

**Comparative table: diversionary provisions in *Mental Health (Forensic Provisions) Act 1990 (MHFPA)* vs *Mental Health and Cognitive Impairment Forensic Provisions Act 2020 (MHCIFPA)***

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**Definitions**

| <b>Current Legislation<br/><i>Mental Health (Forensic Provisions) Act 1990</i></b>   | <b>New legislation<br/><i>Mental Health and Cognitive Impairment Forensic Provisions Act 2020</i></b>  |
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| <p><b>Cognitive impairment - sec 32(6)</b></p> <p><i><b>cognitive impairment</b></i> means ongoing impairment of a person's comprehension, reasoning, adaptive functioning, judgment, learning or memory that materially affects the person's ability to function in daily life and is the result of damage to, or dysfunction, developmental delay or deterioration of, the person's brain or mind, and includes (without limitation) any of the following:</p> <ul style="list-style-type: none"> <li>(a) intellectual disability,</li> <li>(b) borderline intellectual functioning,</li> <li>(c) dementia,</li> <li>(d) acquired brain injury,</li> <li>(e) drug or alcohol related brain damage, including foetal alcohol spectrum disorder,</li> <li>(f) autism spectrum disorder.</li> </ul> | <p><b>Cognitive impairment - sec 5</b></p> <p>(1) For the purposes of this Act, a person has a cognitive impairment if—</p> <p><u>(a) the person has an ongoing impairment in adaptive functioning, and</u></p> <p><u>(b) the person has an ongoing impairment in comprehension, reason, judgment, learning or memory, and</u></p> <p><u>(c) the impairments result from damage to or dysfunction, developmental delay or deterioration of the person's brain or mind that may arise from a condition set out in subsection (2) or for other reasons.</u></p> <p>(2) A cognitive impairment may arise from any of the following conditions but may also arise for other reasons:</p> <ul style="list-style-type: none"> <li>(a) intellectual disability</li> <li>(b) borderline intellectual functioning,</li> <li>(c) dementia,</li> <li>(d) an acquired brain injury,</li> <li>(e) drug or alcohol related brain damage, including foetal alcohol spectrum disorder,</li> <li>(f) autism spectrum disorder.</li> </ul> |
| <p><b>Mental illness - MHFPA does not define this term and nor does it refer back to definition in MHA</b></p>   | <p><b>Mental health impairment - sec 4</b></p> <p><u>(1) For the purposes of this Act, a "person has a mental health impairment" if--</u></p> <p><u>(a) the person has a temporary or ongoing disturbance of thought, mood, volition, perception or memory, and</u></p> <p><u>(b) the disturbance would be regarded as significant for clinical diagnostic purposes, and</u></p> <p><u>(c) the disturbance impairs the emotional wellbeing, judgment or behaviour of the person.</u></p> <p><u>(2) A mental health impairment may arise from any of the following disorders but may also arise for other reasons--</u></p> <p><u>(a) an anxiety disorder,</u></p>  |

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|   | <p><u>(b) an affective disorder, including clinical depression and bipolar disorder,</u><br/> <u>(c) a psychotic disorder,</u><br/> <u>(d) a substance induced mental disorder that is not temporary.</u></p> <p><u>(3) A person does not have a mental health impairment for the purposes of this Act if the person's impairment is caused solely by--</u><br/> <u>(a) the temporary effect of ingesting a substance, or</u><br/> <u>(b) a substance use disorder.</u></p>  |
| <p><b>Sec 3 – mental condition</b></p> <p>"mental condition" means a condition of disability of mind not including either mental illness or developmental disability of mind.</p>   | <p><b>Term not used in MHCIFPA. See definition of “mental health impairment”.</b></p>  |
| <p><b>Mentally ill person - sec 14 Mental Health Act (definition adopted by MHFPA s3)</b></p> <p>(1) A person is a mentally ill person if the person is suffering from mental illness and, owing to that illness, there are reasonable grounds for believing that care, treatment or control of the person is necessary--<br/> (a) for the person's own protection from serious harm, or<br/> (b) for the protection of others from serious harm.</p> <p>(2) In considering whether a person is a mentally ill person, the continuing condition of the person, including any likely deterioration in the person's condition and the likely effects of any such deterioration, are to be taken into account.</p> | <p><b>Mentally ill person - sec 14 Mental Health Act (definition adopted by MHCIFPA s3(2))</b></p> <p>(1) A person is a mentally ill person if the person is suffering from mental illness and, owing to that illness, there are reasonable grounds for believing that care, treatment or control of the person is necessary--<br/> (a) for the person's own protection from serious harm, or<br/> (b) for the protection of others from serious harm.</p> <p>(2) In considering whether a person is a mentally ill person, the continuing condition of the person, including any likely deterioration in the person's condition and the likely effects of any such deterioration, are to be taken into account.</p> |
| <p><b>Mentally disordered person - MHFPA does not define this term and nor does it refer back to definition in MHA</b></p>  | <p><b>Mentally disordered person - sec 15 Mental Health Act (definition adopted by MHCIFPA s3(2))</b></p> <p>A person (whether or not the person is suffering from mental illness) is a mentally disordered person if the person's behaviour for the time being is so irrational as to justify a conclusion on reasonable grounds that temporary care, treatment or control of the person is necessary--<br/> (a) for the person's own protection from serious physical harm, or<br/> (b) for the protection of others from serious physical harm.</p>   |

