

SCHEDULES

SECOND SCHEDULE

MODIFICATIONS OF ACT IN RELATION TO NORTHERN IRELAND

PART II

SPECIFIC MODIFICATIONS

Section one

At the end of subsection (1) there shall be added the following paragraph:—

- “(c) from any decision of the Court of Appeal in a criminal cause or matter upon a case stated by a county court or a magistrates' court”.

Section four

(1) For subsection (2) there shall be substituted the following subsection:—

- “(2) Without prejudice to any other power of the Supreme Court or a judge thereof to grant bail, a person seeking to appeal from the Court of Appeal or the Divisional Court of the Queen's Bench Division under section one of this Act may be admitted to bail by the court below pending the appeal; and in relation to any recognizances to be entered into under section three of the Summary Jurisdiction Act, 1857, or under section twenty-six of the Summary Jurisdiction and Criminal Justice Act (Northern Ireland), 1935, any reference in those sections to the judgment of the Court of Appeal shall be construed as including a reference to the judgment of the House of Lords or, if the case is remitted by that House to the Court of Appeal, to the judgment of that court on the case as so remitted.”

(2) In subsection (3) the reference to the Divisional Court shall include a reference to the Court of Appeal.

Section five

In subsection (4), for any reference to any provision of the Mental Health Act, 1959, there shall be substituted a reference to the corresponding provision of the enactments for the time being in force in Northern Ireland with respect to prisoners or other persons suffering from mental illness or other mental disorder.

Section six

In subsection (2) for references to section forty-five of the Prison Act, 1952, there shall be substituted references to the Second Schedule to the Prison Act (Northern Ireland) 1953.

Status: This is the original version (as it was originally enacted).

Section eight

- (1) In subsection (1), the words from " and subsection (3)" to " the said section ten" shall be omitted, and for subsection (2) there shall be substituted the following subsection:

“(2) The fees of any counsel, and the expenses and fees of any solicitor, assigned to a defendant by virtue of subsection (1) of this section, in either case up to an amount allowed by the House of Lords or by such officer or officers of that House as may be prescribed by order of that House, shall be paid by the Ministry of Home Affairs.”

- (2) In subsection (3), for any reference to an order for the payment out of local funds of any sums referred to in that section there shall be substituted a reference to an order for payment by the Ministry of Home Affairs of such sums.

- (3) After subsection (3) there shall be inserted the following subsection:—

“(3A) Where an appeal to the House of Lords from the Court of Criminal Appeal in Northern Ireland under section one of this Act is determined in favour of the defendant, the House of Lords may, if it thinks fit, order the payment by the Ministry of Home Affairs of such sums as appear to the House reasonably sufficient to compensate the defendant for any expenses properly incurred by him—

- (a) in the appeal to the House of Lords or in the proceedings before the Court of Criminal Appeal, as the case may be (including the cost of any application for leave to appeal); or
- (b) in carrying on his defence before the court of assize or county court, at the preliminary investigation and before any other court of assize or county court before which proceedings for the offence in respect of which he was committed for trial were begun but not concluded.”

- (4) In subsection (4), the words from "and section four" to " that House) " shall be omitted.

- (5) For subsection (5) there shall be substituted the following subsection :—

“(5) Where the Court of Criminal Appeal or the House of Lords orders the payment of costs by the defendant under this section, the order shall be enforceable in the same manner as an order for payment of costs made by the High Court in a civil case.”

Section nine

For subsection (2) there shall be substituted the following subsection :—

“(2) Without prejudice to the power to make rules of court under section sixty-one of the Supreme Court of Judicature Act (Ireland), 1877, any such rules may be made—

- (a) for determining the cases in which the powers of the Divisional Court or Court of Appeal under this Act may be exercised by a judge thereof;
- (b) for prescribing the persons before whom and the manner in which a recognizance shall be entered into, or other security given, where bail is granted to a person under section four or section five of this Act pending an appeal under section one of this Act from the decision of a Divisional Court or the

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

Court of Appeal, and the manner in which any such recognizance or security may be enforced ; and

- (c) for authorising the recommittal of any person to whom bail is so granted”.

