



# Criminal Justice and Public Order Act 1994

## 1994 CHAPTER 33

### PART III

COURSE OF JUSTICE: EVIDENCE, PROCEDURE, ETC.

#### *Imputations on character*

#### **31 Imputations on character.**

In section 1 of the <sup>M1</sup>Criminal Evidence Act 1898 there shall be inserted at the end of sub-paragraph (ii) of paragraph (f) the words “ the deceased victim of the alleged crime; or ”.

#### **Commencement Information**

**II** S. 31 wholly in force at 3.2.1995; s. 31 not in force at Royal Assent see s. 172; s. 31 in force at 3.2.1995 subject to transitional provisions by S.I. 1995/127, art. 2, Sch. 1 (with art. 2(2), Sch. 2)

#### **Marginal Citations**

**M1** 1898 c. 36.

#### *Corroboration*

#### **32 Abolition of corroboration rules.**

- (1) Any requirement whereby at a trial on indictment it is obligatory for the court to give the jury a warning about convicting the accused on the uncorroborated evidence of a person merely because that person is—
- (a) an alleged accomplice of the accused, or

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- (b) where the offence charged is a sexual offence, the person in respect of whom it is alleged to have been committed,  
 is hereby abrogated.
- (2) In section 34(2) of the <sup>M2</sup>Criminal Justice Act 1988 (abolition of requirement of corroboration warning in respect of evidence of a child) the words from “in relation to” to the end shall be omitted.
- (3) Any requirement that—
- (a) is applicable at the summary trial of a person for an offence, and
  - (b) corresponds to the requirement mentioned in subsection (1) above or that mentioned in section 34(2) of the Criminal Justice Act 1988,
- is hereby abrogated.
- (4) Nothing in this section applies in relation to—
- (a) any trial, or
  - (b) any proceedings before a magistrates’ court as examining justices, which began before the commencement of this section.

**Modifications etc. (not altering text)**

**C1** S. 32 explained by 1996 c. 46, s. 6(1)(2); S.I. 1996/2474, art. 2 (with art. 3)

**Marginal Citations**

**M2** 1988 c. 33.

**33 Abolition of corroboration requirements under Sexual Offences Act 1956.**

- (1) The following provisions of the <sup>M3</sup>Sexual Offences Act 1956 (which provide that a person shall not be convicted of the offence concerned on the evidence of one witness only unless the witness is corroborated) are hereby repealed—
- (a) section 2(2) (procurement of woman by threats),
  - (b) section 3(2) (procurement of woman by false pretences),
  - (c) section 4(2) (administering drugs to obtain or facilitate intercourse),
  - (d) section 22(2) (causing prostitution of women), and
  - (e) section 23(2) (procuration of girl under twenty-one).
- (2) Nothing in this section applies in relation to—
- (a) any trial, or
  - (b) any proceedings before a magistrates’ court as examining justices, which began before the commencement of this section.

**Marginal Citations**

**M3** 1956 c. 69.

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### *Inferences from accused's silence*

#### **34 Effect of accused's failure to mention facts when questioned or charged.**

(1) Where, in any proceedings against a person for an offence, evidence is given that the accused—

- (a) at any time before he was charged with the offence, on being questioned under caution by a constable trying to discover whether or by whom the offence had been committed, failed to mention any fact relied on in his defence in those proceedings; or
- (b) on being charged with the offence or officially informed that he might be prosecuted for it, failed to mention any such fact,

being a fact which in the circumstances existing at the time the accused could reasonably have been expected to mention when so questioned, charged or informed, as the case may be, subsection (2) below applies.

(2) Where this subsection applies—

- [<sup>F1</sup>(a) a magistrates' court inquiring into the offence as examining justices;]
  - (b) a judge, in deciding whether to grant an application made by the accused under—
    - (i) section 6 of the <sup>M4</sup>Criminal Justice Act 1987 (application for dismissal of charge of serious fraud in respect of which notice of transfer has been given under section 4 of that Act); or
    - (ii) paragraph 5 of Schedule 6 to the <sup>M5</sup>Criminal Justice Act 1991 (application for dismissal of charge of violent or sexual offence involving child in respect of which notice of transfer has been given under section 53 of that Act);
  - (c) the court, in determining whether there is a case to answer;
- and
- (d) the court or jury, in determining whether the accused is guilty of the offence charged,
- may draw such inferences from the failure as appear proper.

[<sup>F2</sup>(2A) Where the accused was at an authorised place of detention at the time of the failure, subsections (1) and (2) above do not apply if he had not been allowed an opportunity to consult a solicitor prior to being questioned, charged or informed as mentioned in subsection (1) above.]

(3) Subject to any directions by the court, evidence tending to establish the failure may be given before or after evidence tending to establish the fact which the accused is alleged to have failed to mention.

(4) This section applies in relation to questioning by persons (other than constables) charged with the duty of investigating offences or charging offenders as it applies in relation to questioning by constables; and in subsection (1) above “officially informed” means informed by a constable or any such person.

(5) This section does not—

- (a) prejudice the admissibility in evidence of the silence or other reaction of the accused in the face of anything said in his presence relating to the conduct in respect of which he is charged, in so far as evidence thereof would be admissible apart from this section; or

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- (b) preclude the drawing of any inference from any such silence or other reaction of the accused which could properly be drawn apart from this section.
- (6) This section does not apply in relation to a failure to mention a fact if the failure occurred before the commencement of this section.

<sup>F3</sup>(7) . . . . .