| <b>Procedural matters</b>  |  |
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| <b>Current Legislation</b><br><i>Mental Health (Forensic Provisions) Act 1990</i>  | <b>New legislation</b><br><i>Mental Health and Cognitive Impairment Forensic Provisions Act 2020</i>   |
| <p><b>Application – sec 31</b></p> <p>(1) This Part applies to criminal proceedings in respect of summary offences or indictable offences triable summarily, being proceedings before a Magistrate, and includes any related proceedings under the Bail Act 2013, but does not apply to committal proceedings.</p> | <p><b>Application – sec 8</b></p> <p>(1) This Part applies to the following criminal proceedings before a Magistrate--<br/>           (a) summary proceedings for offences,<br/>           (b) indictable offences triable summarily,<br/>           (c) any related proceedings under the Bail Act 2013 .</p> <p>(2) This Part does not apply to committal proceedings.</p> |
| <p><b>Timing etc – sec 32(1)</b></p> <p>“... at the commencement or at any time during the course of the hearing of proceedings ...”</p>   | <p><b>Timing etc – sec 9</b></p> <p>(1) A Magistrate may make an order specified under this Part at the commencement of or at any other time during the course of proceedings before the Magistrate, whether or not the defendant has entered a plea.</p> <p>(2) An order may be made under this Part on application or on the Magistrate's own initiative.</p>              |
| <p><b>Means by which magistrate may be informed – sec 36</b></p> <p>For the purposes of this Part, a Magistrate may inform himself or herself as the Magistrate thinks fit, but not so as to require a defendant to incriminate himself or herself.</p>  | <p><b>Means by which magistrate may be informed – sec 10</b></p> <p>For the purposes of this Part, a Magistrate may inform himself or herself as the Magistrate thinks fit, but not so as to require a defendant to incriminate himself or herself.</p>  |

