



# Criminal Justice Act 1982

## 1982 CHAPTER 48

An Act to make further provision as to the sentencing and treatment of offenders (including provision as to the enforcement of fines and the standardisation of fines and of certain other sums specified in enactments relating to the powers of criminal courts); to make provision for the prescribing of criteria for the placing and keeping of children in different descriptions of accommodation in community homes; to amend the law of Scotland relating to the mode of trial of certain offences and the recall of witnesses; to amend the law of England and Wales relating to the remand in custody of accused persons and to the grant of bail to persons convicted or sentenced in the Crown Court; to abolish (subject to savings) the right of a person accused in criminal proceedings under the law of England and Wales to make an unsworn statement; and for connected purposes.

[28th October 1982]

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### Extent Information

**E1** Act extends to England and Wales only but for exceptions to this see [s. 81\(2\)-\(13\)](#)

### Modifications etc. (not altering text)

**C1** By [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), [s. 101\(1\)](#), [Sch. 12 para. 23](#); [S.I. 1991/2208](#), [art. 2\(1\)](#), [Sch. 1](#) it is provided (14.10.1991) that in relation to any time before the commencement of [s. 70](#) of that 1991 Act (which came into force on 1.10.1991 by [S.I. 1992/333](#), [art. 2\(2\)](#), [Sch. 2](#)) references in any enactment amended by that 1991 Act, to youth courts shall be construed as references to juvenile courts.

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## PART I

### TREATMENT OF YOUNG OFFENDERS

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

**C2** Pt. I (ss. 1–28) modified by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 123(6), Sch. 8 paras. 11, 16

#### *Custody and detention of persons under 21*

#### **1 General restriction on custodial sentences.**

- (1) Subject to subsection (2) below, no court shall pass a sentence of imprisonment on a person under 21 years of age or commit such a person to prison for any reason.
- (2) Nothing in subsection (1) above shall prevent the committal to prison of a person under 21 years of age who is remanded in custody or committed in custody for trial or sentence.
- (3) No court shall pass a sentence of Borstal training.

[<sup>F1</sup>(3A) Subject to section 53 of the Children and Young Persons Act 1933 (punishment of certain grave crimes), the only custodial orders that a court may make where a person under 21 years of age is convicted or found guilty of an offence are—

- (a) a sentence of detention in a young offender institution under section 1A below, and
- (b) a sentence of custody for life under section 8 below.]

[<sup>F2</sup>(4) A court may not—

- (a) pass a sentence of detention in a young offender institution; or
- (b) pass a sentence of custody for life under section 8(2) below, unless it is satisfied—
  - (i) that the circumstances, including the nature and the gravity of the offence, are such that if the offender were aged 21 or over the court would pass a sentence of imprisonment; and
  - (ii) that he qualifies for a custodial sentence.

(4A) An offender qualifies for a custodial sentence if—

- (a) he has a history of failure to respond to non-custodial penalties and is unable or unwilling to respond to them; or
- (b) only a custodial sentence would be adequate to protect the public from serious harm from him; or
- (c) the offence of which he has been convicted or found guilty was so serious that a non-custodial sentence for it cannot be justified.]

(5) No court shall commit a person under 21 years of age to be detained under section 9 below unless it is of the opinion that no other method of dealing with him is appropriate.

(6) For the purposes of any provision of this Act which requires the determination of the age of a person by the court or the Secretary of State his age shall be deemed to be

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that which it appears to the court or the Secretary of State (as the case may be) to be after considering any available evidence.

#### Textual Amendments

- F1** S. 1(3A) inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 123(2), [Sch. 8 para. 16](#)
- F2** S. 1(4)(4A) substituted for subsection (4) by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 123(3), [Sch. 8 para. 16](#)

#### [<sup>F3</sup>1A Detention in a young offender institution.

- (1) Subject to section 8 below and to section 53 of the Children and Young Persons Act <sup>M1</sup>1933, where—
- (a) a male offender under 21 but not less than 14 years of age or a female offender under 21 but not less than 15 years of age is convicted of an offence which is punishable with imprisonment in the case of a person aged 21 or over; and
  - (b) the court is satisfied of the matters referred to in section 1(4) above.
- the sentence that the court is to pass is a sentence of detention in a young offender institution.
- (2) Subject to section 1B(1) and (2) below, the maximum term of detention in a young offender institution that a court may impose for an offence is the same as the maximum term of imprisonment that it may impose for that offence.
- (3) Subject to subsection (4) below and section 1B(3) below, a court shall not pass a sentence for an offender's detention in a young offender institution for less than 21 days.
- (4) A court may pass a sentence of detention in a young offender institution for less than 21 days for an offence under section 15(11) below.
- (5) Subject to section 1B(4) below, where—
- (a) an offender is convicted of more than one offence for which he is liable to a sentence of detention in a young offender institution; or
  - (b) an offender who is serving a sentence of detention in a young offender institution is convicted of one or more further offences for which he is liable to such a sentence.

the court shall have the same power to pass consecutive sentences of detention in a young offender institution as if they were sentences of imprisonment.

- (6) Where an offender who—
- (a) is serving a sentence of detention in a young offender institution, and
  - (b) is aged over 21 years.
- is convicted of one or more further offences for which he is liable to imprisonment, the court shall have the power to pass one or more sentences of imprisonment to run consecutively upon the sentence of detention in a young offender institution.]

#### Textual Amendments

- F3** Ss. 1A–1C inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 123(4), [Sch. 8 para. 16](#)

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### Marginal Citations

**M1** 1933 c.12(20).

### [<sup>F4</sup>1B Special provision for offenders under 17.

- (1) In the case of a male offender under 15 the maximum term of detention in a young offender institution that a court may impose is whichever is the lesser of—
  - (a) the maximum term of imprisonment the court may impose for the offence; and
  - (b) 4 months.
- (2) In the case of an offender aged 15 or 16 the maximum term of detention in a young offender institution that a court may impose is whichever is the lesser of—
  - (a) the maximum term of imprisonment the court may impose for the offence; and
  - (b) 12 months.
- (3) Where an offender is a female under 17 a court shall not pass a sentence for her detention in a young offender institution whose effect would be that she would be sentenced to a total term of four months or less.
- (4) A court shall not pass a sentence of detention in a young offender institution on an offender whose effect would be that the offender would be sentenced to a total term which exceeds—
  - (a) if the offender is male and under 15, 4 months; and
  - (b) if the offender is aged 15 or 16, 12 months.
- (5) Where the total term of detention in a young offender institution to which an offender is sentenced exceeds—
  - (a) in the case of a male offender under 15, 4 months; and
  - (b) in the case of an offender aged 15 or 16, 12 months,
 so much of the term as exceeds 4 or 12 months, as the case may be, shall be treated as remitted.
- (6) In this section “total term” means—
  - (a) in the case of an offender sentenced (whether or not on the same occasion) to two or more terms of detention in a young offender institution which are consecutive or wholly or partly concurrent, the aggregate of those terms;
  - (b) in the case of any other offender, the term of the sentence of detention in a young offender institution in question.]

### Textual Amendments

**F4** Ss. 1A–1C inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 123(4), [Sch. 8 para. 16](#)

### [<sup>F5</sup>1C Accommodation of offenders sentenced to detention in a young offender institution.

- (1) Subject to section 22(2)(b) of the Prison Act <sup>M2</sup>1952 (removal to hospital etc.), an offender sentenced to detention in a young offender institution shall be detained in such an institution unless a direction under this section is in force in relation to him.

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- (2) The Secretary of State may from time to time direct that an offender sentenced to detention in a young offender institution shall be detained in a prison or remand centre instead of a young offender institution, but if he is<sup>[F6]</sup>under 18] at the time of the direction, only for a temporary purpose.]

#### Textual Amendments

- F5** Ss. 1A–1C inserted by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 123(4), **Sch. 8 para. 16**  
**F6** Words in s. 1C(2) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 63(4), (with Sch. 12 para. 17); S.I. 1992/333, art. 2(2), **Sch.2**

#### Marginal Citations

- M2** 1952 c.52(39:1).

### [<sup>F77</sup>1C Accommodation of offenders sentenced to detention in a young offender institution. **E+W**

- (1) Subject to section 22(2)(b) of the Prison Act <sup>M142</sup>1952 (removal to hospital etc.), an offender sentenced to detention in a young offender institution shall be detained in such an institution unless a direction under this section is in force in relation to him.
- (2) The Secretary of State may from time to time direct that an offender sentenced to detention in a young offender institution shall be detained in a prison or remand centre instead of a young offender institution, but if he is under 17 at the time of the direction, only for a temporary purpose.]

#### Textual Amendments

- F77** Ss. 1A–1C inserted by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 123(4), **Sch. 8 para. 16**

#### Marginal Citations

- M142** 1952 c.52(39:1).

## 2 Social inquiry reports etc.

- (1) For the purpose of determining whether there is any appropriate method of dealing with a person under 21 years of age other than a method whose use in the case of such a person is restricted by section 1(4) or (5) above the court shall obtain and consider information about the circumstances and shall take into account any information before the court which is relevant to his character and his physical and mental condition.
- (2) Subject to subsection (3) below, the court shall in every case obtain a social inquiry report for the purpose of determining whether there is any appropriate method of dealing with a person other than a method whose use is restricted by section 1(4) above.
- (3) Subsection (2) above does not apply if, in the circumstances of the case, the court is of the opinion that it is unnecessary to obtain a social inquiry report.

[<sup>F7</sup>(4) Where—

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- (a) The Crown Court passes a sentence of detention in a young offender institution or a sentence of custody for life under section 8(2) below, or
  - (b) a magistrates' court passes a sentence of detention in a young offender institution.
- it shall be its duty—
- (i) to state in open court that it is satisfied that he qualifies for a custodial sentence under one or more of the paragraphs of section 1(4A) above, the paragraph or paragraphs in question and why it is so satisfied, and
  - (ii) to explain to the offender in open court and in ordinary language why it is passing a custodial sentence on him.]
- (5) Where a magistrates' court deals with a person under 21 years of age by a method whose use in the case of such a person is restricted by section 1(5) above, it shall state in open court the reason for its opinion that no other method of dealing with him is appropriate.
- (6) Where a magistrates' court deals with a person under 21 years of age by a method whose use in the case of such a person is restricted by section 1(4) above without obtaining a social inquiry report, it shall state in open court the reason for its opinion that it was unnecessary to obtain such a report.
- (7) A magistrates' court shall cause a reason stated under subsection (4), (5) or (6) above to be specified in the warrant of commitment and to be entered in the register.
- (8) No sentence or order shall be invalidated by the failure of a court to comply with subsection (2) above, but any other court on appeal from that court shall obtain a social inquiry report if none was obtained by the court below, unless it is of the opinion that in the circumstances of the case it is unnecessary to do so.
- (9) In determining whether it should deal with the appellant by a method different from that by which the court below dealt with him the court hearing the appeal shall consider any social inquiry report obtained by it or by the court below.
- (10) In this section "social inquiry report" means a report about a person and his circumstances made by a probation officer or by a social worker of a local authority social services department.

#### Textual Amendments

**F7** S. 2(4) substituted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 123(5), **Sch. 8 para. 16**

### **3 Restriction on imposing custodial sentences on persons under 21 not legally represented.**

- (1) A magistrates' court on summary conviction or the Crown Court on committal for sentence or on conviction on indictment shall not—
- (a) make a detention centre order under section 4 below;
  - (b) pass a youth custody sentence under section 6 below;
  - (c) pass a sentence of custody for life under section 8(2) below; or
  - (d) make an order for detention under section 53(2) of the <sup>M3</sup>Children and Young Persons Act 1933.

in respect of or on a person who is not legally represented in that court, unless either—

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- (i) he applied for legal aid and the application was refused on the ground that it did not appear his means were such that he required assistance; or
  - (ii) having been informed of his right to apply for legal aid and had the opportunity to do so, he refused or failed to apply.
- (2) For the purposes of this section a person is to be treated as legally represented in a court if, but only if, he has the assistance of counsel or a solicitor to represent him in the proceedings in that court at some time after he is found guilty and before he is sentenced, and in subsection (1)(i) and (ii) above “legal aid” means legal aid for the purposes of proceedings in that court, whether the whole proceedings or the proceedings on or in relation to sentence; but in the case of a person committed to the Crown Court for sentence or trial, it is immaterial whether he applied for legal aid in the Crown Court to, or was informed of his right to apply by, that court or the court which committed him.

**Marginal Citations**

M3 1933 c. 12.

4—7. .... F8

**Textual Amendments**

F8 Ss. 4–7 repealed by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 170, Sch. 8 para. 16, Sch. 16

**8 Custody for life.**

- (1) Where a person under the age of 21 is convicted of murder or any other offence the sentence for which is fixed by law as imprisonment for life, the court shall sentence him to custody for life unless he is liable to be detained under section 53(1) of the <sup>M4</sup>Children and Young Persons Act 1933 (detention of persons under 18 convicted of murder).
- (2) Where a person aged 17 years or over but under the age of 21 is convicted of any other offence for which a person aged 21 years or over would be liable to imprisonment for life, the court shall, if it considers that a custodial sentence for life would be appropriate, sentence him to custody for life.

**Marginal Citations**

M4 1933 c. 12.

**9 Detention of persons aged 17 to 20 for default or contempt.**

- (1) In any case where, but for section 1(1) above, a court would have power—
  - (a) to commit a person under 21 but not less than 17 years of age to prison for default in payment of a fine or any other sum of money; or
  - (b) to make an order fixing a term of imprisonment in the event of such a default by such a person; or

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(c) to commit such a person to prison for contempt of court or any kindred offence,

the court shall have power, subject to section 1(5) above, to commit him to be detained under this section or, as the case may be, to make an order fixing a term of detention under this section in the event of default, for a term not exceeding the term of imprisonment.

