

SCHEDULES

SCHEDULE 2

Section 29.

MINOR AND CONSEQUENTIAL AMENDMENTS

The Army Act 1955 (c. 18)

- 1 In section 110 of the Army Act 1955 (powers of confirming officers), for the words from “is under” in subsection (1) to the end of the proviso to that subsection substitute “is unsafe, or by confirming the finding or sentence or referring the finding or sentence (or both) for confirmation to a higher confirming officer.”

The Air Force Act 1955 (c. 19)

- 2 In section 110 of the Air Force Act 1955 (powers of confirming officers), for the words from “is under” in subsection (1) to the end of the proviso to that subsection substitute “is unsafe, or by confirming the finding or sentence or referring the finding or sentence (or both) for confirmation to a higher confirming officer.”

The Public Records Act 1958 (c. 51)

- 3 In the First Schedule to the Public Records Act 1958 (definition of public records), in Part II of the Table at the end of paragraph 3, at the appropriate place insert—
“Criminal Cases Review Commission.”

The Criminal Appeal Act 1968 (c. 19)

- 4 (1) The Criminal Appeal Act 1968 shall be amended as follows.
- (2) In section 5 (disposal of appeal against conviction on special verdict), in subsection (1), for “by a person in whose case” substitute “in a case where”.
- (3) In section 23 (evidence), in subsections (1) and (4), for “purposes of” substitute “the purposes of an appeal under”.
- (4) In section 29 (effect of appeal on sentence), in subsection (2)(c), for “by the Secretary of State under section 17 of this Act” substitute “under section 9 of the Criminal Appeal Act 1995”.
- (5) In section 45 (construction of references to Court of Appeal and single judge)—
- (a) in subsection (1) (references to Court of Appeal), after “II” insert “and section 44A”, and
- (b) in subsection (2) (references to single judge), for “and 44” substitute “, 31A, 44 and 44A”.

Status: This is the original version (as it was originally enacted).

The Courts-Martial (Appeals) Act 1968 (c. 20)

- 5 (1) The Courts-Martial (Appeals) Act 1968 shall be amended as follows.
- (2) In section 12 (disposal of appeal against conviction by court-martial), for subsection (1) (grounds on which Courts-Martial Appeal Court are to allow or dismiss appeal), including the proviso, substitute—
- “(1) The Appeal Court—
- (a) shall allow an appeal against conviction by court-martial if they think that the conviction is unsafe; and
- (b) shall dismiss such an appeal in any other case.”,
- and, in the side-note, for “wrong in law, etc” substitute “unsafe”.
- (3) In section 28 (evidence)—
- (a) in subsection (1) (power to receive evidence etc.), for paragraph (c) substitute—
- “(c) receive any evidence which was not adduced at the trial.”,
- (b) for subsection (2) (duty to receive evidence in certain circumstances) substitute—
- “(2) The Appeal Court shall, in considering whether to receive any evidence, have regard in particular to—
- (a) whether the evidence appears to the Court to be capable of belief;
- (b) whether it appears to the Court that the evidence may afford any ground for allowing the appeal;
- (c) whether the evidence would have been admissible at the trial on an issue which is the subject of the appeal; and
- (d) whether there is a reasonable explanation for the failure to adduce the evidence at the trial.”, and
- (c) in subsection (3), after “any” insert “evidence of a”.

The Costs in Criminal Cases Act (Northern Ireland) 1968 (c. 10 (N.I.))

- 6 In section 4 of the Costs in Criminal Cases Act (Northern Ireland) 1968 (costs awarded by Court of Appeal), at the end insert—
- “(5) Where section 47A of the Criminal Appeal (Northern Ireland) Act 1980 (death of convicted person) applies, any reference in this section to the appellant includes the person approved under that section.”

The Superannuation Act 1972 (c. 11)

- 7 In Schedule 1 to the Superannuation Act 1972 (kinds of employment to which a scheme under section 1 of that Act may apply) at the end of the list of “Royal Commissions and other Commissions” insert—
- “Criminal Cases Review Commission.”

The Juries Act 1974 (c. 23)

- 8 In Part I of Schedule 1 to the Juries Act 1974 (persons ineligible for jury service), in Group B, after the entry beginning “Members of the Parole Board” insert—
“Members and employees of the Criminal Cases Review Commission.”

The Juries (Northern Ireland) Order 1974 (S.I. 1974/2143 (N.I.6))

- 9 In Schedule 2 to the Juries (Northern Ireland) Order 1974 (exemptions from jury service), in the group headed “Persons concerned with administration of justice”, at the end insert—
“Members and employees of the Criminal Cases Review Commission.”

The House of Commons Disqualification Act 1975 (c. 24)

- 10 In the House of Commons Disqualification Act 1975, in Part II of Schedule 1 (bodies of which all members are disqualified), at the appropriate place insert—
“The Criminal Cases Review Commission”.

The Northern Ireland Assembly Disqualification Act 1975 (c. 25)

- 11 In the Northern Ireland Assembly Disqualification Act 1975, in Part II of Schedule 1 (bodies of which all members are disqualified), at the appropriate place insert—
“The Criminal Cases Review Commission”.

