

SCHEDULES

SCHEDULE 2

Section 10.

SUPPLEMENTARY AMENDMENTS.

Adaptations of enactments referring to felony

- 1 In section 1 of the Judgment of Death Act 1823 (which provides for recording, instead of pronouncing, sentence of death) for the words from " felony " to " thereof " there shall be substituted the words " offence punishable with death except treason " and there shall be omitted the words from " it shall and may " to " bar such judgment "; and in section 3 of the Central Criminal Court Act 1837 (which makes similar provision) there shall be omitted the words from " it shall and may " to " bar such judgment ".
- 2 (1) In the Vagrancy Act 1824, in section 4 (rogues and vagabonds),—
 - (a) in the words relating to persons having implements with intent feloniously to break into dwelling houses etc., for the expression " feloniously " there shall be substituted the words " for the purpose of committing an arrestable offence "; and
 - (b) in the words relating to persons having offensive weapons or other instruments with intent to commit any felonious act, and in the words relating to suspected persons or reputed thieves frequenting rivers, highways, etc. with intent to commit felony, for the expression " any felonious act " and for the expression " felony " there shall be substituted the expression " an arrestable offence ".(2) Accordingly in section 15 of the Prevention of Crimes Act 1871 (which recites and amends the said section 4) for the expressions " felony " and " a felony ", wherever occurring, there shall be substituted the expression " an arrestable offence ".
- 3 (1) In section 28 of the Criminal Law Act 1826 (which enables assize courts and, as extended by section 8 of the Criminal Justice Administration Act 1851, courts of quarter sessions to award compensation to those active in apprehending persons charged with murder and certain other offences)—
 - (a) for the words " superior criminal court of a county palatine or court of great sessions " there shall be substituted the words " or quarter sessions ", and accordingly there shall be omitted the words from " and where any person shall appear to any court of sessions of the peace " to " other courts hereinbefore mentioned " ; and
 - (b) for the words from " murder " to " been stolen " there shall be substituted the words " an arrestable offence " and for the words " any of the said offences " there shall be substituted the words " that offence ".(2) In section 30 of the Criminal Law Act 1826 (which enables compensation to be awarded to the family of anyone killed in trying to apprehend a person charged with an offence mentioned in section 28) for the words " any of the offences hereinbefore last mentioned " there shall be substituted the words " an arrestable offence ".

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- 4 In section 8 of the Carriers Act 1830 (under which the protection given by that Act to common carriers does not extend to the felonious acts of their servants) for the words " the felonious acts " there shall be substituted the words " any theft, embezzlement or forgery ".
- 5 In the following enactments (which confer on the police powers of entry into vessels on suspicion of felony), that is to say,—
(a) section 34 of the Metropolitan Police Act 1839 ;
(b) section 9 of the Canals (Offences) Act 1840 ;
for the expressions " felony " and " felonies " there shall be substituted the expressions " arrestable offence " and " arrestable offences " ; and any enactment for the same or like purposes which is contained in any local or private Act shall be modified as near as may be in the same way.
- 6 In the following enactments (which provide for the trial of murder or manslaughter where any person dies in a country after being feloniously stricken out of it or vice versa), that is to say,—
(a) section 3 of the Admiralty Offences (Colonial) Act 1849 ;
(b) section 1 of the Admiralty Offences (Colonial) Act 1860 ;
(c) section 10 of the Offences against the Person Act 1861 ;
for the word " feloniously ", wherever occurring, there shall be substituted the word " criminally ".
- 7 In section 7 of the Malicious Damage Act 1861 (which makes it an offence to set fire to anything in, against or under a building in such circumstances that if the building were thereby set fire to it would amount to felony) for the words " the offence would amount to felony " there shall be substituted the words " he would be guilty of an offence under any of the preceding sections ".
- 8 The following enactments (which make it an offence to make or have gunpowder etc. for the purpose of a felony mentioned in the Act in question, and confer powers of search for such gunpowder etc.), that is to say,—
(a) sections 54 and 55 of the Malicious Damage Act 1861 ; and
(b) sections 64 and 65 of the Offences against the Person Act 1861 ;
shall have effect as if the references to felonies mentioned in the Act included any offence so mentioned for which a person (not previously convicted) may be tried on indictment otherwise than at his own instance.
- 9 Section 4 of the Forfeiture Act 1870 (which allows a court on a person's conviction for felony to award compensation not exceeding £100 for loss of property occasioned by the felony) shall have effect as if the references to felony included any offence tried on indictment, as if the reference to loss of property included damage to property, but did not include loss or damage due to an accident arising out of the presence of a motor vehicle on a road, and as if the reference to £100 were a reference to £400 ; and section 34 of the Magistrates' Courts Act 1952 (which confers the same powers on a magistrates court) shall have effect accordingly, but with the substitution for the word " felony " of the words " an indictable offence ".
- 10 In section 23 of the Regimental Debts Act 1893 (which applies the provisions of that Act as to the collection and disposal of the effects of a deceased serviceman to the case of a serviceman convicted by a civil court of felony) for the words " or is convicted by a civil court of any offence which by the law of England is felony " there shall be substituted the words " or, in consequence of a conviction by or before

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a court of ordinary criminal jurisdiction, is sentenced to death or is imprisoned or detained to serve a sentence of three months or more ".