(2) For the purposes of subsection (1) above, the power of a court to order a person to be imprisoned under section 23 of the <sup>M5</sup>Attachment of Earnings Act 1971 shall be taken to be a power to commit him to prison.

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

**C3** S. 9 restricted by [Drug Trafficking Offences Act 1986 \(c. 32, SIF 39:1\)](#), s. 6(2)(b)(6)

**C4** S. 9 modified by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 75(3), [Sch. 8 para. 16](#)

**Marginal Citations**

**M5** 1971 c. 32.

## 10 Computation of custodial sentences for young offenders.

The following subsections shall be added at the end of section 67 of the <sup>M6</sup>Criminal Justice Act 1967 (reduction of custodial sentence by period already spent in custody)

“(5) This section applies—

(a) to orders made under section 4 of the Criminal Justice Act 1982 (detention centre orders); and

(b) to sentences passed by virtue of section 6 of the Criminal Justice Act 1982 (youth custody sentences),

as it applies to sentences of imprisonment.

(6) The reference in subsection (1) above to an offender being committed to custody by an order of a court includes a reference to his being committed to a remand centre or to prison under section 23 of the Children and Young Persons Act 1969 or section 37 of the Magistrates’ Courts Act 1980 but does not include a reference to his being committed to the care of a local authority under the said section 23.”.

**Marginal Citations**

**M6** 1967 c. 80.

### *Accommodation of young offenders*

## 11 Provision of premises for young offenders etc.

The following section shall be substituted for section 43 of the <sup>M7</sup>Prison Act 1952—



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### “43 Remand centres, detention centres and youth custody centres.

- (1) The Secretary of State may provide—
  - (a) remand centres, that is to say places for the detention of persons not less than 14 but under 21 years of age who are remanded or committed in custody for trial or sentence;
  - (b) detention centres, that is to say places in which male offenders not less than 14 but under 21 years of age who are ordered to be detained in such centres under the Criminal Justice Act 1982 may be kept for short periods under discipline suitable to persons of their age and description; and
  - (c) youth custody centres, that is to say places in which offenders not less than 15 but under 21 years of age may be detained and given training, instruction and work and prepared for their release.
- (2) The Secretary of State may from time to time direct—
  - (a) that a woman aged 21 years or over who is serving a sentence of imprisonment or who has been committed to prison for default shall be detained in a remand centre or a youth custody centre instead of a prison;
  - (b) that a woman aged 21 years or over who is remanded in custody or committed in custody for trial or sentence shall be detained in a remand centre instead of a prison;
  - (c) that a person under 21 but not less than 17 years of age who is remanded in custody or committed in custody for trial or sentence shall be detained in a prison instead of a remand centre or a remand centre instead of a prison, notwithstanding anything in section 27 of the Criminal Justice Act 1948 or section 23(3) of the Children and Young Persons Act 1969.
- (3) Notwithstanding subsection (1) above, any person required to be detained in an institution to which this Act applies may be detained in a remand centre for any temporary purpose or for the purpose of providing maintenance and domestic services for that centre.
- (4) Sections 5A, 6(2) and (3), 16, 22, 25 and 36 of this Act shall apply to remand centres, detention centres and youth custody centres and to persons detained in them as they apply to prisons and prisoners.
- (5) The other provisions of this Act preceding this section, except sections 28 and 37(2) above, shall apply to such centres and to persons detained in them as they apply to prisons and prisoners, but subject to such adaptations and modifications as may be specified in rules made by the Secretary of State.
- (6) References in the preceding provisions of this Act to imprisonment shall, so far as those provisions apply to institutions provided under this section, be construed as including references to detention in those institutions.
- (7) Nothing in this section shall be taken to prejudice the operation of section 12 of the Criminal Justice Act 1982.”

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### Marginal Citations

M7 1952 c. 52.

## 12 Accommodation of young offenders and defaulters etc.

- (1) ..... F9
- (6) Subject—
- (a) to subsection (7) below, and
  - (b) to the enactments mentioned in subsection (11) below,
- an offender sentenced to custody for life is to be detained in a prison.
- (7) The Secretary of State may from time to time direct that an offender sentenced to custody for life—
- (a) who is female; or
  - (b) who is male and under 22 years of age,
- is to be detained in a youth custody centre instead of a prison.
- (8) ..... F10
- (10) A person in respect of whom an order had been made under section 9 above is to be detained—
- (a) in a remand centre;
  - (b) in a detention centre;
  - (c) in a youth custody centre; or
  - (d) in any place in which a person aged 21 years or over could be imprisoned or detained for default in payment of a fine or any other sum of money,
- as the Secretary of State may from time to time direct.
- (11) This section is without prejudice—
- (a) to section 22(2)(b) of the <sup>M8</sup>Prison Act 1952 (removal to hospital etc.); and
  - (b) to section 43(3) of that Act (detention in remand centre for a temporary purpose or for the purpose of providing maintenance and domestic services).

### Textual Amendments

**F9** S. 12(1)–(5) repealed by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 170, Sch. 8 para. 16, **Sch. 16**

**F10** S. 12(8)(9) repealed by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 170, Sch. 8 para. 16, **Sch. 16**

### Marginal Citations

M8 1952 c. 52.

### *Provisions supplementary to sections 1 to 12*

## 13 Conversion of sentence of youth custody to sentence of imprisonment.

- (1) Subject to subsection (3) below, where—

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- (a) an offender has been sentenced to a term of youth custody; and
  - (b) either—
    - (i) he has attained the age of 21 years; or
    - (ii) the conditions specified in subsection (2) below are satisfied in relation to him,
- the Secretary of State may direct that he shall be treated as if he had been sentenced to imprisonment for the same term.
- (2) The conditions mentioned in subsection (1) above are—
    - (a) that the offender has attained the age of 18 years; and
    - (b) that he has been reported to the Secretary of State by the board of visitors of the institution in which he is detained as exercising a bad influence on the other inmates of the institution or as behaving in a disruptive manner to the detriment of those inmates.
  - (3) An offender who by virtue of this section falls to be treated as if he had been sentenced to imprisonment instead of youth custody is not to be so treated for the purposes of section 15 below.
  - (4) Where the Secretary of State gives a direction under subsection (1) above in relation to an offender, the portion of the term of youth custody imposed by the youth custody sentence which he has already served shall be deemed to have been a portion of a term of imprisonment.
  - (5) Rules under section 47 of the <sup>M9</sup>Prison Act 1952 may provide that any award for an offence against discipline made in respect of an offender serving a youth custody sentence shall continue to have effect after a direction under subsection (1) above has been given in relation to him.

**Marginal Citations**

**M9** 1952 c. 52.

**14** ..... **F11**

**Textual Amendments**

**F11** S. 14 repealed by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 170, Sch. 8 para. 16, **Sch. 16**

**15 Release of young offenders.**

- (1) Subject to subsection (13) below, if subsection (2), (3) or (4) below applies to a person under 22 years of age who is released from a term of detention under a detention centre order or a term of youth custody, he shall be under the supervision of a probation officer or a social worker of a local authority social services department.
- (2) This subsection applies to a person who was neither granted remission nor released on licence.
- (3) This subsection applies to a person who was granted remission.

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- (4) This subsection applies to a person—
- (a) who was under 21 years of age when sentence was passed on him; and
  - (b) who is released on licence; and
  - (c) whose licence expires less than 12 months after his release.
- (5) The supervision period ends on the offender’s 22nd birthday if it has not ended before.
- (6) Subject to subsection (5) above, where subsection (2) above applies, the supervision period begins on the offender’s release and ends 3 months from his release.
- (7) Subject to subsection (5) above and to subsection (9) below, where subsection (3) above applies, the supervision period begins on the offender’s release and ends—
- (a) 3 months from his release; or
  - (b) on the date on which his sentence would have expired if he had not been granted remission,
- whichever is the later.
- (8) Subject to subsection (5) above and to subsection (9) below, where subsection (4) above applies, the supervision period begins when the offender’s licence expires and ends on the date on which he would have been released if he had never been granted remission or released on licence.
- (9) if the date mentioned in subsection (7)(b) or (8) above is more than 12 months from the date of the offender’s release, the supervision period ends 12 months from the date of his release.
- (10) While a person is under supervision by virtue of this section, he shall comply with such requirements, if any, as may for the time being be specified in a notice from the Secretary of State.
- (11) A person who without reasonable excuse fails to comply with a requirement imposed under subsection (10) above shall be guilty of an offence and liable on summary conviction—
- (a) to a fine not exceeding [<sup>F12</sup>level 3 on the standard scale]; or
  - (b) to an appropriate custodial sentence for a period not exceeding 30 days [<sup>F13</sup>but not liable to be dealt with in any other way].
- (12) In subsection (11) above “appropriate custodial sentence” means—
- (a) a sentence of imprisonment, if the offender has attained the age of 21 years when he is sentenced; and
  - (b) a detention centre order or a youth custody sentence, if he has not then attained that age.
- (13) A person released from a custodial sentence passed under subsection (11) above shall not be liable to a period of supervision in consequence of his conviction under that subsection, but his conviction shall not prejudice any liability to supervision to which he was previously subject, and that liability shall accordingly continue until the end of the supervision period.
- (14) In this section—
- “licence” means a licence under section 60 of the <sup>M10</sup>Criminal Justice Act 1967; and

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“remission” means remission under rules made by virtue of section 47 of the <sup>M11</sup>Prison Act 1952.

#### Textual Amendments

- F12** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#)  
**F13** Words added as provided by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\), s. 170, Sch. 8 para. 16, Sch. 15 para. 90](#)

#### Marginal Citations

- M10** 1967 c. 80.  
**M11** 1952 c. 52.

### *Attendance centres*

## 16 Provision, regulation and management of attendance centres.

- (1) The Secretary of State may continue to provide attendance centres.
- (2) in this Act “attendance centre” means a place at which offenders under 21 years of age may be required to attend and be given under supervision appropriate occupation or instruction, in pursuance of orders made—
  - (a) by the Crown Court or magistrates’ courts under section 17 below;
  - (b) by juvenile courts or other magistrates’ courts under section 15(2A) or (4) of the <sup>M12</sup>Children and Young Persons Act 1969 (attendance centre orders made on breach of requirements in supervision orders); or
  - (c) by magistrates’ courts under section 6(3)(c) of the <sup>M13</sup>Powers of Criminal Courts Act 1973 (attendance centre orders made on breach of requirements in probation orders).
- (3) The Secretary of State may by statutory instrument make rules for the regulation and management of attendance centres.
- (4) For the purpose of providing attendance centres the Secretary of State may make arrangements with any local authority or police authority for the use of premises of that authority.
- (5) A draft of any statutory instrument containing rules under this section shall be laid before Parliament.

#### Marginal Citations

- M12** 1969 c. 54.  
**M13** 1973 c. 62.

## 17 Attendance centre orders.

- (1) Subject to subsections (3) and (4) below, where a court—
  - (a) would have power, but for section 1 above, to pass a sentence of imprisonment on a person who is under 21 years of age or to commit such a person to prison

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in default of payment of any sum of money or for failing to do or abstain from doing anything required to be done or left undone; or

- (b) has power to deal with any such person under section 6 of the <sup>M14</sup>Powers of Criminal Courts Act 1973 for failure to comply with any of the requirements of a probation order,

the court may, if it has been notified by the Secretary of state that an attendance centre is available for the reception of persons of his description, order him to attend at such a centre, to be specified in the order, for such number of hours as may be so specified.

- (2) An order under this section is referred to in this Act as an “attendance centre order”.
- (3) No attendance centre order shall be made in the case of an offender who has been previously sentenced—
- (a) to imprisonment;
  - (b) to detention under section 53 of the <sup>M15</sup>Children and Young Persons Act 1933;
  - [<sup>F14</sup>(bb) to detention in a young offender institution]
  - (c) to Borstal training;
  - (d) to youth custody or custody for life under this Act; or
  - (e) to detention in a detention centre,
- unless it appears to the court that there are special circumstances (whether relating to the offence or to the offender) which warrant the making of such an order in his case.
- (4) The aggregate number of hours for which an attendance centre order may require an offender to attend at an attendance centre shall not be less than 12 except where he is under 14 years of age and the court is of opinion that 12 hours would be excessive, having regard to his age or any other circumstances.
- (5) The aggregate number of hours shall not exceed 12 except where the court is of opinion, having regard to all the circumstances, that 12 hours would be inadequate, and in that case shall not exceed 24 where the offender is under 17 years of age, or 36 hours where the offender is under 21 but not less than 17 years of age.
- (6) A court may make an attendance centre order in respect of an offender before a previous attendance centre order made in respect of him has ceased to have effect, and may determine the number of hours to be specified in the order without regard—
- (a) to the number specified in the previous order; or
  - (b) to the fact that that order is still in effect.
- (7) An attendance centre order shall not be made unless the court is satisfied that the attendance centre to be specified in it is reasonably accessible to the person concerned, having regard to his age, the means of access available to him and any other circumstances.
- (8) The times at which an offender is required to attend at an attendance centre shall be such as to avoid interference, so far as practicable, with his school hours or working hours.
- (9) The first such time shall be a time at which the centre is available for the attendance of the offender in accordance with the notification of the Secretary of State and shall be specified in the order.
- (10) The subsequent times shall be fixed by the officer in charge of the centre, having regard to the offender’s circumstances.

