the name of Her present Majesty.

PART II – OATH OF CLERK

I,, do swear that, when required to do so, I will faithfully, diligently and impartially, and to the best of my understanding and ability, carry out the duties of clerk to courts of summary jurisdiction.¹⁶⁶

SCHEDULE 2**~~OFFENCES TRIABLE ON INFORMATION WHICH CAN BE
DEALT WITH SUMMARILY~~**

Section 16 [1980/20/Sch 7]

~~1. — An offence under any of the following provisions of the *Criminal Code 1872* —~~

- ~~(a) — section 16 (meetings for illegal training or drilling);~~
- ~~(b) — section 35 (wounding or inflicting grievous bodily harm);~~
- ~~(c) — section 49 (obstructing or assaulting a clergyman in the discharge of his duties);~~
- ~~(d) — section 51 (assault to commit offence or on peace officer);~~
- ~~(e) — section 55 (assaults arising from unlawful conspiracies etc.);~~
- ~~(f) — section 59 (aggravated assaults);~~
- ~~(g) — section 60 (assault occasioning actual bodily harm);~~
- ~~(h) — section 73 (concealing birth of child);~~
- ~~(i) — section 79 (criminal libel);~~
- ~~(j) — section 119 (obstructing engines or carriages on railways);~~
- ~~(k) — section 156 (unlawfully clipping sheep etc.);~~
- ~~(l) — section 318 (obstructing officer in execution of duty etc.);~~
- ~~(m) — section 319 (neglecting to execute writ etc.);~~
- ~~(n) — section 320 (prison breaking);~~
- ~~(o) — section 323 (bribery);~~
- ~~(p) — section 330 (conspiracy);~~
- ~~(q) — section 331 (falsely personating etc.);~~
- ~~(r) — section 332 (riot);~~
- ~~(s) — section 333 (forcible entry);~~
- ~~(t) — section 334 (forcible detainer).¹⁶⁷~~

~~1A. — An offence under section 38 of the *Game Act 1832* (forging or altering licence under Act).¹⁶⁸~~~~1B. — An offence under any of the following sections of the *Bankruptcy Code 1892* —~~

- ~~(a) — section 86 (offences by debtors);~~
- ~~(b) — section 87 (undischarged bankrupt obtaining credit);~~
- ~~(c) — section 88 (fraudulently obtaining credit).¹⁶⁹~~

~~1C. — An offence under any of the following sections of the *Industrial and Building Societies Act 1892* —~~

~~(a) — section 25 (commencing business before incorporation or neglecting to make returns);~~

~~(b) — section 27 (falsification of documents).¹⁷⁰~~

~~1D. — An offence under section 6(2) of the *Census Act 1929* (unlawfully publishing information).¹⁷¹~~

~~2. — [Repealed]¹⁷²~~

~~3. — (1) — An offence under section 2(2)(a) (forgery of securities) of the *Forgery Act 1952*, in relation to a document being an authority or request for the payment of money, or for the delivery or transfer of goods or chattels, where the amount of the money or the value of the goods or chattels does not exceed £400.~~

~~(2) — An offence under section 7(a) (demanding money etc. on forged document) of that Act, where the amount of the money or the value of the property concerned does not exceed £400.~~

~~(3) — An offence under any of the following provisions of the *Forgery Act 1952* —~~

~~(a) — section 4 (forgery of miscellaneous documents);~~

~~(aa) — section 6 (uttering of forged document, die, etc.) so far as it relates to a document to which section 4 applies or to a die to which section 10(b) applies;¹⁷³~~

~~(b) — section 10 (unlawful possession of bank note etc. paper and dies);~~

~~(c) — section 11 (forgery of passport).¹⁷⁴~~

~~3A. An offence under the *Perjury Act 1952*.¹⁷⁵~~

~~3B. — An offence under section 4(1) of the *Custody Act 1995* (assisting escape from custody).¹⁷⁶~~

~~4. — An offence under section 5 (assault by penetration) or section 12(3) (sexual activity with a child) of the *Sexual Offences and Obscene Publications Act 2021*.¹⁷⁷~~

~~4A. — Any offence under the *Prevention of Fraud (Investments) Act 1968*.¹⁷⁸~~

~~5. — An offence under any of the following provisions of the *Post Office Act 1993* —~~

~~(a) — section 33 (taking or opening mailbag);~~

~~(b) — section 34 (retaining mailbag or packet);~~

~~(c) — section 36 (secreting packet);~~

~~(d) — section 37 (opening or delaying packet).¹⁷⁹~~

~~6. — Any offence under the *Coinage Offences Act 1980*.¹⁸⁰~~

~~7. — An offence under any of the following provisions of the *Criminal Damage Act 1981* —~~

- ~~(a) — section 1(1) (destroying or damaging property);~~
- ~~(b) — section 1(1) and (3) (arson);~~
- ~~(c) — section 2 (threat to destroy or damage property);~~
- ~~(d) — section 3 (possession with intent to destroy or damage property).~~

~~8. — (1) — An offence under section 7(1) (assisting offender) of the *Criminal Law Act 1981*, where the offence to which it relates is included (or is treated under any enactment as included) in this Schedule.¹⁸¹~~

~~(2) — An offence under section 8(1) (concealing offence) of that Act.¹⁸²~~

~~9. — (1) — An offence under any provision of the *Theft Act 1981*, being an offence triable on information, except —~~