**Textual Amendments**

- F1** S. 34(2)(a) substituted (5.7.1996) by 1996 c. 25, s. 44(3)(7) (with s. 78(1))
- F2** S. 34(2A) inserted (1.4.2003) by 1999 c. 23, ss. 58(2), 68(3) (with Sch. 7 paras. 5(2), 8); S.I. 2003/707, art. 2(a)
- F3** S. 34(7) repealed (5.7.1996) by 1996 c. 25, ss. 44(4)(7), 80, Sch. 5 Table 1, Note 2 (with s. 78(1))

**Modifications etc. (not altering text)**

- C2** S. 34: power to apply (with modifications) conferred (E.W.) (1.10.2002) by 2002 c. 30, s. 36(1)(c); S.I. 2002/2306, art. 2(c)(iii)
- S. 34: power to apply (with modifications) conferred (E.W.) (1.10.2002) by 1997 c. 50, s. 37(2A)(d) (as inserted (1.10.2002) by 2002 c. 30, s. 88(2); S.I. 2002/2306, art. 2(f)(iv))
- S. 34: power to apply (with modifications) conferred (E.W.) (1.10.2002) by 1997 c. 50, s. 81(2A)(d) (as inserted (1.10.2002) by 2002 c. 30, s. 89(2); S.I. 2002/2306, art. 2(f)(iv))
- C3** Ss. 34-38 applied (with modifications) (1.2.1997) by S.I. 1997/16, art. 2(1)(2), Sch.

**Marginal Citations**

- M4** 1987 c. 38.
- M5** 1991 c. 53.

**35 Effect of accused’s silence at trial.**

- (1) At the trial of any person <sup>F4</sup>. . . for an offence, subsections (2) and (3) below apply unless—
- (a) the accused’s guilt is not in issue; or
  - (b) it appears to the court that the physical or mental condition of the accused makes it undesirable for him to give evidence;
- but subsection (2) below does not apply if, at the conclusion of the evidence for the prosecution, his legal representative informs the court that the accused will give evidence or, where he is unrepresented, the court ascertains from him that he will give evidence.
- (2) Where this subsection applies, the court shall, at the conclusion of the evidence for the prosecution, satisfy itself (in the case of proceedings on indictment, in the presence of the jury) that the accused is aware that the stage has been reached at which evidence can be given for the defence and that he can, if he wishes, give evidence and that, if he chooses not to give evidence, or having been sworn, without good cause refuses to answer any question, it will be permissible for the court or jury to draw such inferences as appear proper from his failure to give evidence or his refusal, without good cause, to answer any question.
- (3) Where this subsection applies, the court or jury, in determining whether the accused is guilty of the offence charged, may draw such inferences as appear proper from the

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failure of the accused to give evidence or his refusal, without good cause, to answer any question.

(4) This section does not render the accused compellable to give evidence on his own behalf, and he shall accordingly not be guilty of contempt of court by reason of a failure to do so.

(5) For the purposes of this section a person who, having been sworn, refuses to answer any question shall be taken to do so without good cause unless—

- (a) he is entitled to refuse to answer the question by virtue of any enactment, whenever passed or made, or on the ground of privilege; or
- (b) the court in the exercise of its general discretion excuses him from answering it.

<sup>F5</sup>(6) .....

(7) This section applies—

- (a) in relation to proceedings on indictment for an offence, only if the person charged with the offence is arraigned on or after the commencement of this section;
- (b) in relation to proceedings in a magistrates' court, only if the time when the court begins to receive evidence in the proceedings falls after the commencement of this section.

**Textual Amendments**

- F4** Words in s. 35(1) repealed (30.9.1998) by 1998 c. 37, ss. 35(a), 120(1)(2), Sch. 9 para. 2, **Sch. 10** (with Sch. 9); S.I. 1998/2327, **art. 2(1)(z)(aa)(3)(v)**
- F5** S. 35(6) repealed (30.9.1998) by 1998 c. 37, ss. 35(b), 120(1)(2), Sch. 9 para. 2, **Sch. 10** (with Sch. 9); S.I. 1998/2327, **art. 2(1)(z)(aa)(3)(v)**

**Modifications etc. (not altering text)**

- C4** Ss. 34-38 applied in part (with modifications) (1.2.1997) by S.I. 1997/16, **art. 2(1)(2)**, Sch. (as amended (26.9.2006) by S.I. 2006/2326, **art. 2(2)**)

**36 Effect of accused's failure or refusal to account for objects, substances or marks.**

(1) Where—

- (a) a person is arrested by a constable, and there is—
  - (i) on his person; or
  - (ii) in or on his clothing or footwear; or
  - (iii) otherwise in his possession; or
  - (iv) in any place in which he is at the time of his arrest,any object, substance or mark, or there is any mark on any such object; and
- (b) that or another constable investigating the case reasonably believes that the presence of the object, substance or mark may be attributable to the participation of the person arrested in the commission of an offence specified by the constable; and
- (c) the constable informs the person arrested that he so believes, and requests him to account for the presence of the object, substance or mark; and
- (d) the person fails or refuses to do so,

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then if, in any proceedings against the person for the offence so specified, evidence of those matters is given, subsection (2) below applies.