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- (11) An offender shall not be required under this section to attend at an attendance centre on more than one occasion on any day, or for more than three hours on any occasion.
- (12) Where a court makes an attendance centre order, the clerk of the court shall deliver or send a copy of the order to the officer in charge of the attendance centre specified in it, and shall also deliver a copy to the offender or send a copy by registered post or the recorded delivery service addressed to the offender's last or usual place of abode.
- (13) Where an offender has been ordered to attend at an attendance centre in default of the payment of any sum of money—
  - (a) on payment of the whole sum to any person authorised to receive it, the attendance centre order shall cease to have effect;
  - (b) on payment of a part of the sum to any such person, the total number of hours for which the offender is required to attend at the centre shall be reduced proportionately, that is to say by such number of complete hours as bears to the total number the proportion most nearly approximating to, without exceeding, the proportion which the part bears to the said sum.

#### Textual Amendments

**F14** S. 17(3)(bb) inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 123, Sch. 8 paras. 10, 16

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

**C5** S. 17 applied with modifications by [Children and Young Persons Act 1969 \(c. 54, SIF 20\)](#), s. 16A (as added by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 128, Sch. 8 para. 16, **Sch. 10 Pt. IV**)

#### Marginal Citations

**M14** 1973 c. 62.

**M15** 1933 c. 12.

## 18 Discharge and variation of attendance centre orders.

- (1) An attendance centre order may be discharged on an application made by the offender or the officer in charge of the relevant attendance centre.
- (2) An application under subsection (1) above shall be made to one of the courts specified in subsection (3) below or to the Crown Court under subsection (4) below, and the discharge of such an order shall be by order of the court.
- (3) Subject to subsection (4) below, the power to discharge an attendance centre order shall be exercised—
  - (a) by a magistrates' court acting for the petty sessions area in which the relevant attendance centre is situated; or
  - (b) by the court which made the order.
- (4) Where the court which made the order is the Crown Court and there is included in the order a direction that the power to discharge the order is reserved to that court, the power shall be exercised by that court.
- (5) An attendance centre order may, on the application of the offender or of the officer in charge of the relevant attendance centre, be varied by a magistrates' court acting for the petty sessions area in which the relevant attendance centre is situated; and an

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attendance centre order made by a magistrates' court may also be varied, on such an application, by that court.

- (6) The power to vary an attendance centre order is a power by order—
- (a) to vary the day or hour specified in the order for the offender's first attendance at the relevant attendance centre; or
  - (b) if the court is satisfied that the offender proposes to change or has changed his residence, to substitute for the relevant attendance centre an attendance centre which the court is satisfied is reasonably accessible to the offender, having regard to his age, the means of access available to him and any other circumstances.
- (7) Where an application is made under this section by the officer in charge of an attendance centre, the court may deal with it without summoning the offender.
- (8) It shall be the duty of the clerk to a court which makes an order under this section—
- (a) to deliver a copy to the offender or send a copy by registered post or the recorded delivery service addressed to the offender's last or usual place of abode; and
  - (b) to deliver or send a copy—
    - (i) if the order is made by virtue of subsection (1) or (6)(a) above, to the officer in charge of the relevant attendance centre; and
    - (ii) if it is made by virtue of subsection (6)(b) above, to the officer in charge of the attendance centre which the order as varied will require the offender to attend.
- (9) In this section "the relevant attendance centre", in relation to an attendance centre order, means the attendance centre specified in the order or substituted for the attendance centre so specified by an order made by virtue of subsection (6)(b) above.

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

**C6** Ss. 18, 19 applied with modifications by [Children and Young Persons Act 1969 \(c. 54, SIF 20\)](#), s. 16A (as added by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 128, Sch. 8 para. 16, [Sch. 10 Pt. IV](#))

**19 Breaches of attendance centre orders or attendance centre rules.**

- (1) Where an attendance centre order has been made and it appears on information to a justice acting for a relevant petty sessions area that the offender—
- (a) has failed to attend in accordance with the order; or
  - (b) while attending has committed a breach of rules made under section 16(3) above which cannot be adequately dealt with under those rules,
- the justice may issue a summons requiring the offender to appear at the place and time specified in the summons before a magistrates' court acting for the area or, if the information is in writing and on oath, may issue a warrant for the offender's arrest requiring him to be brought before such a court.
- (2) for the purposes of this section a petty sessions area is a relevant petty sessions area in relation to an attendance centre order—
- (a) if the attendance centre which the offender is required to attend by an order made by virtue of section 17(1) or 18(6)(b) above is situated in it; or
  - (b) if the order was made by a magistrates' court acting for it.



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- (3) If it is proved to the satisfaction of the magistrates' court before which an offender appears or is brought under this section that he has failed without reasonable excuse to attend as mentioned in paragraph (a) of subsection (1) above or has committed such a breach of rules as is mentioned in paragraph (b) of that subsection, that court—
  - (a) if the attendance centre order was made by a magistrates' court, may revoke it and deal with him, for the offence in respect of which the order was made, in any manner in which he could have been dealt with for that offence by the court which made the order if the order had not been made;
  - (b) if the order was made by the Crown Court, may commit him in custody or release him on bail until he can be brought or appear before the Crown Court.
- (4) A magistrates' court which deals with an offender's case under subsection (3)(b) above shall send to the Crown Court a certificate signed by a justice of the peace giving particulars of the offender's failure to attend or, as the case may be, the breach of the rules which he has committed, together with such other particulars of the case as may be desirable; and a certificate purporting to be so signed shall be admissible as evidence of the failure or the breach before the Crown Court.
- (5) Where by virtue of subsection (3)(b) above the offender is brought or appears before the Crown Court and it is proved to the satisfaction of the court that he has failed to attend as mentioned in paragraph (a) of subsection (1) above or has committed such a breach of rules as is mentioned in paragraph (b) of that subsection, that court may revoke the attendance centre order and deal with him, for the offence in respect of which the order was made, in any manner in which it could have dealt with him for that offence if it had not made the order.
- (6) A person sentenced under subsection (3)(a) above for an offence may appeal to the Crown Court against the sentence.
- (7) In proceedings before the Crown Court under this section, any question whether there has been a failure to attend or a breach of the rules shall be determined by the court and not by the verdict of a jury.

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

C7 Ss. 18, 19 applied with modifications by [Children and Young Persons Act 1969 \(c. 54, SIF 20\)](#), s. 16A (as added by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 128, Sch. 8 para. 16, [Sch. 10 Pt. IV](#))

*Supervision orders*

**20 Requirements in supervision orders.**

- (1) ..... F15
- (2) The following subsection shall be substituted for section 18(4) of the <sup>M16</sup>Children and Young Persons Act 1969 (expenditure incurred by supervisor for purposes of directions under section 12(2) to be defrayed by local authority)—
  - “(4) Where a supervision order—
    - (a) requires compliance with directions given by virtue of section 12(2) of this Act; or

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- (b) includes by virtue of section 12(3C) of this Act a requirement which involves the use of facilities for the time being specified in a scheme in force under section 19 of this Act for an area in which the supervised person resides or will reside,  
any expenditure incurred by the supervisor for the purposes of the directions or requirements shall be defrayed by the local authority whose area is named in the order in pursuance of subsection (2) of this section.”.

#### Textual Amendments

**F15** S. 20(1) repealed by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 170, Sch. 8 para. 16, **Sch. 16**

#### Marginal Citations

**M16** 1969 c. 54.

## 21 Provision of supervision facilities.

- (1) The following section shall be substituted for section 19 of the Children and Young Persons Act 1969—

### **“19 Facilities for the carrying out of supervisors’ directions and requirements included in supervision orders by virtue of section 12(3C).**

- (1) It shall be the duty of a local authority, acting either individually or in association with other local authorities, to make arrangements with such persons as appear to them to be appropriate, for the provision by those persons of facilities for enabling—
- (a) directions given by virtue of section 12(2) of this Act to persons resident in their area; and
  - (b) requirements that may only be included in a supervision order by virtue of section 12(3C) of this Act if they are for the time being specified in a scheme,  
to be carried out effectively.
- (2) The authority or authorities making any arrangements in accordance with subsection (1) of this section shall consult each relevant probation committee as to the arrangements.
- (3) Any such arrangements shall be specified in a scheme made by the authority or authorities making them.
- (4) A scheme shall come into force on a date to be specified in it.
- (5) The authority or authorities making a scheme shall send copies of it to the clerk to the justices for each petty sessions area of which any part is included in the area to which the scheme relates.
- (6) A copy of a scheme shall be kept available at the principal office of every authority who are a party to it for inspection by members of the public at all reasonable hours, and any such authority shall on demand by any person furnish him with a copy of the scheme free of charge.

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- (7) The authority or authorities who made a scheme may at any time make a further scheme altering the arrangements or specifying arrangements to be substituted for those previously specified.
- (8) A scheme which specifies arrangements to be substituted for those specified in a previous scheme shall revoke the previous scheme.
- (9) The powers conferred by subsection (7) of this section shall not be exercisable by an authority or authorities unless they have first consulted each relevant probation committee.
- (10) The authority or authorities who made a scheme shall send to the clerk to the justices for each petty sessions area of which any part is included in the area for which arrangements under this section have been specified in the scheme notice of any exercise of a power conferred by subsection (7) of this section, specifying the date for the coming into force, and giving details of the effect, of the new or altered arrangements, and the new or altered arrangements shall come into force on that date.
- (11) Arrangements shall not be made under this section for the provision of any facilities unless the facilities are approved or are of a kind approved by the Secretary of State for the purposes of this section.
- (12) A supervision order shall not require compliance with directions given by virtue of section 12(2) of this Act unless the court making it is satisfied that a scheme under this section is in force for the area where the supervised person resides or will reside; and no such directions may involve the use of facilities which are not for the time being specified in a scheme in force under this section for that area.
- (13) Subject to subsection (14) of this section, a supervision order may not include by virtue of subsection 12(3C) of this Act—
  - (a) any requirement that would involve the supervised person in absence from home—
    - (i) for more than 2 consecutive nights; or
    - (ii) for more than 2 nights in any one week; or
  - (b) if the supervised person is of compulsory school age, any requirement to participate in activities during normal school hours,  
unless the court making the order is satisfied that the facilities whose use would be involved are for the time being specified in a scheme in force under this section for the area in which the supervised person resides or will reside.
- (14) Subsection (13)(b) of this section does not apply to activities carried out in accordance with arrangements made or approved by the local education authority in whose area the supervised person resides or will reside.
- (15) It shall be the duty of every local authority to ensure that a scheme made by them in accordance with this section, either individually or in association with any other local authority, comes into force for their area not later than 30th April 1983 or such later date as the Secretary of State may allow.
- (16) In this section “relevant probation committee” means a probation committee for an area of which any part is included in the area to which a scheme under this section relates.

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(17) Expressions used in this section and in the Education Act 1944 have the same meanings in this section as in that Act.”

(2) A scheme under section 19 of the <sup>M17</sup>Children and Young Persons Act 1969, as originally enacted, which is in force for an area at the commencement of this section shall continue in force thereafter until the coming into force of the first scheme for that area made under the section substituted for that section by subsection (1) above.

**Marginal Citations**  
M17 1969 c. 54.

*Offences by person subject to care order owing to previous offence*

F16<sup>22</sup> .....

**Textual Amendments**  
F16 S. 22 repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(7), Sch.15 (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, art. 3(2)

*Care orders and children in care*

F17<sup>23</sup> .....

**Textual Amendments**  
F17 S. 23 repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(7), Sch.15 (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, art. 3(2)

F18<sup>24</sup> .....

**Textual Amendments**  
F18 S. 24 repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(7), Sch.15 (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, art. 3(2)

F19<sup>25</sup> .....

**Textual Amendments**  
F19 S. 25 repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(7), Sch. 15 (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, art. 3(2)

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*Sanctions against parents and guardians*

**26 Payment of fines by parents and guardians.**

The following section shall be substituted for section 55 of the <sup>M18</sup>Children and Young Persons Act 1933—

**“55 Power to order parent or guardian to pay fine etc.**

(1) Where—

- (a) a child or young person is convicted or found guilty of any offence for the commission of which a fine or costs may be imposed or a compensation order may be made under section 35 of the powers of Criminal Courts Act 1973; and
- (b) the court is of opinion that the case would best be met by the imposition of a fine or costs or the making of such an order, whether with or without any other punishment,

it shall be the duty of the court to order that the fine, compensation or costs awarded be paid by the parent or guardian of the child or young person instead of by the child or young person himself, unless the court is satisfied—

- (i) that the parent or guardian cannot be found; or
- (ii) that it would be unreasonable to make an order for payment, having regard to the circumstances of the case.

- (2) An order under this section may be made against a parent or guardian who, having been required to attend, has failed to do so, but, save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.
- (3) A parent or guardian may appeal to the Crown Court against an order under this section made by a magistrates’ court.
- (4) A parent or guardian may appeal to the Court of Appeal against an order made under this section by the Crown Court, as if he had been convicted on indictment and the order were a sentence passed on his conviction.”.

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**Marginal Citations**

**M18** 1933 c. 12.

<sup>F20</sup>27 .....

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**Textual Amendments**

**F20** S. 27 repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(7), **Sch. 15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

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## **28 Increase of limit on amount of recognisance to be taken from parents and guardians.**

In section 2(13) of the Children and Young Persons Act 1969 (by virtue of which the maximum amount for which the parent or guardian of a child or a young person can be required by an order under section 1 of that Act to enter into a recognisance to take proper care of and exercise proper control over him is £200), for “£200” there shall be substituted “£500”.