- ~~(a) — an offence under —~~
 - ~~(i) — section 8 (robbery, or assault with intent to rob);~~
 - ~~(ii) — section 10 (aggravated burglary), or~~
 - ~~(iii) — section 23 (blackmail);~~
- ~~(b) — an offence under section 9 (burglary), if —~~
 - ~~(i) — the offence comprises the commission of, or an intention to commit, an offence not included in this Schedule; or~~
 - ~~(ii) — the offence is committed in a dwelling and any person in the dwelling was subjected to violence or the threat of violence;~~
- ~~(c) — an offence under section 24 (handling), where the offence of stealing was not committed in the Island.~~

~~10. — An offence consisting of —~~

- ~~(a) — aiding, abetting, counselling or procuring the commission of, or~~
 - ~~(b) — attempting to commit,~~
- ~~an offence mentioned in this Schedule.~~

~~11. — An offence consisting of incitement to commit —~~

- ~~(a) — a summary offence, or~~
- ~~(b) — an offence triable either way, or~~
- ~~(c) — an offence mentioned in this Schedule.~~

SCHEDULE 2A¹⁸³

[Section 27A]

MENTALLY DISORDERED PERSONS*Remand to hospital for report on medical condition*

1. (1) This paragraph applies to —
 - (a) any person who has been convicted by the court of an offence punishable on summary conviction with custody, and
 - (b) any person charged with such an offence, if the court is satisfied that he did the act or made the omission charged or he has consented to the exercise by the court of the powers conferred by this paragraph.
- (2) Subject to the provisions of this paragraph, a court of summary jurisdiction may remand a person to whom this paragraph applies to a hospital specified by the court for a report on his mental condition.
- (3) Subject to sub-paragraph (4), the powers conferred by this paragraph may be exercised if —
 - (a) the court is satisfied, on the written or oral evidence of a registered medical practitioner, that there is reason to suspect that the person concerned is suffering from mental illness, psychopathic disorder, severe mental impairment or mental impairment; and
 - (b) the court is of the opinion that it would be impracticable for a report on his mental condition to be made if he were remanded on bail.
- (4) The court shall not remand a person to a hospital under this paragraph unless satisfied, on the written or oral evidence of the registered medical practitioner who would be responsible for making the report or of some other person representing the managers of the hospital, that arrangements have been made for his admission to that hospital and for his admission to it within the period of 7 days beginning with the date of the remand; and if the court is so satisfied it may, pending his admission, give directions for his conveyance to and detention in a place of safety.
- (5) Where a court has remanded a person under this paragraph it may further remand him if it appears to the court, on the written or oral evidence of the registered medical practitioner responsible for making the report, that a further remand is necessary for completing the assessment of the person's mental condition.
- (6) The power of further remanding a person under this paragraph may be exercised by the court without his being brought before the court if he is represented by an advocate and his advocate is given an opportunity of being heard.
- (7) A person shall not be remanded or further remanded under this paragraph for more than 28 days at a time or for more than 12 weeks in all; and the court

may at any time terminate the remand if it appears to the court that it is appropriate to do so.

(8) A person remanded to hospital under this paragraph shall be entitled to obtain at his own expense an independent report on his mental condition from a registered medical practitioner chosen by him and to apply to the court on the basis of it for his remand to be terminated under sub-paragraph (7).

(9) Where a person is remanded under this paragraph —

- (a) a constable or any other person directed to do so by the court shall convey the person to the hospital specified by the court within the period mentioned in sub-paragraph (4); and
- (b) the managers of the hospital shall admit him within that period and thereafter detain him in accordance with the provisions of this paragraph.

(10) If a person absconds from a hospital to which he has been remanded under this paragraph, or while being conveyed to or from that hospital, he may be arrested without warrant by any constable and shall, after being arrested, be brought as soon as practicable before a court of summary jurisdiction; and the court may thereupon terminate the remand and deal with him in any way in which it could have dealt with him if he had not been remanded under this paragraph.

Hospital and guardianship orders

2. (1) Where a person is convicted by a court of summary jurisdiction of an offence punishable on summary conviction with custody, and the conditions mentioned in sub-paragraph (2) are satisfied, the court may by order authorise his admission to and detention in such hospital as may be specified in the order or, as the case may be, place him under the guardianship of the Department or of such other person approved by the Department as may be so specified.

(2) The conditions referred to in sub-paragraph (1) are that —

- (a) the court is satisfied that the offender is suffering from mental illness, psychopathic disorder, severe mental impairment or mental impairment and that either —
 - (i) the mental disorder from which the offender is suffering is of a nature or degree which makes it appropriate for him to be detained in a hospital for medical treatment and, in the case of psychopathic disorder or mental impairment, that such treatment is likely to alleviate or prevent a deterioration of his condition; or
 - (ii) in the case of an offender who has attained the age of 16 years, the mental disorder is of a nature or degree which warrants his reception into guardianship under this Act; and

- (b) the court is of the opinion, having regard to all the circumstances including the nature of the offence and the character and antecedents of the offender, and to the other available methods of dealing with him, that the most suitable method of disposing of the case is by means of an order under this paragraph.

(3) Where a person is charged before a court of summary jurisdiction with any act or omission as an offence and the court would have power, on convicting him of that offence, to make an order under sub-paragraph (1) in his case as being a person suffering from mental illness or severe mental impairment, then, if the court is satisfied that the accused person did the act or made the omission charged, the court may, if it thinks fit, make such an order without convicting him.