(2) Where this subsection applies—

- [<sup>F6</sup>(a) a magistrates' court inquiring into the offence as examining justices;]  
 (b) a judge, in deciding whether to grant an application made by the accused under—
- (i) section 6 of the <sup>M6</sup>Criminal Justice Act 1987 (application for dismissal of charge of serious fraud in respect of which notice of transfer has been given under section 4 of that Act); or
  - (ii) paragraph 5 of Schedule 6 to the <sup>M7</sup>Criminal Justice Act 1991 (application for dismissal of charge of violent or sexual offence involving child in respect of which notice of transfer has been given under section 53 of that Act);
- (c) the court, in determining whether there is a case to answer; and  
 (d) the court or jury, in determining whether the accused is guilty of the offence charged,

may draw such inferences from the failure or refusal as appear proper.

(3) Subsections (1) and (2) above apply to the condition of clothing or footwear as they apply to a substance or mark thereon.

(4) Subsections (1) and (2) above do not apply unless the accused was told in ordinary language by the constable when making the request mentioned in subsection (1)(c) above what the effect of this section would be if he failed or refused to comply with the request.

[<sup>F7</sup>(4A) Where the accused was at an authorised place of detention at the time of the failure or refusal, subsections (1) and (2) above do not apply if he had not been allowed an opportunity to consult a solicitor prior to the request being made.]

(5) This section applies in relation to officers of customs and excise as it applies in relation to constables.

(6) This section does not preclude the drawing of any inference from a failure or refusal of the accused to account for the presence of an object, substance or mark or from the condition of clothing or footwear which could properly be drawn apart from this section.

(7) This section does not apply in relation to a failure or refusal which occurred before the commencement of this section.

<sup>F8</sup>(8) .....

#### Textual Amendments

- F6** S. 36(2)(a) substituted (5.7.1996) by 1996 c. 25, s. 44(3)(7) (with s. 78(1))  
**F7** S. 36(4A) inserted (1.4.2003) by 1999 c. 23, ss. 58(3), 68(3) (with Sch. 7 paras. 5(2), 8); S.I. 2003/707, art. 2(a)  
**F8** S. 36(8) repealed (5.7.1996) by 1996 c. 25, ss. 44(4)(7), 80, Sch. 5 Table 1, Note 2 (with s. 78(1))

#### Modifications etc. (not altering text)

- C5** S. 36 applied (with modifications) (E.W.) (2.12.2002) by 2002 c. 30, s. 38, Sch. 4 Pt. 2 para. 21; S.I. 2002/2750, art. 2(a)(ii)(d)

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- C6** Ss. 34-38 applied (with modifications) (1.2.1997) by S.I. 1997/16, art. 2(1)(2), **Sch.**
- C7** S. 36(1)(b)(c) modified (E.W.) (2.12.2002) by 2002 c. 30, s. 38, **Sch. 4 Pt. 2 para. 23(b)**; S.I. 2002/2750, **art. 2(a)(ii)(d)**
- C8** S. 36(1)(c) extended (E.W.) (2.12.2002) by 2002 c. 30, s. 38, **Sch. 4 Pt. 2 para. 23(a)**; S.I. 2002/2750, **art. 2(a)(ii)(d)**
- C9** S. 36(4) modified (E.W.) (2.12.2002) by 2002 c. 30, s. 38, **Sch. 4 Pt. 2 para. 23(b)**; S.I. 2002/2750, **art. 2(a)(ii)(d)**

#### Marginal Citations

- M6** 1987 c. 38.  
**M7** 1991 c. 53.

### 37 Effect of accused's failure or refusal to account for presence at a particular place.

(1) Where—

- (a) a person arrested by a constable was found by him at a place at or about the time the offence for which he was arrested is alleged to have been committed; and
- (b) that or another constable investigating the offence reasonably believes that the presence of the person at that place and at that time may be attributable to his participation in the commission of the offence; and
- (c) the constable informs the person that he so believes, and requests him to account for that presence; and
- (d) the person fails or refuses to do so,

then if, in any proceedings against the person for the offence, evidence of those matters is given, subsection (2) below applies.

(2) Where this subsection applies—

- [<sup>F9</sup>(a) a magistrates' court inquiring into the offence as examining justices;]
- (b) a judge, in deciding whether to grant an application made by the accused under—
  - (i) section 6 of the <sup>M8</sup>Criminal Justice Act 1987 (application for dismissal of charge of serious fraud in respect of which notice of transfer has been given under section 4 of that Act); or
  - (ii) paragraph 5 of Schedule 6 to the <sup>M9</sup>Criminal Justice Act 1991 (application for dismissal of charge of violent or sexual offence involving child in respect of which notice of transfer has been given under section 53 of that Act);
- (c) the court, in determining whether there is a case to answer; and
- (d) the court or jury, in determining whether the accused is guilty of the offence charged,

may draw such inferences from the failure or refusal as appear proper.

(3) Subsections (1) and (2) do not apply unless the accused was told in ordinary language by the constable when making the request mentioned in subsection (1)(c) above what the effect of this section would be if he failed or refused to comply with the request.

[<sup>F10</sup>(3A) Where the accused was at an authorised place of detention at the time of the failure or refusal, subsections (1) and (2) do not apply if he had not been allowed an opportunity to consult a solicitor prior to the request being made.]

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- (4) This section applies in relation to officers of customs and excise as it applies in relation to constables.
- (5) This section does not preclude the drawing of any inference from a failure or refusal of the accused to account for his presence at a place which could properly be drawn apart from this section.
- (6) This section does not apply in relation to a failure or refusal which occurred before the commencement of this section.

<sup>F11</sup>(7) .....