Section twelve

For paragraph (b) of subsection (1) there shall be substituted the following paragraph:—

- “(b) where the proceedings are brought under the law for the time being in force in Northern Ireland with respect to the care or custody of, or to the property and affairs of, persons suffering from mental illness or other mental disorder;”.

Section thirteen

- (1) In subsection (2), for paragraphs (a) to (c) there shall be substituted the following paragraphs:—

- “(a) from an order or decision of any inferior court (including a county court) or of a single judge of the High Court, or of any court having the powers of the High Court or a judge of that Court, to the Court of Appeal;
- (b) from an order or decision of the Court of Appeal (including a decision of that court on an appeal under this section) and from an order or decision of a Divisional Court, the Court of Criminal Appeal or the Courts-Martial Appeal Court, to the House of Lords.”

- (2) For subsection (5) there shall be substituted the following subsection:—

- “(5) In this section ' court' includes any tribunal or person having power to punish for contempt; and references in this section to an order or decision of a court in the exercise of jurisdiction to punish for contempt include references—
- (a) to an order or decision of the High Court or a county court under any enactment enabling that court to deal with an offence as if it were contempt of court;
- (b) to an order or decision of a county court under section fifty-seven or section one hundred and forty-one of the County Courts Act (Northern Ireland), 1959 ;
- (c) to an order or decision of a magistrates' court under subsection (2) of section thirty-four of the Summary Jurisdiction Act, 1879, or under any corresponding enactment for the time being in force in Northern Ireland, but do not include references to orders under section six or section six A of the Debtors Act (Ireland), 1872, under any provision of the Summary Jurisdiction Acts (Northern Ireland) or the County Courts Act (Northern Ireland), 1959, except those referred to in paragraphs (b) and (c) of this subsection and except sections seventy-one and one hundred and forty of the last-mentioned Act so far as those sections confer jurisdiction in respect of contempt of court.”

Section fourteen

- (1) In subsection (2) the words from " and no such application " to the end of the subsection shall be omitted.

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

- (2) In subsection (3) for any reference to a provision of the Mental Health Act, 1959, there shall be substituted a reference to the corresponding provision of the enactments for the time being in force in Northern Ireland with respect to prisoners or other persons suffering from mental illness or other mental disorder.

Section sixteen

- (1) For any reference to a court of quarter sessions there shall be substituted a reference to a county court.
- (2) In subsection (2), the words from " but in computing " to the end shall be omitted.
- (3) At the end of the section there shall be added the following subsections :—
- “(4) The High Court or a judge thereof may release from custody a person who has been convicted or sentenced by a magistrates' court and has applied to the High Court for a writ of certiorari to remove the proceedings of the magistrates' court into the High Court on his entering into a recognizance, with or without sureties, conditioned for his appearance, within ten days after the judgment of the High Court shall have been given, unless the conviction or sentence is quashed by that judgment.
- (5) The time during which a person is admitted to bail under this section shall not count as any term of imprisonment or detention under his sentence, and any sentence of imprisonment or detention imposed by a magistrates' court or, on appeal, by a county court after the imposition of which a person is so admitted to bail shall be deemed to begin to run or to be resumed as from the date on which he is received under the sentence in the prison or other place where he is to be detained.
- (6) Without prejudice to the power to make rules of court under section sixty-one of the Supreme Court of Judicature Act (Ireland), 1877, any such rules may prescribe the persons before whom and the manner in which a recognizance under subsection (4) of this section shall be entered into by a person applying for a writ of certiorari and the manner in which such a recognizance may be enforced and may authorise the recommittal of persons so applying.”

Section seventeen

- (1) In subsection (3), any reference to a Divisional Court shall include a reference to the Court of Appeal.
- (2) Subsection (5) shall be omitted.