(4) An order for the admission of an offender to a hospital (a "hospital order") shall not be made under this paragraph unless the court is satisfied on the written or oral evidence of the registered medical practitioner who would be in charge of his treatment or of some other person representing the managers of the hospital that arrangements have been made for his admission to that hospital, and for his admission to it within the period of 28 days beginning with the date of the making of such an order; and the court may, pending his admission within that period, give such directions as it thinks fit for his conveyance to and detention in a place of safety.

(5) An order placing an offender under the guardianship of the Department or of any other person (a "guardianship order") shall not be made under this paragraph unless the court is satisfied that the Department or that person as the case may be, is willing to receive the offender into guardianship.

(6) A hospital order or guardianship order shall specify the form or forms of mental disorder referred to in sub-paragraph (2)(a) from which, upon the evidence taken into account under that sub-paragraph, the offender is found by the court to be suffering; and no such order shall be made unless the offender is described by each of the practitioners whose evidence is taken into account under that sub-paragraph as suffering from the same one of those forms of mental disorder, whether or not he is also described by either of them as suffering from another of them.

(7) Where an order is made under this paragraph, the court shall not pass sentence of custody or impose a fine or make a probation order in respect of the offence, but may make any other order which the court has power to make apart from this paragraph.

Interim hospital orders

3. (1) Where a person is convicted by a court of summary jurisdiction of an offence punishable on summary conviction with custody and the court before or by which he is convicted is satisfied —

- (a) that the offender is suffering from mental illness, psychopathic disorder, severe mental impairment or mental impairment; and

- (b) that there is reason to suppose that the mental disorder from which the offender is suffering is such that it may be appropriate for a hospital order to be made in his case,

the court may, before making a hospital order or dealing with him in some other way, make an order (an "interim hospital order") authorising his admission to such hospital as may be specified in the order and his detention there in accordance with this paragraph.

(2) In the case of an offender who is subject to an interim hospital order the court may make a hospital order without his being brought before the court if he is represented by an advocate and his advocate is given an opportunity of being heard.

(3) An interim hospital order shall not be made for the admission of an offender to a hospital unless the court is satisfied that arrangements have been made for his admission to that hospital and for his admission to it within the period of 28 days beginning with the date of the order; and if the court is so satisfied the court may, pending his admission, give directions for his conveyance to and detention in a place of safety.

(4) An interim hospital order —

- (a) shall be in force for such period, not exceeding 12 weeks, as the court may specify when making the order; but
- (b) may be renewed for further periods of not more than 28 days at a time if it appears to the court, on the written or oral evidence of the responsible medical officer, that the continuation of the order is warranted;
- (c) shall not continue in force for more than 12 months in all; and
- (d) shall cease to have effect if the court makes a hospital order in respect of the offender or deals with him in some other way.

(5) The power of renewing an interim hospital order may be exercised without the offender being brought before the court if he is represented by an advocate and his advocate is given an opportunity of being heard.

(6) If an offender absconds from a hospital in which he is detained in pursuance of an interim hospital order, or while being conveyed to or from such a hospital, he may be arrested without warrant by a constable and shall, after being arrested, be brought as soon as practicable before the court that made the order; and the court may thereupon terminate the order and deal with him in any way in which it could have dealt with him if no such order had been made.

Power to commit for restriction order

4. (1) If in the case of a person of or over the age of 14 years who is convicted by a court of summary jurisdiction of an offence punishable on summary conviction with custody —

- (a) the conditions which under paragraph 2(1) are required to be satisfied for the making of a hospital order are satisfied in respect of the offender; but
- (b) it appears to the court, having regard to the nature of the offence, the antecedents of the offender and the risk of his committing further offences if set at large, that if a hospital order is made a restriction order should also be made,

the court may, instead of making a hospital order or dealing with him in any other manner, commit him in custody to a Court of General Gaol Delivery to be dealt with in respect of the offence.

(2) Where an offender is committed to a Court of General Gaol Delivery under this paragraph, that court shall inquire into the circumstances of the case and may —

- (a) if that court would have power so to do under section 54 of the *Criminal Jurisdiction Act 1993* upon the conviction of the offender before that court of an offence, make a hospital order in his case, with or without a restriction order;
- (b) if the court does not make such an order, deal with the offender in any other manner in which the court of summary jurisdiction might have dealt with him.

(3) A Court of General Gaol Delivery shall have the same power —

- (a) to make an interim hospital order under section 54(4) of that Act, or
- (b) to remand under Schedule 1A to that Act,

in the case of a person committed to the court under this paragraph as it has under those provisions in the case of a person convicted before that court as mentioned in section 29 of that Act, or a person to whom paragraph 1 or 2 of Schedule 1A to that Act applies, as the case may be.

(4) The power of a court of summary jurisdiction under section 17 (committal for sentence) shall also be exercisable by such a court where it is of the opinion that greater punishment should be inflicted on the offender than the court has power to inflict unless a hospital order is made in his case with a restriction order.

Committal to hospital under paragraph 4

5. (1) Where an offender is committed under paragraph 4(1) and the court of summary jurisdiction by which he is committed is satisfied on written or oral evidence that arrangements have been made for the admission of the offender to a hospital in the event of an order being made under this paragraph, the court may, instead of committing him in custody, by order direct him to be admitted to that hospital, specifying it, and to be detained there until the case is disposed of by a Court of General Gaol Delivery, and may give such directions as it thinks fit for his production from the hospital to attend the court by which his case is to be dealt with.

(2) The evidence required by sub-paragraph (1) shall be given by the registered medical practitioner who would be in charge of the offender's treatment or by some other person representing the managers of the hospital in question.