## **PART II**

### PARTIAL SUSPENSION OF SENTENCES, EARLY RELEASE, RELEASE ON LICENCE OR BAIL ETC.

#### *Bail*

## **29 Power of Crown Court to grant bail pending appeal.**

- (1) In section 81 of the <sup>M19</sup>Supreme Court Act 1981—
- (a) in subsection (1) (which lists cases in which the Crown Court may grant bail) at the end of paragraph (e) there shall be added—
- “or
- (f) to whom the Crown Court has granted a certificate under section 1(2) or 11(1A) of the Criminal Appeal Act 1968 or under subsection (1B) below;”;
- (b) the following subsections shall be inserted after that subsection—
- “(1A) The power conferred by subsection (1)(f) does not extend to a case to which section 12 or 15 of the Criminal Appeal Act 1968 (appeal against verdict of not guilty by reason of insanity or against finding of disability) applies.
- (1B) A certificate under this subsection is a certificate that a case is fit for appeal on a ground which involves a question of law alone.
- (1C) The power conferred by subsection (1)(f) is to be exercised—
- (a) where the appeal is under section 1 or 9 of the Criminal Appeal Act 1968, by the judge who tried the case; and
- (b) where it is under section 10 of that Act, by the judge who passed the sentence.
- (1D) The power may only be exercised within twenty-eight days from the date of the conviction appealed against, or in the case of appeal against sentence, from the date on which sentence was passed or, in the case of an order made or treated as made on conviction, from the date of the making of the order.
- (1E) The power may not be exercised if the appellant has made an application to the Court of Appeal for bail in respect of the offence or offences to which the appeal relates.

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- (1F) It shall be a condition of bail granted in the exercise of the power that, unless a notice of appeal has previously been lodged in accordance with subsection (1) of section 18 of the Criminal Appeal Act 1968—
  - (a) such a notice shall be so lodged within the period specified in subsection (2) of that section; and
  - (b) not later than 14 days from the end of that period, the appellant shall lodge with the Crown Court a certificate from the registrar of criminal appeals that a notice of appeal was given within that period.
- (1G) If the Crown Court grants bail to a person in the exercise of the power, it may direct him to appear—
  - (a) if a notice of appeal is lodged within the period specified in section 18(2) of the Criminal Appeal Act 1968 at such time and place as the Court of Appeal may require; and
  - (b) if no such notice is lodged within that period, at such time and place as the Crown Court may require.”.
- (2) In the <sup>M20</sup>Criminal Appeal Act 1968—
  - (a) in section 11—
    - (i) in subsection (1), for the word “An” there shall be substituted the words “Subject to subsection (1A) below, an”; and
    - (ii) the following subsection shall be inserted after that subsection—
 

“(1A) If the judge who passed the sentence grants a certificate that the case is fit for appeal under section 9 or 10 of this Act, an appeal lies under this section without the leave of the Court of Appeal.”;
  - (b) the following section shall be substituted for section 19—

**“19 Bail.**

- (1) The Court of Appeal may, if they think fit,—
  - (a) grant an appellant bail pending the determination of his appeal; or
  - (b) revoke bail granted to an appellant by the Crown Court under paragraph (f) of section 81(1) of the Supreme Court Act 1981; or
  - (c) vary the conditions of bail granted to an appellant in the exercise of the power conferred by that paragraph.
- (2) The powers conferred by subsection (1) above may be exercised—
  - (a) on the application of an appellant; or
  - (b) if it appears to the registrar of criminal appeals of the Court of Appeal (hereafter referred to as “the registrar”) that any of them ought to be exercised, on a reference to the court by him.”;
- (c) the following paragraph shall be substituted for section 31(2)(e)—
 

“(e) to exercise the powers conferred by section 19 of this Act;”.

(3) ..... F21

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#### Textual Amendments

**F21** S. 29(3) repealed by [Legal Aid Act 1988 \(c. 34, SIF 77:1\)](#), s. 45, [Sch. 6](#)

#### Marginal Citations

**M19** 1981 c. 54.

**M20** 1968 c. 19.

### *Suspended sentences*

#### **30 Prison sentence partly served and partly suspended.**

- (1) Section 47 of the <sup>M21</sup>Criminal Law Act 1977 (which gives a court sentencing an offender to imprisonment for not less than six months and not more than two years power to suspend part of the sentence) shall have effect subject to the following amendments.
- (2) In subsection (1), for the word “Where” there shall be substituted the words “Subject to subsection (1A) below, where”.
- (3) In the said subsection (1), for the word “six” there shall be substituted the word “three”.
- (4) The following subsections shall be inserted after that subsection—
  - “(1A) A court shall not make an order under this section unless the case appears to the court to be one in which an order under section 22 of the Powers of Criminal Courts Act 1973 (sentences wholly suspended) would be inappropriate.
  - (1B) Subsection (1A) above is without prejudice to section 20 of the Powers of Criminal Courts Act 1973 (restriction on imposing sentences of imprisonment on persons who have not previously served prison sentences).”.
- (5) In subsection (2), for the words from the beginning to “that”, there shall be substituted the words “The part of the sentence to be served in prison shall be not less than twenty-eight days and the part to be held in suspense shall be not less than one-quarter of the whole term, and the offender shall not be required to serve the latter”.
- (6) In subsection (3), for the words “subsection (4)”, there shall be substituted the words “subsections (4) and (4A)”.
- (7) The following subsection shall be inserted after subsection (4)—
  - “(4A) If an order restoring part of a sentence has been made under subsection (3) above, no order restoring any further part of it may be made.”.
- (8) The following subsections shall be added after subsection (8)—
  - “(9) The Secretary of State may by order made by statutory instrument vary—
    - (a) the minimum term of imprisonment for the time being specified in subsection (1) above;
    - (b) the minimum part of the sentence to be served in prison for the time being specified in subsection (2) above.



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(10) An order made by virtue of subsection (9)(b) above may provide that the minimum part of the sentence to be served in prison shall be a specified length of time or a specified fraction of the whole sentence.

(11) An order shall not be made under subsection (9) above unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.”.

#### Marginal Citations

M21 1977 c. 45.

### 31 Activation of suspended sentence.

In section 23(1) of the <sup>M22</sup>Powers of Criminal Courts Act 1973, the words “which have arisen since the suspended sentence was passed” shall be omitted.

#### Marginal Citations

M22 1973 c. 62.

### *Early release*

### 32 Early release of prisoners.

(1) The Secretary of State may order that persons of any class specified in the order who are serving a sentence of imprisonment, other than—

- (a) imprisonment for life; or
- (b) imprisonment to which they were sentenced—
  - (i) for an excluded offence;
  - (ii) for attempting to commit such an offence;
  - (iii) for conspiracy to commit such an offence; or
  - (iv) for aiding or abetting, counselling, procuring or inciting the commission of such an offence,

shall be released from prison at such time earlier (but not more than six months earlier) than they would otherwise be so released as may be fixed by the order; but the Secretary of State shall not make an order under this section unless he is satisfied that it is necessary to do so in order to make the best use of the places available for detention.

(2) In this section “excluded offence” means—

- (a) an offence (whether at common law or under any enactment) specified in Part I of Schedule 1 to this Act; and
- (b) an offence under an enactment specified in Part II of that Schedule; and
- (c) an offence specified in Part III of that Schedule.

(3) No person may be released under this section if—

- (a) he is subject to more than one sentence of imprisonment; and
- (b) at least one of the terms that he has to serve is for an offence mentioned in subsection (1)(b)(i), (ii), (iii) or (iv) above.

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- (4) An order under this section—
  - (a) may define a class of persons in any way;
  - (b) may relate to one or more specified prisons, or to prisons of a specified class (however defined), or to prisons generally; and
  - (c) may make the time at which a person of any specified class is to be released depend on any circumstances whatever.
- (5) Where a person who is to be released from prison in pursuance of an order under this section is a person serving a sentence of imprisonment in respect of whom an extended sentence certificate (within the meaning of the <sup>M23</sup>Powers of Criminal Courts Act 1973) was issued when the sentence was passed, his release shall be a release on licence under section 60 of the <sup>M24</sup>Criminal Justice Act 1967, irrespective of whether at the time of his release he could have been released on licence under that section by virtue of subsection (3) thereof.
- (6) Where a person not within subsection (5) above is released from prison in pursuance of an order under this section, his sentence shall expire on his release.
- (7) Subsections (1), (4) and (6) above shall apply in relation to any institution to which the <sup>M25</sup>Prison Act 1952 applies and to persons detained in any such institutions other than persons serving sentences of custody for life, as they apply in relation to prisons and persons serving such sentences of imprisonment as are mentioned in subsection (1) above.
- (8) An order under this section shall be made by statutory instrument.
- (9) No order under this section shall be made unless—
  - (a) a draft of the order has been laid before Parliament and approved by resolution of each House of Parliament; or
  - (b) the expedited procedure conditions are satisfied.
- (10) The expedited procedure conditions are satisfied if—
  - (a) the order does not provide for the release of any persons before one month earlier than they would otherwise be released; and
  - (b) it is declared in the order that it appears to the Secretary of State that by reason of urgency it is necessary to make the order without a draft having been so approved.
- (11) Every such order (except such an order of which a draft has been so approved)—
  - (a) shall be laid before Parliament; and
  - (b) shall cease to have effect at the expiry of a period of 40 days beginning with the date on which it was made unless, before the expiry of that period, the order has been approved by resolution of each House of Parliament, but without prejudice to anything previously done or to the making of a new order.
- (12) In reckoning for the purposes of subsection (11) above any period of 40 days, no account shall be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days.
- (13) An order under this section shall not remain in force after the expiration of 6 months beginning with the date on which it is made, but without prejudice to the power of the Secretary of State to revoke it or to make a further order under this section.

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(14) Section 5 of the <sup>M26</sup>Imprisonment (Temporary Provisions) Act 1980 (which is superseded by this section) shall cease to have effect.

**Marginal Citations**

- M23 1973 c. 62.
- M24 1967 c. 80.
- M25 1952 c. 52.
- M26 1980 c. 57.

*Release on licence*

**33 Power to alter minimum period for eligibility for release on licence.**

In the <sup>M27</sup>Criminal Justice Act 1967—

- [<sup>F22</sup>(a) in section 60 (release of persons serving determinate sentences)—
  - (i) in subsection (1), for the words “twelve months thereof” there shall be substituted the words “the specified period”; and
  - (ii) the following subsections shall be inserted after that subsection—
    - “(1A) In subsection (1) of this section “the specified period” means twelve months or such period, not more than twelve months, as the Secretary of State may by order provide.
    - (1B) An order under subsection (1A) of this section may make such incidental or supplementary provision (including provision amending enactments) as the Secretary of State considers appropriate.”;
- (b) the following subsection shall be inserted after section 100(2)—
  - “(2A) An order shall not be made under section 60(1A) of this Act unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.”; and]
- (c) in section 106(2) (provisions extending to Scotland) the following paragraph shall be inserted after paragraph (e)—
  - “(ee) section 100;”.

**Textual Amendments**

- F22 S. 33(a)(b) repealed (S.) by Prisons (Scotland) Act 1989 (c. 45, SIF 39:1), s. 45(2), Sch. 3

**Marginal Citations**

- M27 1967 c. 80.

*Computation of sentences*

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### Textual Amendments

**F23** S. 34 repealed by [Police and Criminal Evidence Act 1984 \(c. 60, SIF 95\)](#), s. 119(2), [Sch. 7 Pt. I](#)

## PART III

### FINES ETC.

#### *Abolition of enhanced penalties*

### 35 Abolition of enhanced penalties on subsequent conviction of summary offences under Acts of Parliament.

- (1) Subject to subsection (3) below, this section applies where under an Act a person convicted of a summary offence—
  - (a) is liable to a fine or maximum fine of one amount in the case of a first conviction and of a different amount in the case of a second or subsequent conviction; or
  - (b) is liable to imprisonment for a longer term in the case of a second or subsequent conviction; or
  - (c) is only liable to imprisonment in the case of a second or subsequent conviction.
- (2) Where this section applies, a person guilty of such an offence shall be liable on summary conviction—
  - (a) to a fine or, as the case may be, a maximum fine of an amount not exceeding the greatest amount;
  - (b) to imprisonment for a term not exceeding the longest or only term, to which he would have been liable before this section came into force if his conviction had satisfied the conditions required for the imposition of a fine or maximum fine of that amount or imprisonment for that term.
- (3) This section does not apply to offences under—
  - (a) section 33 to 36 of the <sup>M28</sup>Sexual Offences Act 1956 (brothel-keeping and prostitution); or
  - (b) section 1(2) of the <sup>M29</sup>Street Offences Act 1959 (loitering and soliciting for the purpose of prostitution).

### Marginal Citations

**M28** 1956 c. 69.

**M29** 1959 c. 57.

### 36 Abolition of enhanced penalties under subordinate instruments.

- (1) This section applies where an Act (however framed or worded) confers power by subordinate instrument to make a person, as regards any summary offence (whether or not created by the instrument), liable on conviction—

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- (a) to a fine or maximum fine of one amount in the case of a first conviction and of a different amount in the case of a second or subsequent conviction; or
  - (b) to imprisonment for a longer term in the case of a second or subsequent conviction; or
  - (c) to imprisonment only in the case of a second or subsequent conviction.
- (2) Any such Act shall have effect as if it conferred power by subordinate instrument to make a person liable—
- (a) to a fine or, as the case may be, a maximum fine of an amount not exceeding the greatest amount;
  - (b) to imprisonment for a term not exceeding the longest or only term,
- to which he would have been liable before this section came into force if his conviction had satisfied the conditions required for the imposition of a fine or maximum fine of that amount or imprisonment for that term.

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

C8 S. 36 amended by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 55(6), [Sch. 8 para. 16](#)

*Introduction of standard scale of fines*

**37 The standard scale of fines for summary offences.**

- (1) There shall be a standard scale of fines for summary offences, which shall be known as “the standard scale”.
- (2) The scale at the commencement of this section is shown below.