#### Textual Amendments

- F9** S. 37(2)(a) substituted (5.7.1996) by 1996 c. 25, s. 44(3)(7) (with s. 78(1))
- F10** S. 37(3A) inserted (1.4.2003) by 1999 c. 23, ss. 58(4), 68(3) (with Sch. 7 paras. 5(2), 8); S.I. 2003/707, art. 2(a)
- F11** S. 37(7) repealed (5.7.1996) by 1996 c. 25, ss. 44(4)(7), 80, Sch. 5 Table 1, Note 2 (with s. 78(1))

#### Modifications etc. (not altering text)

- C10** Ss. 34-38 applied (with modifications) (1.2.1997) by S.I. 1997/16, art. 2(1)(2), Sch.
- C11** S. 37(1)(b)(c) modified (E.W.) (2.12.2002) by 2002 c. 30, s. 38, Sch. 4 Pt. 2 para. 23(b); S.I. 2002/2750, art. 2(a)(ii)(d)
- C12** S. 37(1)(c) extended (E.W.) (2.12.2002) by 2002 c. 30, s. 38, Sch. 4 Pt. 2 para. 23(a); S.I. 2002/2750, art. 2(a)(ii)(d)
- C13** S. 37(3) modified (E.W.) (2.12.2002) by 2002 c. 30, s. 38, Sch. 4 Pt. 2 para. 23(b); S.I. 2002/2750, art. 2(a)(ii)(d)

#### Marginal Citations

- M8** 1987 c. 38.
- M9** 1991 c. 53.

### 38 Interpretation and savings for sections 34, 35, 36 and 37.

- (1) In sections 34, 35, 36 and 37 of this Act—  
 “legal representative” means an authorised advocate or authorised litigator, as defined by section 119(1) of the<sup>M10</sup>Courts and Legal Services Act 1990; and  
 “place” includes any building or part of a building, any vehicle, vessel, aircraft or hovercraft and any other place whatsoever.
- (2) In sections 34(2), 35(3), 36(2) and 37(2), references to an offence charged include references to any other offence of which the accused could lawfully be convicted on that charge.

[<sup>F12</sup>(2A) In each of sections 34(2A), 36(4A) and 37(3A) “authorised place of detention” means—

- (a) a police station; or  
 (b) any other place prescribed for the purposes of that provision by order made by the Secretary of State;

and the power to make an order under this subsection shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]



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- (3) A person shall not have the proceedings against him transferred to the Crown Court for trial, have a case to answer or be convicted of an offence solely on an inference drawn from such a failure or refusal as is mentioned in section 34(2), 35(3), 36(2) or 37(2).
- (4) A judge shall not refuse to grant such an application as is mentioned in section 34(2)(b), 36(2)(b) and 37(2)(b) solely on an inference drawn from such a failure as is mentioned in section 34(2), 36(2) or 37(2).
- (5) Nothing in sections 34, 35, 36 or 37 prejudices the operation of a provision of any enactment which provides (in whatever words) that any answer or evidence given by a person in specified circumstances shall not be admissible in evidence against him or some other person in any proceedings or class of proceedings (however described, and whether civil or criminal).

In this subsection, the reference to giving evidence is a reference to giving evidence in any manner, whether by furnishing information, making discovery, producing documents or otherwise.

- (6) Nothing in sections 34, 35, 36 or 37 prejudices any power of a court, in any proceedings, to exclude evidence (whether by preventing questions being put or otherwise) at its discretion.

#### Textual Amendments

- F12** S. 38(2A) inserted (27.9.1999 for specified purposes and otherwise 1.4.2003) by 1999 c. 23, ss. 58(5), 68(3)(4) (with Sch. 7 paras. 5(2), 8); S.I. 2003/707, art. 2(a)

#### Modifications etc. (not altering text)

- C14** Ss. 34-38 applied (with modifications) (1.2.1997) by S.I. 1997/16, art. 2(1)(2), Sch.  
**C15** S. 38 applied in part (with modifications) (26.9.2006) by The Criminal Justice and Public Order Act 1994 (Application to the Armed Forces) Order 2006 (S.I. 2006/2326), art. 3(1), Sch. 1

#### Marginal Citations

- M10** 1990 c. 41.

### 39 Power to apply sections 34 to 38 to armed forces.

- (1) The Secretary of State may by order direct that any provision of sections 34 to 38 of this Act shall apply, subject to such modifications as he may specify, to any proceedings to which this section applies.
- (2) This section applies—
  - (a) to proceedings whereby a charge is dealt with summarily under Part II of the <sup>M11</sup>Army Act 1955;
  - (b) to proceedings whereby a charge is dealt with summarily under Part II of the <sup>M12</sup>Air Force Act 1955;
  - (c) to proceedings whereby a charge is summarily tried under Part II of the <sup>M13</sup>Naval Discipline Act 1957;
  - (d) to proceedings before a court martial constituted under the Army Act 1955;
  - (e) to proceedings before a court martial constituted under the Air Force Act 1955;

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- (f) to proceedings before a court martial constituted under the Naval Discipline Act 1957;
  - <sup>F13</sup>(g) .....
  - (h) to proceedings before the Courts-Martial Appeal Court;
  - (i) to proceedings before a Standing Civilian Court;
- and it applies wherever the proceedings take place.