## Section 32

| <b>Current Legislation</b><br><i>Mental Health (Forensic Provisions) Act 1990</i>  | <b>New legislation</b><br><i>Mental Health and Cognitive Impairment Forensic Provisions Act 2020</i>   |
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| <p><b>Sec 32(1)</b></p> <p>(1) If, at the commencement or at any time during the course of the hearing of proceedings before a Magistrate, it appears to the Magistrate:</p> <p>(a) that the defendant is (or was at the time of the alleged commission of the offence to which the proceedings relate):</p> <ul style="list-style-type: none"> <li>(i) cognitively impaired, or</li> <li>(ii) suffering from mental illness, or</li> <li>(iii) suffering from a mental condition for which treatment is available in a mental health facility,</li> </ul> <p>but is not a mentally ill person, and</p> <p>(b) that, on an outline of the facts alleged in the proceedings or such other evidence as the Magistrate may consider relevant, it would be more appropriate to deal with the defendant in accordance with the provisions of this Part than otherwise in accordance with law,</p> <p>the Magistrate may take the action set out in subsection (2) or (3).</p> | <p><b>Sec 12 - Defendants with mental health impairments or cognitive impairments</b></p> <p>(1) A Magistrate may make an order under this Division or adjourn proceedings if it appears to the Magistrate that the defendant has (or had at the time of the alleged commission of the offence to which the proceedings relate) <u>a mental health impairment or a cognitive impairment, or both.</u></p> <p>(2) The Magistrate may take action under this Division only if it appears to the Magistrate, on an outline of the facts alleged in the proceedings or other evidence the Magistrate considers relevant, it would be more appropriate to deal with the defendant in accordance with this Division than otherwise in accordance with law.</p> <p>(3) This Division does not apply if the defendant is a mentally ill person <u>or a mentally disordered person.</u></p> |
| <p><b>Sec 32(2) - adjournment</b></p> <p>(2) The Magistrate may do any one or more of the following:</p> <ul style="list-style-type: none"> <li>(a) adjourn the proceedings,</li> <li>(b) grant the defendant bail in accordance with the Bail Act 2013 ,</li> <li>(c) make any other order that the Magistrate considers appropriate.</li> </ul>  | <p><b>Sec 13 - Adjournment of proceedings</b></p> <p>A Magistrate may, for the purposes of this Division:</p> <p>(a) adjourn proceedings <u>to enable—</u></p> <ul style="list-style-type: none"> <li>(i) <u>the defendant's apparent mental health impairment or cognitive impairment to be assessed or diagnosed, or</u></li> <li>(ii) <u>the development of a treatment or support plan for the defendant for the purposes of an order, or</u></li> <li>(iii) <u>(a responsible person to be identified for the purposes of an order, or (iv) for any other reason the Magistrate considers appropriate in the circumstances, or</u></li> </ul> <p>(b) make other <u>interim</u> orders that the Magistrate considers appropriate.</p>  |
| <p><b>Sec 32(3) – orders magistrate may make</b></p> <p>(3) The Magistrate may make an order dismissing the charge and discharge the defendant:</p> <ul style="list-style-type: none"> <li>(a) into the care of a responsible person, unconditionally or subject to conditions, or</li> <li>(b) on the condition that the defendant attend on a person or at a place specified by the Magistrate: <ul style="list-style-type: none"> <li>(i) for assessment or treatment (or both) of</li> </ul> </li> </ul>   | <p><b>Sec 14(1) - Orders magistrate may make</b></p> <p>(1) A Magistrate may make an order to dismiss a charge and discharge the defendant—</p> <ul style="list-style-type: none"> <li>(a) into the care of a responsible person, unconditionally or subject to conditions, or</li> <li>(b) on the condition that the defendant attend on a person or at a place specified by the Magistrate for assessment, treatment or the provision of support for</li> </ul>  |

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| <p>the defendant's mental condition or cognitive impairment, or<br/> (ii) to enable the provision of support in relation to the defendant's cognitive impairment, or<br/> (c) unconditionally.</p>   | <p>the defendant's <u>mental health impairment</u> or cognitive impairment, or<br/> (c) unconditionally.</p>  |
| <p><b>Sec 32(4) – effect of dismissal</b></p> <p>(4) A decision under this section to dismiss charges against a defendant does not constitute a finding that the charges against the defendant are proven or otherwise.</p>  | <p><b>Sec 14(2) – effect of dismissal</b></p> <p>(2) An order to dismiss a charge against a defendant does not constitute a finding that the charge against the defendant is proven or otherwise.</p>   |
| <p><b>Not in current section 32</b></p>  | <p><b>Sec 15 Considerations of Magistrate when making order</b></p> <p><u>In deciding whether it would be more appropriate to deal with a defendant in accordance with this Division, the Magistrate may consider the following—</u><br/> <u>(a) the nature of the defendant's apparent mental health impairment or cognitive impairment,</u><br/> <u>(b) the nature, seriousness and circumstances of the alleged offence,</u><br/> <u>(c) the suitability of the sentencing options available if the defendant is found guilty of the offence,</u><br/> <u>(d) relevant changes in the circumstances of the defendant since the alleged commission of the offence,</u><br/> <u>(e) the defendant's criminal history,</u><br/> <u>(f) whether the defendant has previously been the subject of an order under this Act or section 32 of the Mental Health (Forensic Provisions) Act 1990, (g) whether a treatment or support plan has been prepared in relation to the defendant and the content of that plan,</u><br/> <u>(h) whether the defendant is likely to endanger the safety of the defendant, a victim of the defendant or any other member of the public,</u><br/> <u>(i) other relevant factors.</u></p> |
| <p><b>Sec 32(4A), (4B) – reasons</b></p> <p>(4A) A Magistrate is to state the reasons for making a decision as to whether or not a defendant should be dealt with under subsection (2) or (3).</p> <p>(4B) A failure to comply with subsection (4A) does not invalidate any decision of a Magistrate under this section.</p> | <p><b>Sec 11 – Magistrate to state reasons for decisions</b></p> <p>(1) A Magistrate is to state the reasons for making a decision as to whether or not a defendant should be dealt with by an order under this Part.</p> <p>(2) A failure to comply with this section does not invalidate a decision of a Magistrate under this Part.</p>  |
| <p><b>Sec 33(5) - form of order</b></p> <p>(5) The regulations may prescribe the form of an order under this section.</p>  | <p><b>Sec 26 - Regulations</b></p> <p>The regulations may prescribe the form of an order under this Part.</p>   |