<i>Level on the scale</i>	<i>Amount of fine</i>
1	[ <sup>F24</sup> £50]
2	[ <sup>F24</sup> £100]
3	[ <sup>F24</sup> £400]
4	[ <sup>F24</sup> £1000]
5	[ <sup>F24</sup> £2,000]

- (3) Where any enactment (whether contained in an Act passed before or after this Act) provides—
  - (a) that a person convicted of a summary offence shall be liable on conviction to a fine or a maximum fine by reference to a specified level on the standard scale; or
  - (b) confers power by subordinate instrument to make a person liable on conviction of a summary offence (whether or not created by the instrument) to a fine or maximum fine by reference to a specified level on the standard scale,it is to be construed as referring to the standard scale for which this section provides as that standard scale has effect from time to time by virtue either of this section or of an order under section 143 of the <sup>M30</sup>Magistrates’ Courts Act 1980.

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### Textual Amendments

**F24** Amounts of fines substituted as provided by S.I. 1984/447, arts 1(2), 2(4), **Sch. 4**

### Modifications etc. (not altering text)

- C9** S. 37 extended (N.I.) by Wireless Telegraphy Act 1949 (c. 54, SIF 96), **s. 14(9)** and Finance Act 1983 (c. 28), **Sch. 9 para. 1(1)**, by Customs and Excise Management Act 1979 (c. 2, SIF 40:1), **s. 171(2A)(a)** (as inserted by Finance Act 1984 (c. 43, SIF 40:1), s. 9, **Sch. 5 para. 3**), by Car Tax Act 1983 (c. 53, SIF 40:2), **Sch. 1 para. 8(7)**, by Medical Act 1983 (c. 54, SIF 83:1), **ss. 49(1)(2)**, 54, by Telecommunications Act 1984 (c. 12, SIF 96), **ss. 75**, 106(3)(a), Sch. 3 para. 2, and by Dentists Act 1984 (c. 24, SIF 83:1), **s. 53(4)(a)**
- C10** S. 37 amended by S.I. 1984/703 (N.I. 3), **art. 5(3)**
- C11** Power to amend Table in section 37(2) conferred by Magistrates' Courts Act 1980 (c. 43, SIF 82), **s. 143(2)(o)** (as added by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 48(1)(b)(3)**)

### Marginal Citations

**M30** 1980 c. 43.

## *Increase of fines*

### **38 General increase of fines for summary offences under Acts of Parliament.**

- (1) Subject to subsection (5) below and to section 39(1) below, this section applies to any enactment contained in an Act passed before this Act (however framed or worded) which, as regards any summary offence created not later than 29th July 1977 (the date of the passing of the <sup>M31</sup>Criminal Law Act 1977), makes a person liable on conviction to a fine or maximum fine which—
- (a) is less than £1,000; and
  - (b) was not altered by section 30 or 31 of the Criminal Law Act 1977; and
  - (c) has not been altered since 29th July 1977 or has only been altered since that date by section 35 above.
- (2) Subject to subsection (7) below, where an enactment to which this section applies provides on conviction of a summary offence for a fine or maximum fine in respect of a specified quantity or a specified number of things, that fine or maximum fine shall be treated for the purposes of this section as being the fine or maximum fine for the offence.
- (3) Where an enactment to which this section applies provides for different fines or maximum fines in relation to different circumstances or persons of different descriptions, they are to be treated separately for the purposes of this section.
- (4) An enactment in which section 31(6) and (7) of the Criminal Law Act 1977 (pre-1949 enactments) produced the same fine or maximum fine for different convictions shall be treated for the purposes of this section as if there were omitted from it so much of it as before 29th July 1977 had the effect that a person guilty of an offence under it was liable on summary conviction to a fine or maximum fine less than the highest fine or maximum fine to which he would have been liable if his conviction had satisfied the conditions required for the imposition of the highest fine or maximum fine.

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- (5) This section shall not affect so much of any enactment as (in whatever words) makes a person liable on summary conviction to a fine or maximum fine for each period of a specified length during which a continuing offence is continued.
- (6) The fine or maximum fine for an offence under an enactment to which this section applies shall be increased to the amount at the appropriate level on the standard scale unless it is an enactment in relation to which section 39(2) below provides for some other increase.
- (7) Where an enactment to which this section applies provides on conviction of a summary offence for a fine or maximum fine in respect of a specified quantity or a specified number of things but also specifies an alternative fine or maximum fine, subsection (6) above shall have effect to increase—
  - (a) the alternative fine; and
  - (b) any amount that the enactment specifies as the maximum which a fine under it may not exceed,as well as the fine or maximum fine which it has effect to increase by virtue of subsection (2) above.
- (8) Subject to subsection (9) below, the appropriate level on the standard scale for the purposes of subsection (6) and (7) above is the level on that scale next above the amount of the fine or maximum fine that falls to be increased.
- (9) If the amount of the fine or maximum fine that falls to be increased is £400 or more but less than £500, the appropriate level is £1,000.
- (10) Where section 35 above applies, the amount of the fine or maximum fine that falls to be increased is to be taken to be the fine or maximum fine to which a person is liable by virtue of that section.

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

C12 S. 38 extended (N.I.) by Finance Act 1983 (c. 28), Sch. 9 para. 1(1)

**Marginal Citations**

M31 1977 c. 45.

**39 Special cases.**

- (1) Section 38 above does not apply—
  - (a) to any enactment specified in Schedule 2 to this Act; or
  - (b) to the following enactments—
    - (i) .....<sup>F25</sup>
    - (ii) any enactment specified in the Schedule to the <sup>M32</sup>London Transport Act 1977 or in Schedule 1 to the <sup>M33</sup>British Railways Act 1977 to the extent that the enactment was amended by section 12(1) of the former Act or section 13(1) of the latter;
    - (iii) any enactment specified in Part I of Schedule 2 to the <sup>M34</sup>City of London (Various Powers) Act 1977.
- (2) The enactments specified in column 2 of Schedule 3 to this Act, which relate to the maximum fines for the offences mentioned (and broadly described) in column 1 of that

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Schedule, shall have effect as if the maximum fine that may be imposed on conviction of any offence so mentioned were a fine not exceeding the amount specified in column 4 of that Schedule instead of a fine not exceeding the amount specified in column 3.

- (3) The enactments specified in column 2 of Schedule 4 to this Act, which relate to certain maximum fines that may be imposed on a person otherwise than on conviction of an offence, their broad effect being described in column 1 of that Schedule, shall have effect as if the maximum fine that may be imposed were a fine not exceeding the amount specified in column 4 of that Schedule instead of a fine not exceeding the amount specified in column 3.

#### Textual Amendments

- F25** S. 39(1)(b)(i) repealed by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), ss. 3 5, Sch. 4 paras. 1, 2

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

- C13** S. 39(1)(b)(ii) extended by London Regional Transport Act 1984 (c. 32, SIF 126), s. 71(3)(a), Sch. 6 para. 27

#### Marginal Citations

- M32** 1977 c. xii.  
**M33** 1977 c. xvii.  
**M34** 1977 c. xv.

## 40 General increase of fines under subordinate instruments.

- (1) Subject to subsection (4) below, this section applies to any enactment contained in an Act passed before this Act (however framed or worded) which confers a power, created not later than 29th July 1977, by subordinate instrument to make a person, as regards any summary offence (whether or not created by the instrument), liable on conviction to a fine or maximum fine which—
- (a) is less than £1,000; and
  - (b) was not altered by section 31 of the <sup>M35</sup>Criminal Law Act 1977,
- if the fine or maximum fine to which a person may be made liable by virtue of the enactment has not been altered since 29th July 1977 or has only been altered since that date by section 36 above.
- (2) Subject to subsection (7) below, where an enactment to which this section applies confers a power by subordinate instrument to make a person, as regards a summary offence, liable on conviction to a fine or maximum fine in respect of a specified quantity or a specified number of things, that fine or maximum fine shall be treated for the purposes of this section as being the fine or maximum fine to which a person may be made liable by virtue of the enactment.
- (3) Where an enactment to which this section applies confers a power to provide for different fines or maximum fines in relation to different circumstances or persons of different descriptions, the amounts specified as those fines or maximum fines are to be treated separately for the purposes of this section.
- (4) This section shall not affect so much of any enactment as (in whatever words) confers power by subordinate instrument to make a person liable on conviction to a fine or



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maximum fine for each period of a specified length during which a continuing offence is continued.

- (5) Subject to subsection (6) below, the fine or maximum fine to which a person may be made liable by virtue of an enactment to which this section applies shall be increased to the amount at the appropriate level on the standard scale.
- (6) Subsection (5) above does not apply—
- (a) to section 67(3) of the <sup>M36</sup>Transport Act 1962 (byelaws for railways and railway shipping services);
  - (b) to section 25(2) of the <sup>M37</sup>London Transport Act 1969 (byelaws for road transport premises);
  - (c) to the enactments specified in Part II of Schedule 2 to the <sup>M38</sup>City of London (Various Powers) Act 1977; or
  - (d) to the enactments specified in Schedule 2 to the <sup>M39</sup>British Railways Act 1977.
- (7) Where an enactment to which this section applies confers a power by subordinate instrument to make a person, as regards a summary offence, liable on conviction to a fine or maximum fine in respect of a specified quantity or a specified number of things but also confers a power by subordinate instrument to make a person, as regards such an offence, liable on conviction to an alternative fine or maximum fine, subsection (5) above shall have effect to increase—
- (a) the alternative fine; and
  - (b) any amount that the enactment specifies as the maximum fine for which a subordinate instrument made in the exercise of the power conferred by it may provide,
- as well as the fine or maximum fine which it has effect to increase by virtue of subsection (2) above.
- (8) Subject to subsection (9) below, the appropriate level on the standard scale for the purposes of subsections (5) and (7) above is the level on that scale next above the amount that falls to be increased.
- (9) If the amount that falls to be increased is £400 or more but less than £500, the appropriate level is £1,000.
- (10) Where section 36 above applies, the amount that falls to be increased is the fine or maximum fine to which a person may be made liable by virtue of that section.

#### Marginal Citations

- M35** 1977 c. 45.
- M36** 1962 c. 46.
- M37** 1969 c. 1.
- M38** 1977 c. xv.
- M39** 1977 c. xvii.

## 41 Emergency regulations.

In section 2(3) of the <sup>M40</sup>Emergency Powers Act 1920 for “of one hundred pounds” there shall be substituted “not exceeding level 5 on the standard scale, as defined in section 75 of the Criminal Justice Act 1982, or not exceeding a lesser amount”.

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### Marginal Citations

M40 1920 c. 55.

## 42 Orders relating to spread of pests.

The following subsections shall be substituted for section 3(4) of the <sup>M41</sup>Plant Health Act 1967 (control of spread of pests in Great Britain)—

“(4) An order made by a competent authority under this section may provide that a person guilty of an offence against the order shall be liable on summary conviction to a fine of an amount not exceeding level 5 on the standard scale, as defined in section 75 of the Criminal Justice Act 1982, or not exceeding a lesser amount.

(4A) An order so made for preventing the spread in Great Britain of the Colorado beetle (*Leptinotarsa decemlineata* (Say)) may provide that a person guilty of an offence against the order relating to the keeping of living specimens of the beetle (in any stage of existence), or to the distribution in any manner of such specimens, shall be liable on summary conviction to imprisonment for not more than three months, as well as, or as an alternative to, a fine under subsection (4) above.”

### Marginal Citations

M41 1967 c. 8.

## [<sup>F26</sup>43 Byelaws relating to the burning of straw or stubble.

Any byelaws relating to the burning of straw or stubble [<sup>F27</sup>or any other crop residue] made by a local authority under section 235 of the <sup>M42</sup>Local Government Act 1972 (byelaws for good rule and government and suppression of nuisances) may provide that persons contravening the byelaws shall be liable on summary conviction to a fine not exceeding [<sup>F28</sup>level 5 on the standard scale] . . . <sup>F29</sup>; and any such byelaw in force at the coming into force of this section which specifies £200 or any smaller sum as the maximum fine which may be imposed on summary conviction of an offence under any such byelaw shall have effect as if it specified £1,000 instead . . . <sup>F29</sup>]

### Textual Amendments

**F26** S. 43 repealed (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 162(1)(2), 164(3), Sch. 15 para. 21, **Sch. 16 Pt. IX**

**F27** Words inserted by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 58(1)(a)(3), **Sch. 8 para. 16**

**F28** Words substituted by virtue of Criminal Justice Act 1982 (c. 48), **s. 46**

**F29** Words repealed by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 58(1)(b)(3), 170, Sch. 8 para. 16, **Sch. 16**

### Marginal Citations

M42 1972 c. 70.

**Status:** Point in time view as at 30/09/1992. This version of this Act contains provisions that are not valid for this point in time.

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44 ..... F30

**Textual Amendments**

**F30** S. 44 repealed by Airports Act 1986 (c. 31, SIF 9), s. 83(5), Sch. 6 Pt. I

45 ..... F31

**Textual Amendments**

**F31** S. 45 repealed by Airports Act 1986 (c. 31, SIF 9), s. 83(5), Sch. 6 Pt. II

*Application of standard scale to existing enactments*

**46 Conversion of references to amounts to references to levels on scale.**

- (1) Where—
- (a) either—
    - (i) a relevant enactment makes a person liable to a fine or maximum fine on conviction of a summary offence; or
    - (ii) a relevant enactment confers power by subordinate instrument to make a person liable to a fine or maximum fine on conviction of a summary offence (whether or not created by the instrument); and
  - (b) the amount of the fine or maximum fine for the offence is, whether by virtue of this Part of this Act or not, an amount shown in the second column of the standard scale,
- a reference to the level in the first column of the standard scale corresponding to that amount shall be substituted for the reference in the enactment to the amount of the fine or maximum fine.
- (2) Where a relevant enactment confers a power such as is mentioned in subsection (1)(a)(ii) above, the power shall be construed as a power to make a person liable to a fine or, as the case may be, a maximum fine not exceeding the amount corresponding to the level on the standard scale to which the enactment refers by virtue of subsection (1) above or not exceeding a lesser amount.
- (3) If an order under section 143 of the <sup>M43</sup>Magistrates' Courts Act 1980 alters the sums specified in section 37(2) above, the second reference to the standard scale in subsection (1) above is to be construed as a reference to that scale as it has effect by virtue of the order.
- (4) In this section “relevant enactment” means—
- (a) any enactment contained in an Act passed before this Act . . . <sup>F32</sup>;
  - (b) any enactment contained in this Act;
  - (c) any enactment contained in an Act passed on the same day as this Act; and
  - (d) any enactment contained in an Act passed after this Act but in the same Session as this Act.