(3) An order under this section shall be made by statutory instrument and shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Textual Amendments**

**F13** S. 39(2)(g) repealed (28.2.2002) by 2001 c. 19, s. 38, **Sch. 7 Pt. 1**; S.I. 2002/345, **art. 2** (subject to **art. 3**)

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**Marginal Citations**

**M11** 1955 c. 18.  
**M12** 1955 c. 19.  
**M13** 1957 c. 53.

*Juries*

**40 Disqualification for jury service of persons on bail in criminal proceedings.**

<sup>F14</sup> .....

**Textual Amendments**

**F14** S. 40 repealed (5.4.2004) by *Criminal Justice Act 2003 (c. 33)*, ss. 332, 336, **Sch. 37 Pt. 10**; S.I. 2004/829, **art. 2(2)(I)(iv)** (subject to **art. 2(3)-(6)**)

**41 Jury service: disabled persons.**

After section 9A of the <sup>M14</sup>Juries Act 1974 there shall be inserted the following section—

**“9B Discharge of summonses to disabled persons only if incapable of acting effectively as a juror.**

- (1) Where it appears to the appropriate officer, in the case of a person attending in pursuance of a summons under this Act, that on account of physical disability there is doubt as to his capacity to act effectively as a juror, the person may be brought before the judge.
- (2) The judge shall determine whether or not the person should act as a juror; but he shall affirm the summons unless he is of the opinion that the person will not, on account of his disability, be capable of acting effectively as a juror, in which case he shall discharge the summons.

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(3) In this section “the judge” means any judge of the High Court or any Circuit judge or Recorder.”.

**Marginal Citations**

M14 1974 c. 23.

**42 Jury service: excusal on religious grounds.**

F15 .....

**Textual Amendments**

F15 S. 42 repealed (5.4.2004) by Criminal Justice Act 2003 (c. 33), ss. 332, 336, Sch. 37 Pt. 10; S.I. 2004/829, art. 2(2)(I)(iv) (subject to art. 2(3)-(6))

**43 Separation of jury during consideration of verdict.**

(1) For section 13 of the <sup>M15</sup>Juries Act 1974 (under which a jury may be allowed to separate at any time before they consider their verdict) there shall be substituted—

**“13 Separation.**

If, on the trial of any person for an offence on indictment, the court thinks fit, it may at any time (whether before or after the jury have been directed to consider their verdict) permit the jury to separate.”.

(2) The amendment made by subsection (1) above shall not have effect in relation to a trial where a direction to the jury to consider their verdict has been given before the commencement of this section.

**Marginal Citations**

M15 1974 c. 23.

*Procedure, jurisdiction and powers of magistrates’ courts*

F16 **44** .....

**Textual Amendments**

F16 S. 44 repealed (retrospective to 3.11.1994) by 1996 c. 25, ss. 44(2)(6), 80, Sch. 5 Table (1), Note 2

*Status: Point in time view as at 05/04/2004.*

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**45 Extension of procedures enabling magistrates’ courts to deal with cases in which accused pleads guilty.**

The amendments to the Magistrates’ Courts Act 1980 specified in Schedule 5 (being amendments designed principally to extend the procedures applicable in magistrates’ courts when the accused pleads guilty) shall have effect.

**46 Criminal damage, etc. as summary offence: relevant sum.**

- (1) In subsection (1) of section 22 of the Magistrates’ Courts Act 1980 (under which, where an offence of or related to criminal damage or, in certain circumstances, an offence of aggravated vehicle-taking, is charged and it appears clear to the magistrates’ court that the value involved does not exceed the relevant sum, the court is to proceed as if the offence were triable only summarily) in the second paragraph (which states the relevant sum), for “£2,000” there shall be substituted “ £5,000 ”.
- (2) Subsection (1) above does not apply to an offence charged in respect of an act done before this section comes into force.

**47 Recovery of fines, etc. by deduction from income support.**

- (1) In section 89 of the Magistrates’ Courts Act 1980 (which gives a magistrates’ court power to make a transfer of fine order), after subsection (2) there shall be inserted the following subsection—
  - “(2A) The functions of the court to which subsection (2) above relates shall be deemed to include the court’s power to apply to the Secretary of State under any regulations made by him under section 24(1)(a) of the <sup>M16</sup>Criminal Justice Act 1991 (power to deduct fines etc. from income support).”.
- (2) In section 90 of the Magistrates’ Courts Act 1980 (which gives a magistrates’ court power to transfer a fine to Scotland), after subsection (3) there shall be inserted the following subsection—
  - “(3A) The functions of the court which shall cease to be exercisable by virtue of subsection (3) above shall be deemed to include the court’s power to apply to the Secretary of State under regulations made by him under section 24(1)(a) of the Criminal Justice Act 1991 (power to deduct fines from income support).”.
- (3) In section 24(3) of the Criminal Justice Act 1991 (which relates to the Secretary of State’s power to authorise deduction of fines etc. from income support), after paragraph (b) there shall be inserted the following paragraph—
  - “(c) the reference in paragraph (a) to “the court” includes a reference to a court to which the function in that paragraph has been transferred by virtue of a transfer of fine order under section 89(1) or (3) or 90(1)(a) of the 1980 Act (power of magistrates’ court to make transfer of fine order) or under section 403(1)(a) or (b) of the <sup>M17</sup>Criminal Procedure (Scotland) Act 1975 (analogous provision as respects Scotland) and a reference to a court to which that function has been remitted by virtue of section 196(2) of the said Act of 1975 (enforcement of fine imposed by High Court of Justiciary).”.

<sup>F17</sup>(4) .....