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| <p><b>Sec 32A – Reports from treatment providers</b></p> <p>(1) Despite any law, a person who is to assess another person's mental condition or provide treatment to another person in accordance with an order under section 32 (3) (a "treatment provider" ) may report a failure to comply with a condition of the order by the other person to any of the following:<br/> (a) an officer of Community Offender Services, Probation and Parole Service,<br/> (b) an officer of the Department of Justice,<br/> (c) any other person or body prescribed by the regulations.</p> <p>(2) A treatment provider may include in a report under this section any information that the treatment provider considers is relevant to the making of a decision in relation to the failure to comply concerned.</p> <p>(3) A report provided under this section is to be in the form approved for the time being by the Director-General of the Attorney General's Department.</p>  | <p><b>Sec 17 – Reports from treatment providers</b></p> <p>1) Despite any law, a person who is, in accordance with an order under section 14, to assess another person's mental condition or provide treatment to another person (a "treatment provider" ) may report a failure to comply with a condition of the order by the other person to any of the following--<br/> (a) an officer of the Department of Communities and Justice,<br/> (b) another person or body prescribed by the regulations.</p> <p>(2) A treatment provider may include in the report information that the treatment provider considers is relevant to the making of a decision in relation to the failure to comply with the condition.</p> <p>(3) The report is to be in the form approved for the time being by the Secretary of the Department of Communities and Justice.</p>   |
| <p><b>Sec 32(3A) to (3D) – failure to comply</b></p> <p>(3A) If a Magistrate suspects that a defendant subject to an order under subsection (3) may have failed to comply with a condition under that subsection, the Magistrate may, within 6 months of the order being made, call on the defendant to appear before the Magistrate.</p> <p>(3B) If the defendant fails to appear, the Magistrate may:<br/> (a) issue a warrant for the defendant's arrest, or<br/> (b) authorise an authorised officer within the meaning of the Criminal Procedure Act 1986 to issue a warrant for the defendant's arrest.</p> <p>(3C) If, however, at the time the Magistrate proposes to call on a defendant referred to in subsection (3A) to appear before the Magistrate, the Magistrate is satisfied that the location of the defendant is unknown, the Magistrate may immediately:<br/> (a) issue a warrant for the defendant's arrest, or<br/> (b) authorise an authorised officer within the meaning of the Criminal Procedure Act 1986 to issue a warrant for the defendant's arrest.</p> <p>(3D) If a Magistrate discharges a defendant subject to a condition under subsection (3), and the defendant fails to comply with the condition within 6 months of the discharge, the Magistrate may deal with the charge as if the defendant had not been discharged.</p> | <p><b>16 Failure of defendant to comply with condition of order</b></p> <p>(1) If a Magistrate suspects that a defendant has failed to comply with a condition of an order under section 14, the Magistrate may, within <b>12 months</b> of the order being made, <b>order</b> the defendant to appear before the Magistrate.</p> <p>(2) If the defendant fails to appear, the Magistrate may:<br/> (a) issue a warrant for the defendant's arrest, or<br/> (b) authorise an authorised officer to issue a warrant for the defendant's arrest.</p> <p>(3) If at the time the Magistrate proposes to make an order under subsection (1) the Magistrate is satisfied that the location of the defendant is unknown, the Magistrate may immediately:<br/> (a) issue a warrant for the defendant's arrest, or (b) authorise an authorised officer to issue a warrant for the defendant's arrest.</p> <p>(4) If a Magistrate discharges a defendant subject to a condition under an order, and the defendant fails to comply with the condition within <b>12 months</b> of the discharge, the Magistrate may deal with the charge as if the defendant had not been discharged.</p> |