(3) The power to give directions under paragraph 2(4) and (5) and section 47(1) of the *Mental Health Act 1998* apply in relation to an order under this paragraph as they apply in relation to a hospital order, but as if references to the period of 28 days mentioned in the said section 47(1) were omitted; and subject as aforesaid an order under this paragraph shall, until the offender's case is disposed of by a Court of General Gaol Delivery, have the same effect as a hospital order together with a restriction order, made without limitation of time.

Appeals

6. (1) Where on the trial of a complaint charging a person with an offence a court of summary jurisdiction makes a hospital order or guardianship order in respect of him without convicting him, he shall have the same right of appeal against the order as if it had been made on his conviction; and on any such appeal the High Court shall have the same powers as if the appeal had been against both conviction and sentence.

(2) An appeal by a child or young person with respect to whom any such order has been made, whether the appeal is against the order or against the finding upon which the order was made, may be brought by him or by his parent or guardian on his behalf.

Evidence

7. (1) A court shall not make a determination under paragraph 2(2)(a) or 3(1) except on the written or oral evidence of 2 or more registered medical practitioners.

(2) At least one of those practitioners must be approved for the purposes of section 12 of the *Mental Health Act 1998* as having special experience in the diagnosis or treatment of mental disorder.

(3) Section 61(2) and (3) of that Act (medical reports) applies for the purpose of this Schedule as it applies for the purpose of any provision of Part 3 of that Act.

Interpretation

8. In this Schedule —

"the Department" means the Department of Health and Social Care;¹⁸⁴

"hospital" has the same meaning as in Part 3 of the *Mental Health Act 1998*;

references to mental disorder, or any kind of mental disorder, shall be construed in accordance with that Act;

"mental illness", **"psychopathic disorder"**, **"severe mental impairment"** and **"mental impairment"** have the same meanings as in that Act;

"place of safety" has the same meaning as in that Act.

SCHEDULE 3

[Section 112]

PROTECTION OF JUSTICES

[P1979/55/50]

Acts within jurisdiction

1. No action shall lie against any justice in respect of any act or omission of his —
 - (a) in the execution of his duty as such a justice, and
 - (b) with respect to any matter within his jurisdiction.¹⁸⁵

Acts beyond jurisdiction

2. An action shall lie against any justice in respect of any act or omission of his —
 - (a) in the purported execution of his duty as such a justice, but
 - (b) with respect to any matter which is not within his jurisdiction, if, but only if, it is proved that he acted in bad faith.¹⁸⁶

- 3 to 5. [Repealed]¹⁸⁷

Setting aside of prohibited action

6. If any action is brought in circumstances in which this Schedule provides that no action is to be brought, the High Court may, on the application of the defendant and upon an affidavit of the facts, set aside the proceedings in the action, with or without costs, as the Court thinks fit.

7. [Repealed]¹⁸⁸

SCHEDULE 4

TRANSITIONAL PROVISIONS

Section 115(1)

Interpretation

1. In this Schedule —

“the 1927 Act” means the *Petty Sessions and Summary Jurisdiction Act 1927*;

“the appointed day” means the day appointed for the coming into operation of this Act;

“the former Acts” means any enactments repealed or amended by this Act.

Current proceedings

2. (1) Where proceedings were commenced before the appointed day, the former Acts relating to the proceedings continue to apply and nothing in this Act affects those Acts.

(2) Without prejudice to the generality of sub-paragraph (1), the former Acts relating to proceedings which continue in force by virtue of it include any provision of those Acts which —

- (a) creates an offence;
- (b) relates to criminal or civil procedure;
- (c) relates to punishment for an offence;
- (d) relates to enforcing, appealing against, questioning, varying or revoking anything ordered or done in the proceedings.

Offences committed before appointed day

3. Where proceedings are commenced under this Act in relation to an offence committed before the appointed day, nothing in this Act renders a person liable to punishment by way of fine or imprisonment for the offence which differs from the punishment to which he would have been liable if this Act had not been passed and proceedings for the offence had been commenced under the former Acts, and the provisions of the former Acts relating to punishment are to be construed accordingly.

Periods of time

4. Where a period of time specified in an enactment repealed by this Act is current at the appointed day, this Act shall have effect as if the corresponding provision of it had been in force when that period began to run.

Byelaws

5. (1) Any byelaws, rules or regulations made or having effect as if made under section 99 of the 1927 Act which are in force immediately before the appointed day in any village district or parish district shall have effect as if they had been made as byelaws by the local authority for that district under section 28 of the *Local Government Act 1985*, and may be amended or repealed accordingly.

(2) Any byelaws, rules or regulations having effect by virtue of subparagraph (1) shall cease to have effect on the expiration of 5 years beginning with the appointed day.

Assignment of appeals to the High Court

6. Unless and until rules of court otherwise provide —

- (a) an appeal to the High Court under section 103, 104 or 109 shall lie to the Staff of Government Division;
- (b) an appeal to the High Court under section 49(5), 80(2) or 110(1) of the *Children and Young Persons Act 1966* shall lie to the Civil Division;¹⁸⁹
- (c) an appeal to the High Court under section 110 shall lie to the Civil Division.¹⁹⁰

Summary conviction

7. (1) [Repealed]¹⁹¹

(2) Any reference in an enactment passed before the 21st June 1960 to conviction before a High Bailiff or 2 justices shall be construed as a reference to summary conviction.