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**Extent Information**

**E1** S. 47(1) and (2) extend to England and Wales only; s. 47(3) which extends to England, Wales and Scotland; s. 47(4) extends to Scotland only see s. 172(7)(8)(13)

**Textual Amendments**

**F17** S. 47(4) repealed (1.4.1996) by 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 16, **Sch. 5** (with savings in Sch. 3 para. 1)

**Marginal Citations**

**M16** 1991 c. 53.

**M17** 1975 c. 21.

*Sentencing: guilty pleas*

**F18** **48** .....

**Textual Amendments**

**F18** S. 48 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168, **Sch. 12 Pt. I**, (with Sch. 11 paras. 1, 2)

*Publication of reports in young offender cases*

**49 Restrictions on reports of proceedings in which children or young persons are concerned.**

For section 49 of the the <sup>M18</sup>Children and Young Persons Act 1933 (restrictions on reports of proceedings in which children or young persons are concerned) there shall be substituted—

**“49 Restrictions on reports of proceedings in which children or young persons are concerned.**

- (1) The following prohibitions apply (subject to subsection (5) below) in relation to any proceedings to which this section applies, that is to say—
  - (a) no report shall be published which reveals the name, address or school of any child or young person concerned in the proceedings or includes any particulars likely to lead to the identification of any child or young person concerned in the proceedings; and
  - (b) no picture shall be published or included in a programme service as being or including a picture of any child or young person concerned in the proceedings.
- (2) The proceedings to which this section applies are—
  - (a) proceedings in a youth court;
  - (b) proceedings on appeal from a youth court (including proceedings by way of case stated);

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- (c) proceedings under section 15 or 16 of the <sup>M19</sup>Children and Young Persons Act 1969 (proceedings for varying or revoking supervision orders); and
  - (d) proceedings on appeal from a magistrates' court arising out of proceedings under section 15 or 16 of that Act (including proceedings by way of case stated).
- (3) The reports to which this section applies are reports in a newspaper and reports included in a programme service; and similarly as respects pictures.
- (4) For the purposes of this section a child or young person is “concerned” in any proceedings whether as being the person against or in respect of whom the proceedings are taken or as being a witness in the proceedings.
- (5) Subject to subsection (7) below, a court may, in relation to proceedings before it to which this section applies, by order dispense to any specified extent with the requirements of this section in relation to a child or young person who is concerned in the proceedings if it is satisfied—
- (a) that it is appropriate to do so for the purpose of avoiding injustice to the child or young person; or
  - (b) that, as respects a child or young person to whom this paragraph applies who is unlawfully at large, it is necessary to dispense with those requirements for the purpose of apprehending him and bringing him before a court or returning him to the place in which he was in custody.
- (6) Paragraph (b) of subsection (5) above applies to any child or young person who is charged with or has been convicted of—
- (a) a violent offence,
  - (b) a sexual offence, or
  - (c) an offence punishable in the case of a person aged 21 or over with imprisonment for fourteen years or more.
- (7) The court shall not exercise its power under subsection (5)(b) above—
- (a) except in pursuance of an application by or on behalf of the Director of Public Prosecutions; and
  - (b) unless notice of the application has been given by the Director of Public Prosecutions to any legal representative of the child or young person.
- (8) The court's power under subsection (5) above may be exercised by a single justice.
- (9) If a report or picture is published or included in a programme service in contravention of subsection (1) above, the following persons, that is to say—
- (a) in the case of publication of a written report or a picture as part of a newspaper, any proprietor, editor or publisher of the newspaper;
  - (b) in the case of the inclusion of a report or picture in a programme service, any body corporate which provides the service and any person having functions in relation to the programme corresponding to those of an editor of a newspaper,
- shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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(10) In any proceedings under section 15 or 16 of the <sup>M20</sup>Children and Young Persons Act 1969 (proceedings for varying or revoking supervision orders) before a magistrates' court other than a youth court or on appeal from such a court it shall be the duty of the magistrates' court or the appellate court to announce in the course of the proceedings that this section applies to the proceedings; and if the court fails to do so this section shall not apply to the proceedings.

(11) In this section—

“legal representative” means an authorised advocate or authorised litigator, as defined by section 119(1) of the <sup>M21</sup>Courts and Legal Services Act 1990;

“programme” and “programme service” have the same meaning as in the <sup>M22</sup>Broadcasting Act 1990;

“sexual offence” has the same meaning as in section 31(1) of the <sup>M23</sup>Criminal Justice Act 1991;

“specified” means specified in an order under this section;

“violent offence” has the same meaning as in section 31(1) of the Criminal Justice Act 1991;

and a person who, having been granted bail, is liable to arrest (whether with or without a warrant) shall be treated as unlawfully at large.”.

**Marginal Citations**

- M18** 1933 c. 12.
- M19** 1969 c. 54.
- M20** 1969 c. 54.
- M21** 1990 c. 41.
- M22** 1990 c. 42.
- M23** 1991 c. 53

*Child testimony*

<sup>F19</sup>**50** .....