### Section 33

| <b>Current Legislation</b><br><i>Mental Health (Forensic Provisions) Act 1990</i>   | <b>New legislation</b><br><i>Mental Health and Cognitive Impairment Forensic Provisions Act 2020</i>  |
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| <p><b>Sec 33(1) – application</b></p> <p>(1) If, at the commencement or at any time during the course of the hearing of proceedings before a Magistrate, it appears to the Magistrate that the defendant is a mentally ill person, the Magistrate (without derogating from any other order the Magistrate may make in relation to the defendant, whether by way of adjournment, the granting of bail in accordance with the Bail Act 2013 or otherwise):</p>  | <p><b>Sec 18 - Mentally ill or mentally disordered persons</b></p> <p>(1) A Magistrate may make an order under this Division if it appears to the Magistrate that the defendant is a mentally ill person <u>or a mentally disordered person</u>.</p> <p>(2) A Magistrate may make an order under this Division without affecting any other order the Magistrate may make in relation to the defendant, whether by way of adjournment, the granting of bail in accordance with the Bail Act 2013 or otherwise.</p>   |
| <p><b>Sec 33(1) cont'd - orders magistrate may make</b></p> <p>(a) may order that the defendant be taken to, and detained in, a mental health facility for assessment, or</p> <p>(b) may order that the defendant be taken to, and detained in, a mental health facility for assessment and that, if the defendant is found on assessment at the mental health facility not to be a mentally ill person or mentally disordered person, the defendant be brought back before a Magistrate or an authorised officer unless granted bail by a police officer at that facility, or</p> <p>(c) may discharge the defendant, unconditionally or subject to conditions, into the care of a responsible person.</p>   | <p><b>Sec 19 - Orders magistrate may make</b></p> <p>A Magistrate may make one or more of the following orders—</p> <p>(a) an order that the defendant be taken to, and detained in, a mental health facility for assessment,</p> <p>(b) an order that the defendant be taken to, and detained in, a mental health facility for assessment and that, if the defendant is found on assessment at the mental health facility not to be a mentally ill person or mentally disordered person, the defendant be brought back before a Magistrate or an authorised justice <u>as soon as practicable</u> unless granted bail by a police officer at that facility,</p> <p>(c) an order for the discharge of the defendant, unconditionally or subject to conditions, into the care of a responsible person.</p> |
| <p><b>Sec 33(1A)–(1C) - power to make CTO</b></p> <p>(1A) Without limiting subsection (1) (c), at the commencement or at any time during the course of the hearing of proceedings before a Magistrate, the Magistrate may make a community treatment order in accordance with the Mental Health Act 2007 for implementation by a declared mental health facility in relation to the defendant, if the Magistrate is satisfied that all of the requirements for the making of a community treatment order at a mental health inquiry under that Act (other than the holding of an inquiry) have been met in respect of the defendant.</p> <p>(1B) The provisions of the Mental Health Act 2007 (other than section 51 (1) and (2)) apply to and in</p> | <p><b>Sec 20 - Community treatment orders</b></p> <p>(1) Without limiting section 19(c), the Magistrate may make a community treatment order in accordance with the Mental Health Act 2007 for implementation by a declared mental health facility in relation to the defendant, if the Magistrate is satisfied that all of the requirements for the making of a community treatment order at a mental health inquiry under that Act (other than the holding of an inquiry) have been met in respect of the defendant.</p> <p>(2) The Mental Health Act 2007 (other than section 51(1) and (2)) applies to and in respect of the defendant and a community treatment order as if the order had been made by the Tribunal under that Act.</p>  |

