



# Homicide Act 1957

## 1957 CHAPTER 11

### PART II

#### LIABILITY TO DEATH PENALTY

#### **5 Death penalty for certain murders**

- (1) Subject to subsection (2) of this section, the following murders shall be capital murders, that is to say.—
  - (a) any murder done in the course or furtherance of theft;
  - (b) any murder by shooting or by causing an explosion; 2
  - (c) any murder done in the course or for the purpose of resisting or avoiding or preventing a lawful arrest, or of effecting or assisting an escape or rescue from legal custody,
  - (d) any murder of a police officer acting in the execution of his duty or of a person assisting a police officer so acting;
  - (e) in the case of a person who was a prisoner at the time when he did or was a party to the murder, any murder of a prison officer acting in the execution of his duty or of a person assisting a prison officer so acting.
- (2) If, in the case of any murder falling within the foregoing subsection, two or more persons are guilty of the murder, it shall be capital murder in the case of any of them who by his own act caused the death of, or inflicted or attempted to inflict grievous bodily harm on, the person murdered, or who himself used force on that person in the course or furtherance of an attack on him; but the murder shall not be capital murder in the case of any other of the persons guilty of it.
- (3) Where it is alleged that a person accused of murder is guilty of capital murder, the offence shall be charged as capital murder in the indictment, and if a person charged with capital murder is convicted thereof, he shall be liable to the same punishment for the murder as heretofore.
- (4) In this Act " capital murder " means capital murder within subsections (1) and (2) of this section.

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*Status: This is the original version (as it was originally enacted).*

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(5) In this section—

- (a) " police officer " means a constable who is a member of a police force or a special constable appointed under any Act of Parliament, and " police force " has the same meaning as in section thirty of the Police Pensions Act, 1921 (as amended by the Police Act, 1946) or, as regards Scotland, the same meaning as in section forty of the Police (Scotland) Act, 1956;
- (b) " prison " means any institution for which rules may be made under the Prison Act, 1952, or the Prisons (Scotland) Act, 1952, and any establishment under the control of the Admiralty or the Secretary of State where persons may be required to serve sentences of imprisonment or detention passed under the Naval Discipline Act, the Army Act, 1955, or the Air Force Act, 1955;
- (c) " prison officer " includes any member of the staff of a prison;
- (d) " prisoner " means a person who is undergoing imprisonment or detention in a prison, whether under sentence or not, or who, while liable to imprisonment or detention in a prison, is unlawfully at large;
- (e) " theft " includes any offence which involves stealing or is done with intent to steal.

## **6 Death penalty for repeated murders**

- (1) A person convicted of murder shall be liable to the same punishment as heretofore, if before conviction of that murder he has, whether before or after the commencement of this Act, been convicted of another murder done on a different occasion (both murders having been done in Great Britain).
- (2) Where a person is charged with the murder of two or more persons, no rule of practice shall prevent the murders being charged in the same indictment or (unless separate trials are desirable in the interests of justice) prevent them being tried together; and where a person is convicted of two murders tried together (but done on different occasions), subsection (1) of this section shall apply as if one conviction had preceded the other.

## **7 Abolition of death penalty for other murders**

No person shall be liable to suffer death for murder in any case not falling within section five or six of this Act.

## **8 Courts-martial**

- (1) The foregoing provisions of this Part of this Act shall not have effect in relation to courts-martial, but a person convicted by a court-martial of murder (or of an offence corresponding thereto under section seventy of the Army Act, 1955, or of the Air Force Act, 1955) shall not be liable to suffer death, unless he is charged with and convicted of committing the offence under circumstances which, if he had committed it in England, would make him guilty of capital murder.
- (2) An accused so charged before a court-martial under the Naval Discipline Act may, on failure of proof of the offence having been committed under such circumstances as aforesaid, be found guilty of the murder as not having been committed under such circumstances.

## **9 Punishment for murders not punishable with death, and other consequential provisions**

- (1) Where a court (including a court-martial) is precluded by this Part of this Act from passing sentence of death, the sentence shall be one of imprisonment for life.
- (2) Accordingly paragraph (a) of subsection (3) of section seventy of the Army Act, 1955, and of the Air Force Act, 1955, and the first paragraph of section forty-five of the Naval Discipline Act, shall each be amended by the addition, at the end of the paragraph, of the words " or, in a case of murder not falling within section eight of the Homicide Act, 1957, imprisonment for life ".
- (3) In section fifty-three of the Children and Young Persons Act, 1933, and in section fifty-seven of the Children and Young Persons (Scotland) Act, 1937, there shall be substituted for subsection (1)—
  - “(1) Sentence of death shall not be pronounced on or recorded against a person convicted of an offence who appears to the court to have been under the age of eighteen years at the time the offence was committed, nor shall any such person be sentenced to imprisonment for life under section nine of the Homicide Act, 1957; but in lieu thereof the court shall (notwithstanding anything in this or any other Act) sentence him to be detained during Her Majesty's pleasure, and if so sentenced he shall be liable to be detained in such place and under such conditions as the Secretary of State may direct.”
- (4) The provisions of the First Schedule to this Act shall have effect with respect to procedural and other matters arising out of sections five to seven of this Act, and with respect to the convictions which may be taken into account under section six.