**Textual Amendments**

- F19** S. 50 repealed (24.7.2002) by 1999 c. 23, s. 67, Sch. 6 (with Sch. 7 para. 5(2)); S.I. 2002/1739, art. 2(g)(v)

*Intimidation, etc., of witnesses, jurors and others*

**51 Intimidation, etc., of witnesses, jurors and others.**

[<sup>F20</sup>(1) A person commits an offence if—

- (a) he does an act which intimidates, and is intended to intimidate, another person (“the victim”),

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- (b) he does the act knowing or believing that the victim is assisting in the investigation of an offence or is a witness or potential witness or a juror or potential juror in proceedings for an offence, and
  - (c) he does it intending thereby to cause the investigation or the course of justice to be obstructed, perverted or interfered with.
- (2) A person commits an offence if—
- (a) he does an act which harms, and is intended to harm, another person or, intending to cause another person to fear harm, he threatens to do an act which would harm that other person,
  - (b) he does or threatens to do the act knowing or believing that the person harmed or threatened to be harmed (“the victim”), or some other person, has assisted in an investigation into an offence or has given evidence or particular evidence in proceedings for an offence, or has acted as a juror or concurred in a particular verdict in proceedings for an offence, and
  - (c) he does or threatens to do it because of that knowledge or belief.
- (3) For the purposes of subsections (1) and (2) it is immaterial that the act is or would be done, or that the threat is made—
- (a) otherwise than in the presence of the victim, or
  - (b) to a person other than the victim.]
- (4) The harm that may be done or threatened may be financial as well as physical (whether to the person or a person’s property) and similarly as respects an intimidatory act which consists of threats.
- (5) The intention required by subsection (1)(c) and the motive required by subsection (2)(c) above need not be the only or the predominating intention or motive with which the act is done or, in the case of subsection (2), threatened.
- (6) A person guilty of an offence under this section shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding five years or a fine or both;
  - (b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.
- (7) If, in proceedings against a person for an offence under subsection (1) above, it is proved that he did an act falling within paragraph (a) with the knowledge or belief required by paragraph (b), he shall be presumed, unless the contrary is proved, to have done the act with the intention required by paragraph (c) of that subsection.
- (8) If, in proceedings against a person for an offence under subsection (2) above, it is proved that [F21 within the relevant period—
- (a) he did an act which harmed, and was intended to harm, another person, or
  - (b) intending to cause another person fear of harm, he threatened to do an act which would harm that other person,
- and that he did the act, or (as the case may be) threatened to do the act,] with the knowledge or belief required by paragraph (b), he shall be presumed, unless the contrary is proved, to have done the act [F22 or (as the case may be) threatened to do the act] with the motive required by paragraph (c) of that subsection.
- (9) In this section—



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“investigation into an offence” means such an investigation by the police or other person charged with the duty of investigating offences or charging offenders;

“offence” includes an alleged or suspected offence;

“potential”, in relation to a juror, means a person who has been summoned for jury service at the court at which proceedings for the offence are pending; and

“the relevant period”—

- (a) in relation to a witness or juror in any proceedings for an offence, means the period beginning with the institution of the proceedings and ending with the first anniversary of the conclusion of the trial or, if there is an appeal or [<sup>F23</sup>a reference under section 9 or 11 of the Criminal Appeal Act 1995], of the conclusion of the appeal;
- (b) in relation to a person who has, or is believed by the accused to have, assisted in an investigation into an offence, but was not also a witness in proceedings for an offence, means the period of one year beginning with any act of his, or any act believed by the accused to be an act of his, assisting in the investigation; and
- (c) in relation to a person who both has, or is believed by the accused to have, assisted in the investigation into an offence and was a witness in proceedings for the offence, means the period beginning with any act of his, or any act believed by the accused to be an act of his, assisting in the investigation and ending with the anniversary mentioned in paragraph (a) above.

(10) For the purposes of the definition of the relevant period in subsection (9) above—

- (a) proceedings for an offence are instituted at the earliest of the following times—
  - (i) when a justice of the peace issues a summons or warrant under section 1 of the <sup>M24</sup>Magistrates’ Courts Act 1980 in respect of the offence;
  - (ii) when a person is charged with the offence after being taken into custody without a warrant;
  - (iii) when a bill of indictment is preferred by virtue of section 2(2)(b) of the <sup>M25</sup>Administration of Justice (Miscellaneous Provisions) Act 1933;
- (b) proceedings at a trial of an offence are concluded with the occurrence of any of the following, the discontinuance of the prosecution, the discharge of the jury without a finding, the acquittal of the accused or the sentencing of or other dealing with the accused for the offence of which he was convicted; and
- (c) proceedings on an appeal are concluded on the determination of the appeal or the abandonment of the appeal.

(11) This section is in addition to, and not in derogation of, any offence subsisting at common law.

#### Textual Amendments

**F20** S. 51 (1)-(3) substituted (14.4.2000) by 1999 c. 23, s. 67, **Sch. 4**, paras. 21, 22 (with **Sch. 7** para. 5(2)); S.I. 2000/1034, **art. 2(b)**

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- F21** S. 51(8)(a)(b) substituted (14.4.2000) for words by 1999 c. 23, s. 67, Sch. 4 paras. 21, **22(3)(a)** (with Sch. 7 para. 5(2)); S.I. 2000/1034, **art. 2(b)**
- F22** Words in s. 51(8)(b) inserted (14.4.2000) by 1999 c. 23, s. 67, Sch. 4 paras. 21, **22(3)(b)** (with Sch. 7 para. 5(2)); S.I. 2000/1034, **art. 2(b)**
- F23** S. 51(9): Words in para. (a) of the definition “the relevant period” substituted (31.3.1997) by 1995 c. 35, s. 29(1), **Sch. 2 para. 19**; S.I. 1997/402, **art. 3** (with art. 4)

#### Marginal Citations

- M24** 1980 c. 43.  
**M25** 1933 c. 36.