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| <p>respect of the defendant and that order as if the order had been made by the Tribunal under that Act.</p> <p><u>(1C) A Magistrate must, before making an order under subsection (1A), notify the Secretary of the Ministry of Health, or a person authorised by the Secretary of the Ministry of Health for the purposes of this section, of the proposed order.</u></p>   |   |
| <p><b>Sec 33(1D) - power of authorised officer in bail proceedings</b></p> <p>(1D) If, at the commencement or at any time during the course of the hearing of proceedings under the Bail Act 2013 before an authorised officer, it appears to the authorised officer that the defendant is a mentally ill person, the authorised officer (without derogating from any other order under the Bail Act 2013 that the officer may make in relation to the defendant):</p> <p>(a) may order that the defendant be taken to, and detained in, a mental health facility for assessment, or</p> <p>(b) may order that the defendant be taken to, and detained in, a mental health facility for assessment and that, if the defendant is found on assessment at the mental health facility not to be a mentally ill person or mentally disordered person, the defendant be brought back before a Magistrate or an authorised officer unless granted bail by a police officer at that facility.</p> <p>[See also subs (4B) and (4C) below re requirement to give reasons.]</p> | <p><b>Sec 21 - Proceedings before authorised justice</b></p> <p>(1) If, at the commencement of or at any time during the course of the hearing of proceedings under the Bail Act 2013 before an authorised justice, it appears to the authorised justice that the defendant is a mentally ill person or a mentally disordered person, the authorised justice may (without affecting any other order under the Bail Act 2013 that the officer may make in relation to the defendant)--</p> <p>(a) order that the defendant be taken to, and detained in, a mental health facility for assessment, or</p> <p>(b) order that the defendant be taken to, and detained in, a mental health facility for assessment and that, if the defendant is found on assessment at the mental health facility not to be a mentally ill person or mentally disordered person, the defendant be brought back before a Magistrate or an authorised justice <u>as soon as practicable</u> unless granted bail by a police officer at that facility.</p> <p>(2) An authorised justice is to state the reasons for making a decision as to whether or not a defendant should be dealt with by an order under subsection (1).</p> <p>(3) A failure to comply with subsection (2) does not invalidate a decision of an authorised justice under this section.</p> |
| <p><b>Effect of being dealt with under s33</b></p> <p>(2) If a defendant is dealt with at the commencement or at any time during the course of the hearing of proceedings before a Magistrate or authorised officer in accordance with this section, the charge which gave rise to the proceedings, on the expiration of the period of 6 months after the date on which the defendant is so dealt with, is to be taken to have been dismissed unless, within that period, the defendant is brought before a Magistrate to be further dealt with in relation to the charge.</p> <p>(3) If a defendant is brought before a Magistrate to be further dealt with in relation to a charge as referred to in subsection (2), the Magistrate must, in dealing with the charge, take account of any period</p>  | <p><b>Sec 23 - Dismissal of charges</b></p> <p>(1) If a defendant is dealt with by a Magistrate or authorised justice in accordance with this Division, the charge which gave rise to the proceedings, on the expiration of the period of 6 months after the date on which the defendant is so dealt with, is taken to have been dismissed unless, within that period, the defendant is brought before a Magistrate to be further dealt with in relation to the charge.</p> <p>(2) If a defendant is brought before a Magistrate to be further dealt with in relation to a charge, the Magistrate must, in dealing with the charge, take account of any period during which the defendant was detained in a mental health facility as a consequence of an order.</p>  |



