

SCHEDULES

SCHEDULE 6

Mercy and miscarriages of justice

Criminal Appeal Act 1995

5. Amend the Criminal Appeal Act 1995(1) as follows.
- 6.—(1) Amend section 16(2) (assistance in connection with prerogative of mercy) as follows.
 - (2) After subsection (2) insert—

“(2A) Where the Minister in charge of the Department of Justice in Northern Ireland refers to the Commission any matter which arises in the consideration of whether Her Majesty’s prerogative of mercy should be exercised on Her behalf under section 23(2) of the Northern Ireland Act 1998(3) in relation to a conviction and on which the Minister desires the Commission’s assistance, the Commission shall—

 - (a) consider the matter referred, and
 - (b) give to the Minister a statement of their conclusions on it;

and for the purposes of the consideration of whether Her Majesty’s prerogative of mercy should be so exercised, the Commission’s statement shall be treated as conclusive of the matter referred.

(2B) Where in any case the Commission are of the opinion that Her Majesty’s prerogative of mercy should be so exercised, they shall give the Minister reasons for their opinion.”
 - (3) Sub-paragraph (4) below applies if—
 - (a) before the coming into force of this Order the Secretary of State referred a matter to the Commission under section 16(1),
 - (b) immediately before the coming into force of this Order there are still steps to be taken in relation to the matter by the Commission or the Secretary of State, and
 - (c) the matter, had it been referred to the Commission after the coming into force of this Order, would have had to have been referred under section 16(2A) (as inserted by sub-paragraph (2) above).
 - (4) The matter is to be treated as having been referred under section 16(2A) and, accordingly—
 - (a) if the Commission have already given their statement of conclusions to the Secretary of State, the Secretary of State must give the statement to the Minister in charge of the Department of Justice, or
 - (b) if the Commission have not already done so, they must give their statement to the Minister (and not to the Secretary of State),

(1) 1995 c. 35.

(2) Section 16 was amended by Schedule 11 to the Armed Forces Act 2006 (c. 52).

(3) 1998 c. 47.

Status: This is the original version (as it was originally made).

and the Minister must, in accordance with section 16(2A), consider whether Her Majesty's prerogative of mercy should be exercised on Her behalf under section 23(2) of the Northern Ireland Act 1998.

7. In section 24(1)(b) (exceptions from obligations of non-disclosure) after "Secretary of State" insert "or the Department of Justice in Northern Ireland".

8.—(1) Amend Schedule 1 (the Commission) as follows.

(2) In paragraph 6(3) for the "and" after paragraph (c) substitute—

"(ca) giving to the Minister in charge of the Department of Justice in Northern Ireland a statement under section 16(2A)(b), and".

(3) In paragraph 8—

(a) in sub-paragraph (1) after "Secretary of State" insert "and the Department of Justice in Northern Ireland";

(b) after sub-paragraph (3) insert—

"(4) The Department of Justice shall lay before the Northern Ireland Assembly a copy of every report sent to the Department of Justice under sub-paragraph (1).

(5) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(4) applies for the purposes of sub-paragraph (4) in relation to the laying of a copy of a report as it applies in relation to the laying of a statutory document under an enactment."

(4) 1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.