### *Criminal appeals*

#### **52 Circuit judges to act as judges of criminal division of Court of Appeal.**

- (1) Section 9 of the <sup>M26</sup>Supreme Court Act 1981 (which provides for certain judges to act on request in courts other than that to which they were appointed) shall have effect with the amendments specified in subsections (2) to (5) below.
- (2) In subsection (1)—
- (a) after the words “Table may”, there shall be inserted the words “, subject to the proviso at the end of that Table, ”;
  - (b) in the Table, in column 2, in the entry specifying the court relating to entry 5 in column 1 (Circuit judges), after the words “High Court” there shall be inserted the words “ and the Court of Appeal ”; and
  - (c) at the end of the Table there shall be inserted the following— “ The entry in column 2 specifying the Court of Appeal in relation to a Circuit judge only authorises such a judge to act as a judge of a court in the criminal division of the Court of Appeal. ”.
- (3) In subsection (2)—
- (a) in the definition of “the appropriate authority” after the words “High Court” there shall be inserted the words “ or a Circuit judge ”; and
  - (b) at the end, there shall be inserted the following— “ but no request shall be made to a Circuit judge to act as a judge of a court in the criminal division of the Court of Appeal unless he is approved for the time being by the Lord Chancellor for the purpose of acting as a judge of that division. ”.
- (4) In subsection (5), for the words “subsection (6)” there shall be substituted the words “ subsections (6) and (6A) ”.
- (5) After subsection (6) there shall be inserted the following subsection—
- “(6A) A Circuit judge or Recorder shall not by virtue of subsection (5) exercise any of the powers conferred on a single judge by sections 31 and 44 of the <sup>M27</sup>Criminal Appeal Act 1968 (powers of single judge in connection with appeals to the Court of Appeal and appeals from the Court of Appeal to the House of Lords).”.
- (6) The further amendments specified in subsections (7) to (9) below (which supplement the foregoing amendments) shall have effect.

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- (7) In section 55 of the Supreme Court Act 1981 (composition of criminal division of Court of Appeal)—
- (a) in subsections (2) and (4), at the beginning, there shall be inserted the words “ Subject to subsection (6), ”; and
  - (b) after subsection (5), there shall be inserted the following subsection—
    - “(6) A court shall not be duly constituted if it includes more than one Circuit judge acting as a judge of the court under section 9.”.
- (8) <sup>F24</sup> .....
- (9) After the section 56A of the <sup>M28</sup>Supreme Court Act 1981 inserted by subsection (8) above there shall be inserted the following section—

**“56B Allocation of cases in criminal division.**

- (1) The appeals or classes of appeals suitable for allocation to a court of the criminal division of the Court of Appeal in which a Circuit judge is acting under section 9 shall be determined in accordance with directions given by or on behalf of the Lord Chief Justice with the concurrence of the Lord Chancellor.
- (2) In subsection (1) “appeal” includes the hearing of, or any application in proceedings incidental or preliminary to, an appeal.”.

**Textual Amendments**

**F24** S. 52(8) repealed (26.1.2004) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2003/3345, art. 2(c)(iii)

**Marginal Citations**

**M26** 1981 c. 54.  
**M27** 1968 c. 19.  
**M28** 1981 c. 54.

**53 Expenses in criminal appeals in Northern Ireland Court of Appeal.**

- (1) After section 28(2) of the <sup>M29</sup>Criminal Appeal (Northern Ireland) Act 1980 (certain expenses to be defrayed up to amount allowed by the Master (Taxing Office)) there shall be inserted the following subsections—
- “(2A) Where a solicitor or counsel is dissatisfied with the amount of any expenses allowed by the Master (Taxing Office) under subsection (2)(a) above, he may apply to that Master to review his decision.
  - (2B) On a review under subsection (2A) the Master (Taxing Office) may confirm or vary the amount of expenses allowed by him.
  - (2C) An application under subsection (2A) shall be made, and a review under that subsection shall be conducted, in accordance with rules of court.
  - (2D) Where a solicitor or counsel is dissatisfied with the decision of the Master (Taxing Office) on a review under subsection (2A) above, he may appeal

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against that decision to the High Court and the Lord Chancellor may appear and be represented on any such appeal.

(2E) Where the Lord Chancellor is dissatisfied with the decision of the Master (Taxing Office) on a review under subsection (2A) above in relation to the expenses of a solicitor or counsel, he may appeal against that decision to the High Court and the solicitor or barrister may appear or be represented on any such appeal.

(2F) On any appeal under subsection (2D) or (2E) above the High Court may confirm or vary the amount of expenses allowed by the Master (Taxing Office) and the decision of the High Court shall be final.

(2G) The power of the Master (Taxing Office) or the High Court to vary the amount of expenses allowed under subsection (2)(a) above includes power to increase or reduce that amount to such extent as the Master or (as the case may be) the High Court thinks fit; and the reference in subsection (2) above to the amount allowed by the Master (Taxing Office) shall, in a case where that amount has been so varied, be construed as a reference to that amount as so varied.”

(2) Subsection (1) above does not have effect in relation to expenses allowed by the Master (Taxing Office) under section 28(2)(a) of the <sup>M30</sup>Criminal Appeal (Northern Ireland) Act 1980 before the date on which that subsection comes into force.

#### **Marginal Citations**

**M29** 1980 c. 47.

**M30** 1980 c. 47.

**Status:**

Point in time view as at 05/04/2004.

**Changes to legislation:**

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