8. [Repealed]¹⁹²

SCHEDULE 5

AMENDMENT OF ENACTMENTS

Section 115(2)

[Sch 5 amended by Family Law Act 1991 Sch 6, by Sexual Offences Act 1992 Sch 4, by Criminal Jurisdiction Act 1993 Sch 4, by Custody Act 1995 Sch 5, by Maintenance Orders (Reciprocal Enforcement) Act 1995 Sch 3, by Food Act 1996 Sch 5, by Animal Health Act 1996 Sch 3, by Law Reform Act 1997 Sch 5, by Mental Health Act 1998 Sch 6, by Children and Young Persons Act 2001 Sch 13, by Matrimonial Proceedings Act 2003 Sch 6, by Administration of Justice Act 2008 Sch 2, by Fisheries Act 2012 Sch 3 and by Summary Jurisdiction and Miscellaneous Amendments Act 2013 s 13, and amends the following Acts —

Companies Act 1931 q.v.

Agricultural Marketing Act 1934 q.v.

Criminal Evidence Act 1946 q.v.

Prevention of Fraud (Investments) Act 1968 q.v.

Fire Precautions Act 1975 q.v.

Interpretation Act 1976 q.v.

Criminal Law Act 1981 q.v.

Evidence Act 1983 q.v.

Adoption Act 1984 q.v.

Road Traffic Act 1985 q.v.

Local Government Act 1985 q.v.

Highways Act 1986 q.v.

Legal Aid Act 1986 q.v.]

Penalties under certain Acts

30. (1) Any provision of the *Douglas Gas Act 1835* or the *Joint Stock Companies' Clauses Act* which provides for the recovery from any person, on the happening of any event, of any fine, forfeiture or other penalty (with or without costs) before a Deemster, a High Bailiff or 2 justices shall have effect as if it provided instead for that person in that event to be guilty of an offence and liable on summary conviction to a fine not exceeding the amount or maximum amount of that penalty.

(2) Any provision of those Acts or any Act amending them which provides for any such penalty to be paid to an informer, to any fund for the making or repairing of highways or to any local authority shall cease to have effect.

(3) Subject to sub-paragraph (2), nothing in this paragraph affects any enactment providing for the application or destination of any penalty.

SCHEDULE 6¹⁹³

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ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References

¹ Subs (3) amended by Justice Reform Act 2021 s 99.

² S 2 repealed by Law Reform Act 1997 Sch 5.

³ Subs (1) amended by Administration of Justice Act 2008 Sch 2.

⁴ Subs (2) amended by Law Reform Act 1997 Sch 5 and by Administration of Justice Act 2008 Sch 2.

⁵ Subs (4) added by Law Reform Act 1997 Sch 5.

⁶ Subs (1) amended by Administration of Justice Act 2008 Sch 2.

⁷ Subs (2) amended by Administration of Justice Act 2008 Sch 2.

⁸ S 3A inserted by Law Reform Act 1997 Sch 5.

⁹ Subs (1A) inserted by Police Powers and Procedures Act 1998 s 36.

¹⁰ Subs (1) amended by Summary Jurisdiction and Miscellaneous Amendments Act 2013 s 9.

¹¹ Subs (5) amended by Sexual Offences Act 1992 Sch 3, by Criminal Justice (Witness Anonymity) Act 2011 s 28 and by Sexual Offences and Obscene Publications Act 2021 Sch 5.

¹² Subs (1) amended by Broadcasting Act 1993 Sch 4.

¹³ Subs (4) amended by Broadcasting Act 1993 Sch 4.

¹⁴ Subs (5) amended by Broadcasting Act 1993 Sch 4.

¹⁵ Para (c) substituted by Broadcasting Act 1993 Sch 4.

¹⁶ Para (d) repealed by Broadcasting Act 1993 Sch 4.

¹⁷ Subs (6) amended by Broadcasting Act 1993 Sch 4 and by Fines and Penalties Act 2024 Sch 5.

¹⁸ Subs (9) amended by Broadcasting Act 1993 Sch 4.

¹⁹ Subs (10) amended by Broadcasting Act 1993 Sch 4.

²⁰ Subs (1) amended by Summary Jurisdiction and Miscellaneous Amendments Act 2013 s 9.

²¹ S 15A inserted by Summary Jurisdiction and Miscellaneous Amendments Act 2013 s 5.

²² S 15B inserted by Summary Jurisdiction and Miscellaneous Amendments Act 2013 s 5.

²³ S 15C inserted by Summary Jurisdiction and Miscellaneous Amendments Act 2013 s 5.

²⁴ Subs (1) amended by Criminal Justice Act 1991 Sch 5.

²⁵ Subs (2) substituted by Criminal Justice Act 1991 Sch 4.

²⁶ Subs (3) substituted by Criminal Justice Act 1991 Sch 4.

²⁷ Subs (4) amended by Criminal Justice Act 1991 Sch 4.

²⁸ Subs (5) amended by Criminal Justice, Police and Courts Act 2007 s 18 and by Fines and Penalties Act 2024 Sch 5.

²⁹ Subs (10) added by Criminal Justice Act 1991 Sch 4.

³⁰ Subs (11) added by Criminal Justice Act 1991 Sch 4.

³¹ Subs (1) substituted by Summary Jurisdiction and Miscellaneous Amendments Act 2013 s 6.

³² Subs (1A) inserted by Summary Jurisdiction and Miscellaneous Amendments Act 2013 s 6.

³³ Subs (1B) inserted by Summary Jurisdiction and Miscellaneous Amendments Act 2013 s 6.