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| <p>during which the defendant was in a mental health facility as a consequence of an order made under this section.</p> <p>(4) The fact that charges are to be taken to have been dismissed under subsection (2) does not constitute a finding that the charges against the defendant are proven or otherwise.</p>  | <p>(3) The fact that charges are taken to have been dismissed under subsection (1) does not constitute a finding that the charges against the defendant are proven or otherwise.</p>  |
| <p><b>Sec 33 (4A) – (4C) - reasons</b></p> <p>(4A) A Magistrate is to state the reasons for making a decision as to whether or not a defendant should be dealt with by an order under subsection (1) or (1A).</p> <p>(4B) An authorised officer is to state the reasons for making a decision as to whether or not a defendant should be dealt with by an order under subsection (1D).</p> <p>(4C) A failure to comply with subsection (4A) or (4B) does not invalidate any decision of a Magistrate or authorised officer under this section.</p>  | <p><b>Sec 11 – Magistrate to state reasons for decisions</b></p> <p>(1) A Magistrate is to state the reasons for making a decision as to whether or not a defendant should be dealt with by an order under this Part.</p> <p>(2) A failure to comply with this section does not invalidate a decision of a Magistrate under this Part.</p> <p>[see also s21(2) and (3) re requirement for authorised justice to give reasons]</p>   |
| <p><b>Sec 33(5) - form of order</b></p> <p>(5) The regulations may prescribe the form of an order under this section.</p>   | <p><b>Sec 26 - Regulations</b></p> <p>The regulations may prescribe the form of an order under this Part.</p>   |
| <p><b>Sec 33(5A)-(5AB), (6) – transfer of defendants</b></p> <p>(5A) An order under this section may provide that a defendant:</p> <p>(a) in the case of a defendant who is a juvenile, be taken to or from a place by a juvenile justice officer, or</p> <p>(b) in the case of any defendant, be taken to or from a place by a person of a kind prescribed for the purposes of this section.</p> <p>(5AA) A function conferred on a juvenile justice officer by an order under this section is taken to be a function under the Children (Detention Centres) Act 1987 and the juvenile justice officer has the same functions in respect of the defendant as the officer has in respect of a detainee under that Act and the regulations under that Act.</p> <p>(5AB) If a correctional officer has power under an order under this section to take a defendant to or from a place, that power is taken to be a function under the Crimes (Administration of Sentences) Act 1999 and the correctional officer has the same functions in respect of the defendant as the officer has in respect of an inmate under that Act and the regulations under that Act.</p> | <p><b>Sec 22 - Orders may relate to transfer of defendants by certain persons</b></p> <p>(1) An order by a Magistrate or authorised justice may provide that a defendant--</p> <p>(a) in the case of a defendant who is under the age of 18 years, be taken to or from a place by a juvenile justice officer, or</p> <p>(b) in the case of any defendant, be taken to or from a place by a person of a kind prescribed by the regulations for the purposes of this section.</p> <p>(2) A function conferred on a juvenile justice officer under an order is taken to be a function under the Children (Detention Centres) Act 1987 and the juvenile justice officer has the same functions in respect of the defendant as the officer has in respect of a detainee under that Act and the regulations under that Act.</p> <p>(3) If a correctional officer has power under an order to take a defendant to or from a place, that power is taken to be a function under the Crimes (Administration of Sentences) Act 1999 and the correctional officer has the same functions in respect of the defendant as the officer has in respect of an inmate under that Act and the regulations under that</p> |

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| <p>(6) In this section:<br/>...</p> <p>"authorised officer" has the same meaning as in the Criminal Procedure Act 1986 .</p> <p>"correctional officer" has the same meaning as in the Crimes Administration of Sentences) Act 1999 .</p> <p>"juvenile justice officer" has the same meaning as in the Children (Detention Centres) Act 1987 .</p>   | <p>Act.</p> <p>(4) In this section--</p> <p>"correctional officer" has the same meaning as in the Crimes (Administration of Sentences) Act 1999</p> <p>[The following definitions are in sec 7:]</p> <p>"authorised justice" has the same meaning as in the Bail Act 2013 .</p> <p>"authorised officer" has the same meaning as in the Criminal Procedure Act 1986 .</p> <p>"juvenile justice officer" has the same meaning as in the Children (Detention Centres) Act 1987 .</p>   |
| <p><b>Sec 33(5B)-(5D) - bail</b></p> <p>(5B) An order by a Magistrate or authorised officer under subsection (1) (a) or (b) or (1D) (a) or (b) in relation to an offence is, for the purposes of the Bail Act 2013 , taken to be a decision to dispense with bail for the offence.</p> <p>(5C) An order under subsection (1) (b) or (1D) (b) that a defendant be brought back before a Magistrate or authorised officer may be satisfied by taking the defendant to an appropriate police officer for the making of a bail decision in respect of the defendant.</p> <p>(5D) An appropriate police officer may make a bail decision in respect of a defendant brought before the appropriate police officer under this section (despite section 43 (3) of the Bail Act 2013 ).</p> <p>(6) In this section:</p> <p>"appropriate police officer" means a police officer who may make a bail decision under the Bail Act 2013 in respect of a person accused of an offence who is present at a police station.</p> | <p><b>Sec 24 - Bail</b></p> <p>(1) An order by a Magistrate or authorised justice under section 19(a) or (b) or 21(1)(a) or (b) in relation to an offence is, for the purposes of the Bail Act 2013 , taken to be a decision to dispense with bail for the offence.</p> <p>(2) An order under section 19(b) or 21(1)(b) that a defendant be brought back before a Magistrate or authorised justice may be satisfied by taking the defendant to an appropriate police officer for the making of a bail decision in respect of the defendant.</p> <p>(3) An appropriate police officer may make a bail decision in respect of a defendant brought before the appropriate police officer under this section (despite section 43(3) of the Bail Act 2013 ).</p> <p>(4) In this section--</p> <p>"appropriate police officer" means a police officer who may make a bail decision under the Bail Act 2013 in respect of a person accused of an offence who is present at a police station.</p> |