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- (5) This section shall not affect so much of any enactment as (in whatever words) makes a person liable on summary conviction to a maximum fine not exceeding a specified amount for each period of a specified length during which a continuing offence is continued.

#### Textual Amendments

**F32** Words repealed by [Companies Consolidation \(Consequential Provisions\) Act 1985 \(c. 9, SIF 27\)](#), ss. 21, 23, 29, 31(8), [Sch. 1](#)

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

**C14** [S. 46](#) extended (N.I.) by [Finance Act 1983 \(c. 28\)](#), s. 47, [Sch. 9 para. 1\(1\)](#)

#### Marginal Citations

**M43** [1980 c. 43](#).

### 47 Provisions supplementary to sections 35 to 46.

- (1) In sections 35 to 40 and 46 above “fine” includes a pecuniary penalty but does not include a pecuniary forfeiture or pecuniary compensation.
- (2) Nothing in any provision contained in sections 35 to 46 above shall affect the punishment for an offence committed before that provision comes into force.

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

**C15** [S. 47](#) extended (N.I.) by [Finance Act 1983 \(c. 28\)](#), s. 47, [Sch. 9 para. 1\(1\)](#)

*Power to alter maximum fines etc.*

### 48 Power to alter sums.

- (1) In section 143 of the <sup>M44</sup>Magistrates’ Courts Act 1980 (power to alter sums specified in certain provisions)—
- (a) the following subsection shall be substituted for subsection (1)—
- “(1) If it appears to the Secretary of State that there has been a change in the value of money since the relevant date, he may by order substitute for the sum or sums for the time being specified in any provision mentioned in subsection (2) below such other sum or sums as appear to him justified by the change.”;
- (b) in subsection (2)—
- (i) the following paragraph shall be inserted after paragraph (a)—
- “(aa) section 24(3) and (4) above;”;
- (ii) the following paragraphs shall be inserted after paragraph (c)—
- “(ca) section 34(3)(b) above;
- “(cb) section 36 above;”;
- “(iii) the following paragraphs shall be added after paragraph (e)—
- “(f) any provision mentioned in Schedule 6A to this Act;

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- (g) paragraph 11(2) of Schedule 5A to the Army Act 1955 and to the Air Force Act 1955 (compensation orders);
  - (h) paragraph 14(1) of that Schedule and paragraph 14(1) of Schedule 4A to the Naval Discipline Act 1957 (recognizance from parents and guardians);
  - (i) section 2(13) of the Children and Young Persons Act 1969 (recognizance from parents and guardians);
  - (j) the Table in section 31(3A) of the Powers of Criminal Courts Act 1973;
  - (k) section 8(1)(b) of the Armed Forces Act 1976 (maximum fine awarded by Standing Civilian Courts);
  - (l) paragraph 22(1) of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (various offences relating to sex establishments);
  - (m) paragraph 23(2) of that Schedule (permitting persons under 18 to enter sex establishments and employing persons known to be under that age in the business of sex establishments);
  - (n) section 7(4)(a) of the Cinematograph (Amendment) Act 1982 (using premises without licence);
  - (o) section 37(2) of the Criminal Justice Act 1982.”;
- (c) the following subsection shall be substituted for subsection (3)—
- “(3) In subsection (1) above “the relevant date” means—
- (a) in relation to the first order under this section, 29th July 1977; and
  - (b) in relation to each subsequent order, the date of the previous order.”; and
- (d) in subsection (5), for the words “Criminal Law Act 1977” there shall be substituted the words “Criminal Justice Act 1982”.
- (2) The Schedule set out in Schedule 5 to this Act shall be inserted after Schedule 6 to that Act.

#### Marginal Citations

M44 1980 c. 43.

### *Shipping and oil pollution*

#### **49 Fines for certain offences under Merchant Shipping Acts and Prevention of Oil Pollution Act 1971.**

- (1) Where a provision of the Merchant Shipping Acts 1894 to 1979 or the <sup>M45</sup>Prevention of Oil Pollution Act 1971—
- (a) makes a person guilty of an offence triable either summarily or on indictment liable on summary conviction to a fine not exceeding £1,000; or

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- (b) confers power by subordinate instrument to make a person liable to a fine not exceeding £1,000 on summary conviction of an offence triable either summarily or on indictment,  
the reference to £1,000 shall be construed as a reference to the statutory maximum.
- (2) In section 20 of the <sup>M46</sup>Merchant Shipping Act 1979 (prevention of pollution from ships etc.)—
- (a) the following paragraphs shall be substituted for paragraph (f) of subsection (3)—
- “(f) that a contravention of a provision made by or under the Order shall be an offence punishable on summary conviction by a fine not exceeding the statutory maximum and on conviction on indictment by imprisonment for a term not exceeding two years and a fine;
- (fa) that any such contravention shall be an offence punishable only on summary conviction by a maximum fine of an amount not exceeding level 5 on the standard scale, as defined in section 75 of the Criminal Justice Act 1982, or such less amount as is prescribed by the Order;”
- (b) in the words following paragraph (g), “neither paragraph (f) nor paragraph (fa) shall” shall be substituted for “paragraph (f) shall not”;
- (c) the following subsection shall be inserted after subsection (3)—
- “(3A) Section 74 of the Criminal Justice Act 1982 (construction of references to “statutory maximum”) shall have effect for the purposes of paragraph (f) of the preceding subsection as if that paragraph were contained in that Act.”; and
- (d) ..... <sup>F33</sup>
- (3) In section 21 of that Act safety and health on ships)—
- (a) in subsection (6)—
- (i) the following paragraphs shall be substituted for paragraph (b)—
- “(b) that a contravention of the regulations shall be an offence punishable on summary conviction by a fine not exceeding the statutory maximum and on conviction on indictment by imprisonment for a term not exceeding two years and a fine
- (ba) that any such contravention shall be an offence punishable only on summary conviction by a maximum fine of an amount not exceeding level 5 on the standard scale, as defined in section 75 of the Criminal Justice Act 1982, or such less amount as is prescribed by the regulations;
- (bb) that, in such cases as are prescribed by the regulations such persons as are so prescribed shall each be guilty of an offence created by virtue of paragraph (b) or (ba) of this subsection;” and
- (ii) the following paragraph shall be substituted for paragraph (c)—
- “(c) that, notwithstanding anything in paragraph (b) or (ba) of this subsection, a person convicted summarily of an offence under the regulations of a kind which is

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stated by the regulations to correspond to an offence which is triable either summarily or on indictment under an enactment specified in the regulations which authorises or authorised a fine on summary conviction of a maximum amount exceeding the statutory maximum shall be liable to a fine not exceeding that maximum amount.”; and

(b) .....<sup>F33</sup>

- (4) The paragraphs substituted for section 20(3)(f) of the<sup>M47</sup>Merchant Shipping Act 1979 by subsection (2) above, together with the words substituted by paragraph (b) of that subsection and the paragraphs substituted for section 21(6)(b) and (c) of that Act by subsection (3) above shall be deemed always to have had effect.

**Textual Amendments**

**F33** S. 49(2)(d), (3)(b) repealed by S.I. 1984/703 (N.I. 3), art. 19(2), Sch. 7

**Marginal Citations**

**M45** 1971 c. 60.

**M46** 1979 c. 39.

**M47** 1979 c. 39.

**50 Fines for offences against regulations relating to wireless telegraphy apparatus on foreign ships and aircraft.**

- (1) In section 6 of the<sup>M48</sup>Wireless Telegraphy Act 1949—
- (a) in subsection (2), for the words “such”, in the second place where it occurs, to “regulations”, in the fourth place where it occurs, there shall be substituted the words “a maximum fine for each offence of an amount not exceeding level 5 on the standard scale, as defined in section 75 of the Criminal Justice Act 1982, or of a lesser amount”; and
- (b) .....<sup>F34</sup>
- (2) Nothing in this section shall affect the punishment for an offence committed before this section comes into operation.

**Textual Amendments**

**F34** S. 50(1)(b) repealed by S.I. 1984/703 (N.I. 3), art. 19(2), Sch. 7

**Marginal Citations**

**M48** 1949 c. 54.

*Fine enforcement*

**51 Variation of instalments and means inquiries.**

- (1) The following section shall be inserted after section 85 of the<sup>M49</sup>Magistrates’ Courts Act 1980—

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**“85A Variation of instalments of sum adjudged to be paid by conviction.**

Where under section 75 above a magistrates’ court orders that a sum adjudged to be paid by a conviction shall be paid by instalments, the court, on an application made by the person liable to pay that sum, shall have power to vary that order by varying the number of instalments payable, the amount of any instalment payable, and the date on which any instalment becomes payable.”.

(2) In section 86 of that Act (power of magistrates’ court to fix day for appearance of offender at means inquiry etc.)—

(a) the following subsections shall be substituted for subsection (1)—

“(1) A magistrates’ court which has exercised in relation to a sum adjudged to be paid by a conviction either of the powers conferred by section 75(1) above shall have power, either then or later, to fix a day on which, if the relevant condition is satisfied, the offender must appear in person before the court for either or both of the following purposes, namely—

(a) to enable an inquiry into his means to be made under section 82 above;

(b) to enable a hearing required by subsection (5) of the said section 82 to be held.

(1A) Where the power which the court has exercised is the power to allow time for payment of a sum (“the adjudged sum”), the relevant condition is satisfied if any part of that sum remains unpaid on the day fixed by the court.

(1B) Where the power which the court has exercised is the power to order payment by instalments, the relevant condition is satisfied if an instalment which has fallen due remains unpaid on the day fixed by the court.”; and

(b) the following paragraph shall be substituted for subsection (4)(a)—

“(a) the relevant condition is satisfied; and”.

**Marginal Citations**

M49 1980 c. 43.

**52 Reciprocal execution in England and Wales and Northern Ireland of warrants of commitment for non-payment of sum adjudged to be paid by conviction.**

After section 38A of the <sup>M50</sup>Criminal Law Act 1977 there shall be inserted the following section—

**“38B Further provision for execution of warrants of commitment for nonpayment of sum adjudged to be paid by conviction in England and Wales or Northern Ireland.**

(1) Subject to subsection (6) below, a person against whom there has been issued in England and Wales a warrant committing him to prison in default of



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payment of a sum adjudged to be paid by a conviction may be arrested in Northern Ireland by any member of the Royal Ulster Constabulary or the Royal Ulster Constabulary Reserve in like manner as if the warrant were a warrant committing him to prison in default of payment of a sum adjudged to be paid by a conviction in Northern Ireland; and Article 158(4) and (5) of the Magistrates' Courts (Northern Ireland) Order 1981 (execution without possession of the warrant and execution on Sunday) shall apply to the execution in Northern Ireland of any such warrant which has been issued in England and Wales as they apply in relation to the execution of a warrant for arrest.

- (2) Subject to subsection (6) below, a person against whom there has been issued in Northern Ireland a warrant committing him to prison in default of payment of a sum adjudged to be paid by a conviction may be arrested in England and Wales by any constable acting within his police area in like manner as if the warrant were a warrant committing him to prison in default of payment of a sum adjudged to be paid by a conviction in England and Wales.
- (3) A person arrested by virtue of subsection (1) or (2) above under a warrant of commitment may be detained under it in any prison in the part of the United Kingdom in which he was arrested; and while so detained he shall be treated for all purposes as if he were detained under a warrant of commitment issued in that part of the United Kingdom.
- (4) A warrant of commitment issued by a court in Northern Ireland may be executed in England and Wales by virtue of this section whether or not it has been endorsed under section 27 of the Petty Sessions (Ireland) Act 1851.
- (5) In this section—
  - “part of the United Kingdom” means England and Wales or Northern Ireland;
  - “prison” means—
    - (a) in the case of a person who is under the age of 21 years arrested in England and Wales, any place in which he could be detained under section 12(10) of the Criminal Justice Act 1982; and
    - (b) in the case of a person under that age arrested in Northern Ireland, a young offenders centre; and

“sum adjudged to be paid by a conviction” has the meaning given by section 150(3) of the Magistrates' Courts Act 1980 or, in Northern Ireland, Article 2(5) of the Magistrates' Courts (Northern Ireland) Order 1981.
- (6) This section shall not apply to the arrest of persons under the age of 17 years.”.

#### Marginal Citations

M50 1977 c. 45.

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## PART IV

### PROVISIONS APPLICABLE TO SCOTLAND ONLY

#### 53 Power to alter certain fines and other sums.

Section 289D of the <sup>M51</sup>Criminal Procedure (Scotland) Act 1975 (power of the Secretary of State to alter certain sums) shall be amended as follows—

(a) for subsection (1), substitute the following subsections—

“(1) If it appears to the Secretary of State that there has been a change in the value of money since the relevant date, he may by order substitute for the sum or sums for the time being specified in the provisions mentioned in subsection (1A) below such other sum or sums as appear to him justified by the change.

(1A) The provisions referred to in subsection (1) above are—

- (a) section 289B(6) of this Act;
- (b) section 289G(2) of this Act;
- (c) section 407(1A) of this Act;
- (d) section 435(e) of this Act;
- (e) section 453(3) of this Act;
- (f) section 7(4)(a) of the Cinematograph (Amendment) Act 1982;
- (g) paragraph 19(3) of Schedule 2 to the Civic Government (Scotland) Act 1982.