³⁴ Subs (2) substituted by Summary Jurisdiction and Miscellaneous Amendments Act 2013 s 6.

³⁵ Subs (2A) inserted by Summary Jurisdiction and Miscellaneous Amendments Act 2013 s 6.

³⁶ Subs (3) amended by Criminal Procedure and Investigations Act 2016 s 26.

³⁷ Subs (5) repealed by Criminal Jurisdiction Act 1993 Sch 4.

³⁸ Subs (1) amended by Sexual Offences and Obscene Publications Act 2021 Sch 5.

³⁹ Para (a) amended by Fines and Penalties Act 2024 Sch 4.

⁴⁰ S 19 substituted by Criminal Justice Act 1996 s 10.

⁴¹ Subs (1) amended by Criminal Justice Act 1991 Sch 4.

⁴² Subs (1A) inserted by Criminal Justice Act 1991 Sch 4.

⁴³ Subs (2) amended by Criminal Justice Act 1991 Sch 4.

⁴⁴ Subs (3) repealed by Statute Law Revision Act 1992 Sch 2.

⁴⁵ Subs (2) amended by Criminal Justice Act 2001 s 59.

⁴⁶ Subs (1) amended by Criminal Justice Act 2001 s 59.

⁴⁷ Para (a) amended by Interpretation Act 2015 s 106.

⁴⁸ Subs (1) amended by Criminal Justice, Police and Courts Act 2007 s 19.

⁴⁹ Subs (2) repealed by Criminal Justice, Police and Courts Act 2007 s 19.

⁵⁰ Subs (3) amended by Criminal Justice, Police and Courts Act 2007 s 19.

⁵¹ Para (a) amended by Fines and Penalties Act 2024 Sch 5.

- ⁵² Subs (1) amended by Fines and Penalties Act 2024 Sch 4.
- ⁵³ S 27 substituted by Criminal Justice Act 1996 s 10.
- ⁵⁴ S 27A inserted by Mental Health Act 1998 Sch 2.
- ⁵⁵ Subs (2A) inserted by Statute Law Revision Act 1992 Sch 1.
- ⁵⁶ Subs (3) amended by Statute Law Revision Act 1992 Sch 1 and by Criminal Jurisdiction Act 1993 Sch 3.
- ⁵⁷ Subs (4) amended by Statute Law Revision Act 1992 Sch 1.
- ⁵⁸ Para (b) amended by Criminal Jurisdiction Act 1993 Sch 3.
- ⁵⁹ Subs (1) repealed by Criminal Justice Act 2001 Sch 8.
- ⁶⁰ S 33 substituted by Criminal Justice, Police and Courts Act 2007 s 20.
- ⁶¹ S 33A inserted by Criminal Justice, Police and Courts Act 2007 s 20.
- ⁶² Subs (1) amended by Criminal Jurisdiction Act 1993 Sch 3.
- ⁶³ S 36 repealed by Police Powers and Procedures Act 1998 Sch 5.
- ⁶⁴ Subs (4) amended by Criminal Justice, police Powers and Other Amendments Act 2014 Sch 3.
- ⁶⁵ S 36A inserted by Criminal Justice, Police and Courts Act 2007 s 21.
- ⁶⁶ S 41 repealed by Children and Young Persons Act 2001 Sch 13.
- ⁶⁷ Subs (5) amended by Summary Jurisdiction and Miscellaneous Amendments Act 2013 s 9.
- ⁶⁸ Para (a) repealed by Maintenance Orders (Reciprocal Enforcement) Act 1995 Sch 3.
- ⁶⁹ Para (b) repealed by Social Services Act 2011 Sch 4.
- ⁷⁰ Paras (c) and (d) repealed by Children and Young Persons Act 2001 Sch 13.
- ⁷¹ Para (e) amended by SD32/00.
- ⁷² Para (f) substituted by Matrimonial Proceedings Act 2001 Sch 1.
- ⁷³ Para (g) amended by Maintenance Orders (Reciprocal Enforcement) Act 1995 s 36 and by Statute Law Revision Act 1997 Sch 2.
- ⁷⁴ Para (h) substituted by Matrimonial Proceedings Act 2003 Sch 5.
- ⁷⁵ Para (ha) inserted by Civil Partnership Act 2011 Sch 14.
- ⁷⁶ Para (i) substituted by Children and Young Persons Act 2001 Sch 12.
- ⁷⁷ Subs (1) substituted by Family Law Act 1991 Sch 5.
- ⁷⁸ Subs (2) substituted by Family Law Act 1991 Sch 5 and amended by Statute Law Revision Act 1997 Sch 1.
- ⁷⁹ Subs (3) added by Family Law Act 1991 Sch 5.
- ⁸⁰ Subs (4) added by Family Law Act 1991 Sch 5 and amended by Children and Young Persons Act 2001 Sch 12.
- ⁸¹ Subs (1) amended by Broadcasting Act 1993 Sch 4.
- ⁸² Para (c) substituted by Broadcasting Act 1993 Sch 4.
- ⁸³ Para (d) repealed by Broadcasting Act 1993 Sch 4.
- ⁸⁴ Subs (2) amended by Broadcasting Act 1993 Sch 4 and by Fines and Penalties Act 2024 Sch 5.
- ⁸⁵ Subs (1) amended by Law Reform Act 1997 Sch 5.
- ⁸⁶ Subs (2) substituted by Civil Partnership Act 2011 Sch 14.