- 11 In section 66 of the Merchant Shipping Act 1894 (which makes forgery etc. of certain documents under Part I of that Act felony, but without specifying any punishment) there shall be added at the end the words " and liable on conviction on indictment to imprisonment for not more than seven years ".
- 12 (1) In the Larceny Act 1916, in sections 24 to 28 (sacrilege, burglary, housebreaking and possession by night of implements of housebreaking etc.), for the expression " felony wherever it occurs otherwise than in the phrase " shall be guilty of felony ", there shall be substituted the expression " arrestable offence " ; and the same substitution shall be made in section 29(2)(b) (procuring execution etc. of valuable security by accusation of certain crimes).
- (2) A person guilty of any offence under section 33(1) of the Larceny Act 1916 (receiving) shall be liable to imprisonment for a term not exceeding fourteen years ; but—
- (a) in the Bankruptcy Act 1914, in section 154(3) (which was added by the Bankruptcy Amendment Act 1926, and in certain cases makes a person receiving property fraudulently disposed of by a bankrupt liable to the same punishment as a receiver of property obtained by a misdemeanour), for the words following the word " liable " there shall be substituted the words " on conviction on indictment to imprisonment for not more than seven years or on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding a hundred pounds or to both " ; and
- (b) in the Companies Act 1948, in section 328(2), there shall be omitted paragraph (a) and in paragraph (b) the words " in Scotland " .
- (3) In section 37(1) of the Larceny Act 1916 (which provides for an increased punishment for simple larceny after a previous conviction of felony) for the expression " felony " there shall be substituted the expression " an arrestable offence ", and accordingly in section 37(2)(a) after the words " indictable misdemeanour punishable under this Act " there shall be inserted the words " not being an arrestable offence " .
- (4) In section 39(2) and (3) of the Larceny Act 1916 (trial in one part of the United Kingdom of persons having or receiving property stolen or feloniously taken in another part) for the word " feloniously " there shall be substituted the word " criminally " ; and the like substitution shall be made in section 40(3) (joinder of accused in indictment for feloniously receiving).
- (5) In section 54 of the Post Office Act 1953 (which makes receivers of mail bags and other articles feloniously stolen etc. liable to the same punishment as the principal felon) for the words " a felony " there shall be substituted the words " an offence " , and the word " feloniously " shall be omitted.
- (6) Nothing in this Act shall affect the punishment provided by section 33 of the Larceny Act 1916 for offences committed before the commencement of Part I of this Act.

Amendments related to alternative verdicts

- 13 (1) The following provisions (under which on a trial on indictment a person may be found guilty of certain offences if found not guilty on a charge of another offence) shall cease to have effect:—

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- (a) in the Offences against the Person Act 1861, section 60 proviso as extended by any subsequent enactment (conviction of concealment of birth on charge of murder, child destruction or infanticide);
 - (b) in the Larceny Act 1916, section 44(1) (conviction of assault with intent to rob on charge of robbery);
 - (c) in the Children and Young Persons Act 1933, section 1(4) (conviction of cruelty to person under 16 on charge of infanticide or, in certain cases, of manslaughter);
 - (d) in the Sexual Offences Act 1956, in Schedule 2.—
 - (i) in item 1(a), paragraphs (iv), (v), (vi) and (viii) in column 4 (conviction of intercourse with girl under 13, or under 16, or with defective, or of incest, on charge of rape);
 - (ii) in item 2(a) the whole entry in column 4 (conviction of procuring intercourse by threats, by false pretences or by administering drugs, or of intercourse with girl under 16, or with defective, on charge of intercourse with girl under 13);
 - (iii) in items 6 and 26 the whole entry in column 4 (conviction of permitting person under 16 to reside in or frequent a brothel on charge of allowing girl under 13, or under 16, to use premises for intercourse);
 - (iv) in item 14(a) paragraph (iii) in column 4 (conviction of intercourse with defective on charge of incest);
 - (e) in the Road Traffic Act 1960, section 2(3) so far as it relates to England or Wales (conviction of reckless or dangerous driving on charge of manslaughter).
- (2) For section 241(5) of the Road Traffic Act 1960 (which provides in effect that the requirements of section 241(2) as to notice of intended prosecution shall not prevent a person's conviction of reckless or dangerous driving under the provision made by section 2 of the Act for alternative convictions of that offence on other charges) there shall be substituted:—

“(5) Where a person is prosecuted on indictment for an offence to which this section does not apply, subsection (2) of this section shall not be taken to prejudice any power of the jury on the charge for that offence, if they find him not guilty of it, to find him guilty of an offence against subsection (1) of section 2 of this Act.”

- 14 In the Sexual Offences Act 1956, in the following provisions relating to girls not under the age of 13 but under the age of 16, the words " not under the age of 13 but " shall be omitted, that is to say,—
- (a) in section 6(1) (intercourse with girl under 16); and
 - (b) in section 26 (permitting girl under 16 to use premises for intercourse);
- and accordingly in Schedule 2, in items 10(a) and 26, for the words " between 13 and 16 " there shall be substituted the words " under 16 ".

Miscellaneous

- 15 (1) The following enactments (which provide for the punishment in England of offences committed abroad by persons in public employment), that is to say, the Act 11 Will. 3. c. 12 and the Criminal Jurisdiction Act 1802, shall extend to offences ceasing to be felony by virtue of this Act.

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- (2) Section 9(2) of the Magistrates' Courts Act 1952 (which makes special provision about offences dealt with by virtue of section 11 of the Criminal Justice Act 1925 outside the venue of the offence) shall not apply to offences committed outside England and Wales, Whether within or without territorial waters; and in relation to offences so committed section 7(4) of the Costs in Criminal Cases Act 1952 shall have effect subject to the special provision made by section 7(2) and (3) for offences committed within Admiralty jurisdiction.