(1B) In subsection (1) above “the relevant date” means—

- (a) in relation to the first order made under that subsection, 29th July 1977 (the date of the passing of the Criminal Law Act 1977); and
- (b) in relation to each subsequent order, the date of the previous order.”;
- (b) in subsection (2), leave out the words “or (3A)”;
- (c) in subsection (3), for the words “Criminal Law Act 1977” substitute “<sup>M52</sup>Criminal Justice Act 1982”;
- (d) subsection (3A) is repealed.

#### Marginal Citations

- M51** 1975 c. 21.  
**M52** 1982 c. 48.

#### 54 Revision of penalties for summary offences and of certain other sums.

After section 289D of the <sup>M53</sup>Criminal Procedure (Scotland) Act 1975 there shall be inserted the following new sections—

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**“289E Penalties for first and subsequent convictions of summary offences to be the same.**

- (1) Subject to subsections (2) to (4) and (6) below, this section applies where any Act—
  - (a) makes a person liable on conviction of an offence triable only summarily to a penalty or a maximum penalty; or
  - (b) confers a power by subordinate instrument to make a person liable on conviction of an offence triable only summarily (whether or not created by the instrument) to a penalty or a maximum penaltywhich is different in the case of a second or subsequent conviction from the penalty or maximum penalty provided or for which provision may be made in the case of a first conviction.
- (2) Where the penalty or maximum penalty for an offence to which section 457A(1)(b) of this Act applies has not been altered by any enactment passed or made after 29th July 1977 (the date of the passing of the Criminal Law Act 1977), this section applies as if the amount referred to in subsection (5)(a) below were the greatest amount to which a person would have been liable on any conviction immediately before that date.
- (3) Where any Act—
  - (a) provides or confers a power to provide for a penalty or a maximum penalty which would, but for the operation of section 289C(5) of this Act, be different in the case of a second or subsequent conviction from the penalty or maximum penalty provided for or for which provision may be made in the case of a first conviction; and
  - (b) otherwise fulfils the conditions of subsection (1) above;this section applies to that penalty or maximum penalty as if the amount referred to in subsection (5)(a) below were the greatest amount to which a person would have been liable or could have been made liable on any conviction immediately before the commencement of the said section 289C.
- (4) This section does not apply to—
  - (a) section 290 of this Act (imprisonment for certain offences);
  - (b) section 78 of the Criminal Justice (Scotland) Act 1980 (vandalism); or
  - (c) an enactment mentioned in Schedule 7D to this Act.
- (5) Where this section applies the maximum penalty to which a person is or may be made liable by or under the Act in the case of any conviction shall be either or both of—
  - (a) a fine not exceeding the greatest amount;
  - (b) imprisonment for a term not exceeding the longest term (if any)to which an offender would have been liable or could have been made liable on any conviction (whether the first or a second or subsequent conviction) by or under the Act immediately before the commencement of this section.
- (6) This section does not affect the penalty which may be imposed in respect of an offence committed before it comes into force.

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### **289F Increase of fines for certain summary offences.**

- (1) Subject to subsections (2) to (7) and (9) 3 below, this section applies where any Act passed on or 4 before 29th July (the date of the passing of the <sup>M54</sup>Criminal Law Act 1977)—
  - (a) makes a person liable on conviction of an offence triable only summarily to a fine or a maximum fine which is less than £1,000; or
  - (b) confers a power by subordinate instrument to make a person liable on conviction of an offence triable only summarily (whether or not created by the instrument) to a fine or a maximum fine which is less than £1,000, or a fine or a maximum fine which shall not exceed an amount of less than £1,000,
 and the fine or maximum fine which may be imposed or, as the case may be, for which the subordinate instrument may provide has not been altered by—
  - (i) section 289A of this Act;
  - (ii) section 289C of this Act (except where section 289E(3) of this Act applies);
  - (iii) section 30(3) of the <sup>M54</sup>Criminal Law Act 1977;
  - (iv) an enactment passed or made after 29th July 1977 and before the commencement of this section.
- (2) In the case of an offence to which section 457A(1)(b) of this Act applies, paragraphs (i) to (iii) of subsection (1) above do not apply and the fine or the maximum fine referred to in subsection (8) below is the fine or the maximum fine for the offence immediately before 29th July 1977 as amended, where applicable, by section 289E of this Act.
- (3) This section also applies where any enactment—
  - (a) is contained in a consolidation Act passed after 29th July 1977 and before the commencement of this section; and
  - (b) otherwise fulfils the conditions of subsection (1) above amended by subsection (2) above where it applies; and
  - (c) is a re-enactment (with or without modification) of an enactment passed on or before that date.
- (4) Subject to subsection (9) below, where an Act provides or confers a power to provide for, on conviction of an offence triable only summarily, a fine or a maximum fine in respect of a specified quantity or a specified number of things, that fine or maximum fine is the fine or, as the case may be, the maximum fine for the purposes of this section.
- (5) Where an Act to which this section applies provides or confers a power to provide different fines or maximum fines in relation to different circumstances or persons of different descriptions, such fines or maximum fines are to be treated separately for the purposes of this section.
- (6) This section also applies where the penalties or maximum penalties provided or for which provision may be made by or under any Act on first and on second or subsequent conviction of an offence have been made the same by operation of section 289E of this Act; and in that case the fine or the maximum fine referred to in subsection (8) below is the maximum fine to which a person is or may be made liable by virtue of that section.

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- (7) This section does not apply in the case of—
- (a) so much of any Act as (in whatever words) makes a person liable or provides for a person to be made liable to a fine or a maximum fine for each period of a specified length during which a continuing offence is committed;
  - (b) section 67(3) of the <sup>M55</sup>Transport Act 1962;
  - (c) sections 40(5) and 44(1) of the <sup>M56</sup>Road Traffic Act 1972;
  - (d) an enactment mentioned in Schedule 1 to the <sup>M57</sup> British Railways Act 1977 to the extent that the enactment was amended by section 13(1) of that Act;
  - (e) an enactment mentioned in Schedule 7D to this Act or in Schedule 2 to the Criminal Justice Act 1982.
- (8) Where this section applies, the fine or, as the case may be, the maximum fine to which a person is or may be made liable by or under the Act shall be increased to the amount shown in column 2 of the Table below opposite the band in column 1 within which the fine or the maximum fine referred to in subsection (1) above falls.

<i>Column1</i>	<i>Column2</i>
<i>Fine or maximum fine</i>	<i>Increased amount</i>
Under £25	£25
Under £50 but not less than £25	£50
Under £200 but not less than £50	£200
Under £400 but not less than £200	£500
Under £1,000 but not less than £400	£1,000

- (9) Where an Act to which this section applies provides or confers a power to provide for, on conviction of an offence triable only summarily, a fine or a maximum fine in respect of a specified quantity or a specified number of things but also provides or confers a power to provide for an alternative fine or maximum fine as regards the offence, subsection (8) above shall have effect to increase—
- (a) the alternative fine; and
  - (b) any amount that the Act provides or confers a power to provide for as the maximum which a fine as regards the offence may not exceed.
- as well as the fine or maximum fine which it has effect to increase by virtue of subsection (4) above.
- (10) This section does not affect the penalty which may be imposed in respect of an offence committed before it comes into force.

### **289G The standard scale amendment of enactments.**

- (1) There shall be a standard scale of fines for offences triable only summarily, which shall be known as “the standard Scale”.
- (2) The standard scale is as follows—

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### *Standard Scale*

<i>Level</i>	<i>Amount</i>
1	£25
2	£50
3	£200
4	£500
5	£1,000.

- (3) Any reference in any enactment (whether passed or made before or after the passing of the Criminal Justice Act 1982) to a specified level on the standard scale shall be construed as referring to the amount which corresponds to that level on the standard scale referred to in subsection (2) above.
- (4) Subject to subsection (8) below, where—
- (a) an enactment to which subsection (5) below applies either—
    - (i) makes a person liable on conviction of an offence triable only summarily (whether created by that enactment or otherwise) to a fine or a maximum fine; or
    - (ii) confers a power by subordinate instrument to make a person liable on conviction of an offence triable only summarily (whether or not created by the instrument) to a fine or a maximum fine;

and

  - (b) the amount of the fine or the maximum fine is, whether by virtue of that enactment or otherwise, an amount shown in the second column of the standard scale,

for the reference in the enactment to the amount of the fine or maximum fine there shall be substituted a reference to the level on the standard scale shown in the first column thereof as corresponding to the amount in the second column thereof referred to in paragraph (b) above.
- (5) This subsection applies to an enactment in any Act (including this Act) passed before the commencement of this section.
- (6) Subject to subsection (7) below, where an Act provides or confers a power to provide for, on conviction of an offence triable only summarily, a fine or a maximum fine in respect of a specified quantity or a specified number of things, that fine or maximum fine is the fine or, as the case may be, the maximum fine for the purposes of this section.
- (7) Where an Act provides or confers a power to provide for, on conviction of an offence triable only summarily, a fine or a maximum fine in respect of a specified quantity or a specified number of things but also provides or confers a power to provide for an alternative fine or maximum fine as regards the offence, the fine or the maximum fine for the purposes of this section is—
- (a) the alternative fine; and

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- (b) any amount that the Act provides or confers a power to provide for as the maximum which a fine as regards the offence may not exceed, as well as the fine or maximum fine referred to in subsection (6) above.
- (8) Subsection (4) above does not apply to—
  - (a) an enactment mentioned in Schedule 2 to the Companies Act 1980;
  - (b) the Companies Act 1981; or
  - (c) so much of any Act as (in whatever words) makes a person liable or provides for a person to be made liable to a fine or a maximum fine for each period of a specified length during which a continuing offence is committed.
- (9) Where an enactment to which subsection (5) above applies confers a power such as is mentioned in subsection (4)(a)(ii) above, the power shall be construed as a power to make a person liable to a fine or, as the case may be, a maximum fine of the amount corresponding to the level on the standard scale to which the enactment refers by virtue of subsection (4) above or of a lesser amount.

#### **289H Schedule 7D.**

- (1) The enactments specified in column 1 of Schedule 7D to this Act, which relate to the penalties or the maximum penalties for the offences mentioned in those enactments, shall be amended in accordance with the amendments specified in column 2 of that Schedule, which have the effect of altering the penalties on summary conviction of the said offences and placing the fines on a level on the standard scale; and in that Schedule column 3 shows the penalties or, as the case may be, maximum penalties in force immediately before the commencement of this section and column 4 shows the penalties or, as the case may be, maximum penalties resulting from the amendments.
- (2) Subsection (1) above does not affect the penalty which may be imposed in respect of an offence committed before it comes into force.”.

#### **Marginal Citations**

- M53** 1975 c. 21.
- M54** 1977 c.45
- M55** 1962 c. 46
- M56** 1972 c. 20
- M57** 1977 c. xvii

#### **55 Mode of trial of, and penalties for, ceRtain offences.**

- (1) In Part III of the <sup>M58</sup>Criminal Procedure (Scotland) Act 1975, before section 458 there shall be inserted the following new section—

##### **“457A Mode of trial of certain offences.**

- (1) An offence created by statute shall be triable only summarily if—
  - (a) the enactment creating the offence or any other enactment expressly so provides (in whatever words); or

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- (b) subject to subsection (2) and (3)(a) below, the offence was created by an Act passed on or before 29th July 1977 (the date of passing of the Criminal Law Act 1977) and the penalty or maximum penalty in force immediately before that date, on any conviction of that offence, did not include any of the following—
- (i) a fine exceeding £400;
  - (ii) imprisonment for a period exceeding 3 months;
  - (iii) a fine exceeding £50 in respect of a specified quantity or number of things, or in respect of a specified period during which a continuing offence is committed:

Provided that, in the application of paragraph (b)(ii) above, no regard shall be paid to the fact that section 290 of this Act permits the imposition of imprisonment for a period exceeding 3 months in certain circumstances.

- (2) An offence created by statute which is triable only on indictment shall continue only to be so triable.
- (3) An offence created by statute shall be triable either on indictment or summarily if—
- (a) the enactment creating the offence or any other enactment expressly so provides (in whatever words); or
  - (b) it is an offence to which neither subsection (1) nor subsection (2) above applies.
- (4) An offence which may under any enactment (including an enactment in this Act or passed after the Act) be tried only summarily, being an offence which, if it had been triable on indictment, could competently have been libelled as an additional or alternative charge in the indictment, may (the provisions of this or any other enactment notwithstanding) be so libelled, and tried accordingly:

Provided that the penalty which may be imposed for that offence in that case shall not exceed that which is competent on summary conviction.”.

- (2) For section 289B of the said Act of 1975 there shall be substituted the following section—

**“289B Penalties on summary conviction for offences triable either summarily or on indictment.**

- (1) Where an offence created by a relevant enactment may be tried either on indictment or summarily, the penalty or maximum penalty on summary conviction shall, to the extent that it included, immediately before the commencement of section 55 of the Criminal Justice Act 1982, a penalty or maximum penalty mentioned in column 1 of the Table below, be amended so as to substitute as a maximum penalty the corresponding penalty set forth in column 2 thereof (unless provision is expressly made by any enactment for a larger penalty or maximum penalty on summary conviction)—

<i>Column1</i> <b>Penalty or maximum penalty at commencement of section 55 of Criminal Justice Act 1982</b>	<i>Column2</i> <b>New maximum penalty</b>
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|---|--|
| 1. Fine (other than a fine specified in paragraph 3 below, or a fine in respect of each period of a specified length during which a continuing offence is committed). | 1. Fine not exceeding the prescribed sum.  |
| 2. Imprisonment for a period exceeding 3 months.  | 2. Imprisonment for a period not exceeding 3 months.                                 |
| 3. Fine in respect of a specified quantity or number of things.   | 3. Fine not exceeding the prescribed sum in respect of each such quantity or number. |
| 4. Fine exceeding £100 in respect of each period of a specified length during which a continuing offence is committed.  | 4. Fine not exceeding £100 in respect of each period.                                |
- 

(2) Where, by virtue of a relevant enactment, a person summarily convicted of any offence to which subsection (1) above relates would, apart from this section, be liable to a fine or a maximum fine of one amount in the case of a first conviction and of a different amount in the case of a second or subsequent conviction, subsection (1) above shall apply irrespective of whether the conviction is a first, second or subsequent one.