- ⁸⁷ Subs (5) amended by Law Reform Act 1997 Sch 5, by Audit Act 2006 Sch 1 and by Audit (Amendment) Act 2015 Sch.
- ⁸⁸ Subs (2) amended by Law Reform Act 1997 Sch 5.
- ⁸⁹ Para (ii) amended by Law Reform Act 1997 Sch 5.
- ⁹⁰ Para (a) amended by SD155/10 Sch 11 and by SD2014/08.
- ⁹¹ Subs (5) added by Children and Young Persons Act 2001 Sch 12.
- ⁹² Subs (4) amended by Fines and Penalties Act 2024 Sch 5.
- ⁹³ S 62A inserted by Criminal Jurisdiction Act 1993 Sch 3.
- ⁹⁴ Para (a) amended by Law Reform Act 1997 Sch 5.
- ⁹⁵ S 64 amended by Law Reform Act 1997 Sch 5.
- ⁹⁶ Para (a) amended by Interpretation Act 2015 s 106.
- ⁹⁷ Para (c) added by Criminal Justice Act 2001 s 57.
- ⁹⁸ Subs (5) substituted by Criminal Justice Act 2001 s 57.
- ⁹⁹ Para (c) substituted by Sexual Offences and Obscene Publications Act 2021 Sch 5.
- ¹⁰⁰ S 73 amended by Fines and Penalties Act 2024 Sch 5.
- ¹⁰¹ Subs (1) substituted by Law Reform Act 1997 Sch 5.
- ¹⁰² Subs (2) substituted by Law Reform Act 1997 Sch 5.
- ¹⁰³ Subs (3) repealed by Law Reform Act 1997 Sch 5.
- ¹⁰⁴ Subs (1) amended by Law Reform Act 1997 Sch 5.
- ¹⁰⁵ Subs (2) amended by Law Reform Act 1997 Sch 5.
- ¹⁰⁶ Subs (9) repealed by Matrimonial Proceedings Act 2003 Sch 6.
- ¹⁰⁷ Subs (3) amended by Police Powers and Procedures Act 1998 s 36.
- ¹⁰⁸ Subpara (i) amended by Matrimonial Proceedings Act 2003 Sch 5.
- ¹⁰⁹ Subs (3A) inserted by Police Powers and Procedures Act 1998 s 36.
- ¹¹⁰ Subs (2) substituted by Police Powers and Procedures Act 1998 s 51.
- ¹¹¹ Subs (4) amended by Criminal Justice Act 2001 s 58.
- ¹¹² S 84A inserted by Criminal Justice Act 2001 s 58.
- ¹¹³ S 87A inserted by Criminal Justice Act 1991 Sch 4.
- ¹¹⁴ S 90 amended by Criminal Justice, Police and Courts Act 2007 s 22 and by Fines and Penalties Act 2024 Sch 4.
- ¹¹⁵ S 93 substituted by Summary Jurisdiction and Miscellaneous Amendments Act 2013 s 7.
- ¹¹⁶ S 94 substituted by Summary Jurisdiction and Miscellaneous Amendments Act 2013 s 7.
- ¹¹⁷ Para (b) amended by SD2014/08.
- ¹¹⁸ Subs (5) amended by Terrorism and Other Crime (Financial Restrictions) Act 2014 s 72.
- ¹¹⁹ S 94A inserted by Summary Jurisdiction and Miscellaneous Amendments Act 2013 s 7.
- ¹²⁰ S 94B inserted by Summary Jurisdiction and Miscellaneous Amendments Act 2013 s 7.
- ¹²¹ S 94C inserted by Summary Jurisdiction and Miscellaneous Amendments Act 2013 s 7.

- ¹²² S 94D inserted by Summary Jurisdiction and Miscellaneous Amendments Act 2013 s 7 and amended by Fines and Penalties Act 2024 Sch 5.
- ¹²³ Subs (2) amended by SD2014/08.
- ¹²⁴ Subs (3) amended by SD2014/08.
- ¹²⁵ Subs (4) amended by SD2014/08.
- ¹²⁶ Subs (5) amended by SD2014/08.
- ¹²⁷ Subs (8) amended by Fines and Penalties Act 2024 Sch 5.
- ¹²⁸ Subs (9) amended by SD2014/08.
- ¹²⁹ S 94E inserted by Summary Jurisdiction and Miscellaneous Amendments Act 2013 s 7.
- ¹³⁰ Subs (1) amended by SD2014/08.
- ¹³¹ Subs (3) amended by SD2014/08.
- ¹³² Subs (6) amended by Fines and Penalties Act 2024 Sch 5.
- ¹³³ Editorial Note - References to a provision of the Data Protection Act 2002, except Part 3, must be construed as references to the appropriate provision in data protection legislation as defined in Article 7(5) of the Data Protection (Application of GDPR) Order 2018 [SD2018/0143], with effect from 01/08/2018. References to a provision in Part 3 of the Data Protection Act 2002 must be construed as references to the appropriate provision in data protection legislation as defined in Article 7(5) of the Data Protection (Application of GDPR) Order 2018 [SD2018/0143], with effect from 01/03/2019.
- ¹³⁴ S 94F inserted by Summary Jurisdiction and Miscellaneous Amendments Act 2013 s 7.
- ¹³⁵ S 94G inserted by Summary Jurisdiction and Miscellaneous Amendments Act 2013 s 7.
- ¹³⁶ Subs (4) amended by Criminal Justice (Penalties, Etc.) Act 1993 s 2.
- ¹³⁷ S 95A inserted by Criminal Justice Act 2001 s 32.
- ¹³⁸ Subs (2) amended by Law Reform Act 1997 Sch 5.
- ¹³⁹ Subs (6) amended by Fines and Penalties Act 2024 Sch 1.
- ¹⁴⁰ Para (b) amended by Law Reform Act 1997 Sch 5.
- ¹⁴¹ S 101A inserted by Summary Jurisdiction and Miscellaneous Amendments Act 2013 s 8.
- ¹⁴² Para (a) amended by Fines and Penalties Act 2024 Sch 6.
- ¹⁴³ Subs (4A) inserted by Matrimonial Proceedings Act 2003 Sch 5.
- ¹⁴⁴ Subs (4B) inserted by Matrimonial Proceedings Act 2003 Sch 5.
- ¹⁴⁵ Subs (5) amended by Matrimonial Proceedings Act 2003 Sch 5.
- ¹⁴⁶ Para (a) amended by Cruelty to Animals Act 1997 Sch 5.
- ¹⁴⁷ Subs (5) repealed by Family Law Act 1991 Sch 6.
- ¹⁴⁸ Definition of “agreement order” amended by Matrimonial Proceedings Act 2003 Sch 5.
- ¹⁴⁹ Definitions of “interim custody order” and “interim maintenance order” repealed by Family Law Act 1991 Sch 6.
- ¹⁵⁰ Para (a) amended by Criminal Justice Act 1996 s 8.
- ¹⁵¹ See General Note 2.