The Criminal Appeal (Northern Ireland) Act 1980 (c. 47)

- 12 (1) The Criminal Appeal (Northern Ireland) Act 1980 shall be amended as follows.
(2) In section 16 (notice of appeal or application for leave), in subsection (1), omit “appeal or”.
(3) In section 25 (evidence), in subsection (1), after “purposes of” insert “an appeal under”.
(4) In section 26 (additional powers of Court), in subsection (1), after “purposes of” insert “an appeal under”.
(5) In section 29 (computation of sentence), in subsection (3)(c), for “section 14 of this Act” substitute “section 10 of the Criminal Appeal Act 1995”.
(6) In section 45 (powers of the Court of Appeal exercisable by single judge), after subsection (3A) insert—
“(3B) Subject to section 44(4) above, the power of the Court of Appeal to approve a person under section 47A of this Act may be exercised by a single judge of the Court.”

The County Courts (Northern Ireland) Order 1980 (S.I. 1980/397 (N.I.3))

- 13 In Article 28(3) of the County Courts (Northern Ireland) Order 1980 (power of county court to increase punishment on appeal), after “1954” insert “but subject to section 12(6) of the Criminal Appeal Act 1995”.

Status: This is the original version (as it was originally enacted).

The Supreme Court Act 1981 (c. 54)

- 14 In section 48 of the Supreme Court Act 1981 (appeals to Crown Court), in subsection (4) (power to award more severe punishment), for “If” substitute “Subject to section 11(6) of the Criminal Appeal Act 1995, if”.

The Prosecution of Offences Act 1985 (c. 23)

- 15 In section 21(1) of the Prosecution of Offences Act 1985 (interpretation of Part II), before the definition of “defendant’s costs order” insert—
- ““accused” and “appellant”, in a case where section 44A of the Criminal Appeal Act 1968 (death of convicted person) applies, include the person approved under that section;”.

The Criminal Justice Act 1988 (c. 33)

- 16 (1) The Criminal Justice Act 1988 shall be amended as follows.
- (2) In section 32 (evidence through television links), in subsection (1A) (proceedings where section applies)—
- (a) in paragraph (a), for “section 17 of the Criminal Appeal Act 1968” substitute “section 9 of the Criminal Appeal Act 1995”, and
 - (b) in paragraph (b), for “and appeals to the Crown Court arising out of such proceedings” substitute “, appeals to the Crown Court arising out of such proceedings and hearings of references under section 11 of the Criminal Appeal Act 1995 so arising”.
- (3) In section 32A (video recordings of testimony from child witnesses), in subsection (1) (proceedings where section applies)—
- (a) in paragraph (b), for “section 17 of the Criminal Appeal Act 1968” substitute “section 9 of the Criminal Appeal Act 1995”, and
 - (b) in paragraph (c), for “and appeals to the Crown Court arising out of such proceedings” substitute “, appeals to the Crown Court arising out of such proceedings and hearings of references under section 11 of the Criminal Appeal Act 1995 so arising”.
- (4) In section 133 (compensation for miscarriages of justice), in subsection (5) (meaning of “reversed” in relation to a conviction), in paragraph (b) (references), for sub-paragraph (i) substitute—
- “(i) under the Criminal Appeal Act 1995; or”,
- and omit sub-paragraph (iii).

The Legal Aid Act 1988 (c. 34)

- 17 In section 21 of the Legal Aid Act 1988 (availability of representation for the purposes of criminal proceedings), after subsection (10) insert—
- “(10A) Where section 44A of the Criminal Appeal Act 1968 (death of convicted person) applies, the reference in subsection (1) above to the convicted person shall be construed as a reference to the person approved under that section.”

The Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I.12))

- 18 (1) The Police and Criminal Evidence (Northern Ireland) Order 1989 shall be amended as follows.
- (2) In Article 81 (evidence through television links), in paragraph (1A) (proceedings where Article applies)—
- (a) in sub-paragraph (a), for “section 14 of the Criminal Appeal (Northern Ireland) Act 1980” substitute “section 10 of the Criminal Appeal Act 1995”, and
 - (b) in sub-paragraph (b), for “and appeals to the county court arising out of such proceedings” substitute “, appeals to the county court arising out of such proceedings and hearings of references under section 12 of the Criminal Appeal Act 1995 so arising”.
- (3) In Article 81A (video recordings of testimony from child witnesses), in paragraph (1) (proceedings where Article applies)—
- (a) in sub-paragraph (b), for “section 14 of the Criminal Appeal (Northern Ireland) Act 1980” substitute “section 10 of the Criminal Appeal Act 1995”, and
 - (b) in sub-paragraph (c), for “and appeals to the county court arising out of such proceedings” substitute “, appeals to the county court arising out of such proceedings and hearings of references under section 12 of the Criminal Appeal Act 1995 so arising”.

The Criminal Justice and Public Order Act 1994 (c. 33)

- 19 In section 51 of the Criminal Justice and Public Order Act 1994 (intimidation etc. of witnesses, jurors and others), in subsection (9), in the definition of “the relevant period”, for “reference under section 17 of the Criminal Appeal Act 1968” substitute “a reference under section 9 or 11 of the Criminal Appeal Act 1995”.