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- ¹⁵² S 109A inserted by Criminal Justice Act 1996 s 9.
- ¹⁵³ S 109B inserted by Criminal Justice Act 1996 s 9.
- ¹⁵⁴ S 110 repealed by High Court Act 1991 Sch 5.
- ¹⁵⁵ Definition of “application for benefit deductions” inserted by Summary Jurisdiction and Miscellaneous Amendments Act 2013 s 9.
- ¹⁵⁶ Definition of “attachment of earnings order” inserted by Summary Jurisdiction and Miscellaneous Amendments Act 2013 s 9.
- ¹⁵⁷ Definitions of “broadcast” and “cable programme” repealed by Broadcasting Act 1993 Sch 5.
- ¹⁵⁸ Definition of “the clerk” substituted by Law Reform Act 1997 Sch 5.
- ¹⁵⁹ Definition of “the Clerk to the Justices” repealed by Law Reform Act 1997 Sch 5.
- ¹⁶⁰ Definition of “relevant programme” inserted by Broadcasting Act 1993 Sch 4 and substituted by Communications Act 2021 Sch 9.
- ¹⁶¹ Definition of “social security benefit” inserted by Summary Jurisdiction and Miscellaneous Amendments Act 2013 s 9.
- ¹⁶² Definition of “specified benefit” inserted by Summary Jurisdiction and Miscellaneous Amendments Act 2013 s 9 and amended by SD2014/08.
- ¹⁶³ Subs (8) inserted by Summary Jurisdiction and Miscellaneous Amendments Act 2013 s 9.
- ¹⁶⁴ Subs (3) repealed by Statute Law Revision Act 1992 Sch 2.
- ¹⁶⁵ ADO (whole Act) 1/4/1990 (GC84/90).
- ¹⁶⁶ Form of oath (previously oath of Clerk to the Justices) substituted by Law Reform Act 1997 Sch 5.
- ¹⁶⁷ Para 1 substituted by SD124/93.
- ¹⁶⁸ Para 1A inserted by SD124/93.
- ¹⁶⁹ Para 1B inserted by SD124/93.
- ¹⁷⁰ Para 1C inserted by SD124/93.
- ¹⁷¹ Para 1D inserted by SD124/93.
- ¹⁷² Para 2 repealed by Statute Law Revision Act 1997 Sch 2.
- ¹⁷³ Item (aa) inserted by SD546/94.
- ¹⁷⁴ Subpara (3) added by SD124/93.
- ¹⁷⁵ Para 3A inserted by SD124/93.
- ¹⁷⁶ Para 3B substituted by Custody Act 1995 Sch 4.
- ¹⁷⁷ Para 4 substituted by Sexual Offences and Obscene Publications Act 2021 Sch 5.
- ¹⁷⁸ Para 4A inserted by SD124/93.
- ¹⁷⁹ Para 5 substituted by Post Office Act 1993 Sch 2.
- ¹⁸⁰ Para 6 substituted by SD124/93.
- ¹⁸¹ Subpara (1) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 Sch 3.
- ¹⁸² Subpara (2) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 Sch 3.
- ¹⁸³ Sch 2A inserted by Mental Health Act 1998 Sch 2.
- ¹⁸⁴ Definition of “the Department” amended by SD155/10 Sch 4 and by SD2014/08.

¹⁸⁵ Para 1 substituted by Statute Law Revision Act 1992 Sch 1.

¹⁸⁶ Para 2 substituted by Statute Law Revision Act 1992 Sch 1.

¹⁸⁷ Paras 3 to 5 repealed by Statute Law Revision Act 1992 Sch 2.

¹⁸⁸ Para 7 repealed by Statute Law Revision Act 1992 Sch 2.

¹⁸⁹ Item (b) amended by SD352/09.

¹⁹⁰ Item (c) amended by SD352/09.

¹⁹¹ Subpara (1) repealed by Interpretation Act 2015 s 105.

¹⁹² Para repealed by Road Transport Act 2001 Sch 4.

¹⁹³ Sch 6 repealed by Statute Law Revision Act 1992 Sch 2.