(3) Where, as regards any offence to which subsection (1) above relates, there is under any enactment (in whatever words) a power by subordinate instrument to restrict the amount of the fine or maximum fine which on summary conviction can be imposed in respect of that offence—

(a) subsection (1) above shall not affect that power or override any restriction imposed in exercise of that power; and

(b) the amount to which that fine or maximum fine may be restricted in exercise of that power shall be any amount less than the fine or maximum fine which could be imposed on summary conviction in respect of the offence apart from any restriction so imposed.

(4) Where there is under a relevant enactment (in whatever words) a power by subordinate instrument to create a criminal offence, the maximum fine which may in the exercise of that power be authorised on summary conviction in respect of such an offence, when that offence may be tried either on indictment or summarily, shall by virtue of this subsection be the prescribed sum unless some larger maximum fine can be authorised on summary conviction in respect of such an offence by virtue of an enactment other than this subsection.

(5) Subsection (1) above is without prejudice to section 290 of this Act (6 months' imprisonment competent for certain offences).

(6) In this section—

“the prescribed sum” means £1,000 or such sum as is for the time being substituted in this definition by an order in force under section 289D(1) of this Act;

“relevant enactment” means an enactment contained in the Criminal Law Act 1977 or in any Act (including this Act) passed before, or in the same session as, that Act.

(7) Subsection (4) above shall not affect so much of any enactment as (in whatever words) provides for a person to be made liable, on summary conviction, to a

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fine or a maximum fine for each period of a specified length during which a continuing offence is committed.

- (8) Where an enactment to which subsection (4) above applies provides for a person to be made liable to a penalty or maximum penalty on summary conviction of an offence triable either on indictment or summarily which includes a fine or a maximum fine in respect of a specified quantity or a specified number of things, that subsection shall apply to that fine or maximum fine.
- (9) Schedule 7B to this Act shall have effect for the purpose of altering the penalties or maximum penalties available on summary conviction of the offences therein mentioned; and subsection (1) above shall not apply on summary conviction of any of the offences mentioned in paragraph 1(2) of the said Schedule 7B.”
- (3) Section 289C of the said Act of 1975 (increase of fines for certain summary offences) shall be amended as follows—
- (a) for subsection (4) there shall be substituted the following subsection—
- “(4) This subsection applies to any pre-1949 enactment (however framed or worded) which—
- (a) as regards any summary offence makes a person liable on conviction thereof to a fine of, or not exceeding, a specified amount less than £50 which has not been altered since the end of 1948 (and is not altered by the Act); or
- (b) confers power by subordinate instrument to make a person as regards any summary offence (whether or not created by the instrument), liable on conviction thereof to a fine of, or a maximum fine of, less than £50 which has not been altered since the end of 1948 (and is not altered by this Act):
- Provided that this subsection does not apply to any offence to which section 457A(1)(b) of this Act applies (offences triable only summarily other than by virtue of express provision).”;
- (b) for subsection (7) there shall be substituted the following subsections—
- “(7) Subsection (4) above does not apply to so much of any enactment as (in whatever words) makes a person liable or provides for a person to be made liable, on summary conviction, to a fine or a maximum fine for each period of a specified length during which a continuing offence is committed.
- (7A) Where an enactment to which subsection 5(4) above applies provides or confers a power to provide for, on conviction of an offence triable only summarily, a fine or a maximum fine in respect of a specified quantity or a specified number of things, “the specified amount” for the purposes of subsection (5) above is the fine or maximum fine so provided or for which provision may be made.”.
- (4) In section 289D of the said Act of 1975 (power to alter sums specified in certain provisions), after the word “the” at the beginning of each of paragraphs (a) and (b) of subsection (3) there shall be inserted the words “fine or”.

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- (5) Subsections (2) to (4) above do not apply in relation to any offence committed before they come into force.

**Marginal Citations**

**M58** 1975 c. 21.

**56 Schedules 7A to 7D to the Criminal Procedure (Scotland) Act 1975 and Schedules 6 and 7 to this Act.**

- (1) It is hereby declared that Schedules 7A to 7C to the <sup>M59</sup>Criminal Procedure (Scotland) Act 1975 have effect notwithstanding the repeal by Schedule 8 to the <sup>M60</sup>Criminal Justice (Scotland) Act 1980 of paragraphs 11 to 13 of Schedule 11 to the <sup>M61</sup>Criminal Law Act 1977 and have had effect at all times since the coming into force of the said Schedule 8.
- (2) After Schedule 7C to the Criminal Procedure (Scotland) Act 1975 there shall be inserted the Schedule set out in Schedule 6 to this Act, which shall form Schedule 7D to the said Act of 1975.
- (3) The enactments specified in column 1 of Schedule 7 to this Act are amended so as to substitute for references to certain sums references to levels on the standard scale corresponding to amounts equal to, or greater than, those sums; and in that Schedule—
- (a) column 1 specifies the enactments to be amended;
  - (b) column 2 specifies the amendments;
  - (c) column 3 shows the sums presently referred to in the said enactments; and
  - (d) column 4 shows the new sums (corresponding to the appropriate levels on the standard scale as they are fixed at the date of commencement of this section.
- (4) The amendments provided for in Schedule 7 to this Act, other than paragraph 4 thereof, do not affect the penalty which may be imposed in respect of an act or omission occurring before that Schedule comes into force.
- (5) The amendment provided for in paragraph 4 of Schedule 7 to this Act shall not apply in relation to proceedings commenced before the coming into force of that provision; and for the purpose of this subsection, proceedings shall be taken to have been commenced on the day on which the petition or complaint is served on the accused.

**Marginal Citations**

**M59** 1975 c. 21.

**M60** 1980 c. 62.

**M61** 1977 c. 45.

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**PART V**

MISCELLANEOUS

*The Chief Inspectors of Prisons*

**57 Her Majesty’s Chief Inspectors of Prisons.**

(1) The following shall be inserted after section 5 of the <sup>M62</sup>Prison Act 1952—

**“5A Appointment and functions of Her Majesty’s Chief Inspector of Prisons.**

- (1) Her Majesty may appoint a person to be Chief Inspector of Prisons.
- (2) It shall be the duty of the Chief Inspector to inspect or arrange for the inspection of prisons in England and Wales and to report to the Secretary of State on them.
- (3) The Chief Inspector shall in particular report to the Secretary of State on the treatment of prisoners and conditions in prisons.
- (4) The Secretary of State may refer specific matters connected with prisons in England and Wales and prisoners in them to the Chief Inspector and direct him to report on them.
- (5) The Chief Inspector shall in each year submit to the Secretary of State a report in such form as the Secretary of State may direct, and the Secretary of State shall lay a copy of that report before Parliament.
- (6) The Chief Inspector shall be paid such salary and allowances as the Secretary of State may with the consent of the Treasury determine.”

(2) ..... <sup>F35</sup>

<p><b>Textual Amendments</b></p> <p><b>F35</b> S. 57(2) repealed by Prisons (Scotland) Act 1989 (c. 45, SIF 39:1), s. 45(2), <b>Sch. 3</b></p> <hr/> <p><b>Marginal Citations</b></p> <p><b>M62</b> 1952 c. 52.</p>
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*Courts-martial etc.*

**58 Courts-martial and Standing Civilian Courts.**

Schedule 8 shall have effect in relation to offenders who come before courts-martial and Standing Civilian Courts.

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### *Persons remanded in custody*

#### **59 Remand in custody in absence of accused.**

- (1) The <sup>M63</sup>Magistrates' Courts Act 1980 shall have effect subject to the amendments specified in Schedule 9 to this Act, being amendments to modify the requirement that a person may not be remanded in custody without being brought before the court.
- (2) Nothing in this section shall affect the operation of section 2 of the <sup>M64</sup>Imprisonment (Temporary Provisions) Act 1980.

#### **Marginal Citations**

**M63** 1980 c. 43.

**M64** 1980 c. 57.

#### **60 Applications to Crown Court for bail by persons remanded in custody.**

- (1) In section 81 of the <sup>M65</sup>Supreme Court Act 1981—
  - (a) in subsection (1) (which lists cases in which the Crown Court may grant bail) at the end of paragraph (f) there shall be added “or
  - (g) who has been remanded in custody by a magistrates' court on adjourning a case under—
    - (i) section 5 (adjournment of inquiry into offence);
    - (ii) section 10 (adjournment of trial);
    - (iii) section 18 (initial procedure on information against adult for offence triable either way); or
    - (iv) section 30 (remand for medical examination),of the Magistrates' Courts Act 1980;”;
  - (b) the following subsections shall be inserted after that subsection—
    - “(1H) Where the Crown Court grants a person bail under subsection (1)(g) it may direct him to appear at time and place which the magistrates' court could have directed and the recognizance of any surety shall be conditioned accordingly.
    - (1J) The Crown Court may only grant bail to a person under subsection (1)(g) if the magistrates' court which remanded him in custody has certified under section 5(6A) of the Bail Act 1976 that it heard full argument on his application for bail before it refused the application.”.
- (2) In subsection (6)(a) of section 5 of the Bail Act 1976 (supplementary provisions about decisions on bail) after the word “Court”, in the first place where it occurs, there shall be inserted the words “or if it issues a certificate under subsection (6A) below”.
- (3) The following subsections shall be inserted after that subsection—
  - “(6A) Where in criminal proceedings—
    - (a) a magistrates' court remands a person in custody under any of the following provisions of the Magistrates' Courts Act 1980—
      - (i) section 5 (adjournment of inquiry into offence);
      - (ii) section 10 (adjournment of trial);

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- (iii) section 18 (initial procedure on information against adult for offence triable either way); or
- (iv) section 30 (remand for medical examination),  
after hearing full argument on an application for bail from him; and
- (b) either—
  - (i) it has not previously heard such argument on an application for bail from him in those proceedings; or
  - (ii) it has previously heard full argument from him on such an application but it is satisfied that there has been a change in his circumstances or that new considerations have been placed before it,

it shall be the duty of the court to issue a certificate in the prescribed form that they heard full argument on his application for bail before they refused the application.

(6B) Where the court issues a certificate under subsection (6A) above in a case to which paragraph (b)(ii) of that subsection applies, it shall state in the certificate the nature of the change of circumstances or the new considerations which caused it to hear a further fully argued bail application.

(6C) Where a court issues a certificate under subsection (6A) above it shall cause the person to whom it refuses bail to be given a copy of the certificate.”.

(4) ..... F36

**Textual Amendments**  
 F36 S. 60(4) repealed by [Legal Aid Act 1988 \(c. 34, SIF 77:1\)](#), s. 45, [Sch. 6](#)

**Marginal Citations**  
 M65 1981 c. 54

*Committal on written statements*

**61 Legal representation in case of committal on written statements.**

In section 6(2)(a) of the <sup>M66</sup>Magistrates’ Courts Act 1980 for the words “is not represented by counsel or a solicitor” there shall be substituted the words “has no solicitor acting for him in the case (whether present in court or not)”.

**Marginal Citations**  
 M66 1980 c. 43.

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### *Requirement of social inquiry reports*

## **62 Social inquiry reports on persons who have not previously served prison sentences.**

The following section shall be inserted after section 20 of the <sup>M67</sup>Powers of Criminal Courts Act 1973—

### **“20A Social inquiry report for purposes of s. 20.**

- (1) Subject to subsection (2) below, the court shall in every case obtain a social inquiry report for the purpose of determining under section 20(1) above whether there is any appropriate method of dealing with an offender other than imprisonment.
- (2) Subsection (1) above does not apply if, in the circumstances of the case, the court is of the opinion that it is unnecessary to obtain a social inquiry report.
- (3) Where a magistrates’ court passes a sentence of imprisonment on a person of or over 21 years of age on whom such a sentence has not previously been passed by a court in any part of the United Kingdom without obtaining a social inquiry report, it shall state in open court the reason for its opinion that it was unnecessary to obtain such a report.
- (4) A magistrates’ court shall cause a reason stated under subsection (3) above to be specified in the warrant of commitment and to be entered in the register.
- (5) No sentence shall be invalidated by the failure of a court to comply with subsection (1) above, but any other court on appeal from that court shall obtain a social inquiry report if none was obtained by the court below, unless it is of the opinion that in the circumstances of the case it is unnecessary to do so.
- (6) In determining whether it should deal with the appellant otherwise than by passing a sentence of imprisonment on him the court hearing the appeal shall consider any social inquiry report obtained by it or by the court below.
- (7)

In this section “social inquiry report” means a report about a person and his circumstances made by a probation officer.”

#### **Marginal Citations**

**M67** 1973 c. 62.

### *Deferment of sentence*

## **63 Deferment of sentence.**

Section 1 of the <sup>M68</sup>Powers of Criminal Courts Act 1973 (which gives a court sentencing an offender the power to defer passing sentence on him) shall have effect subject to the following amendments—

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- (a) in subsection (1), for the words from “to have” to “sentence” there shall be substituted the words “or any other court to which it falls to deal with him to have regard, in dealing with him”;
- (b) the words “, subject to subsection (8A) below,” shall be inserted after the word “and” in subsection (2);
- (c) the words “deal with” shall be substituted—
  - (i) for the words “pass sentence on” in subsection (4);
  - (ii) for the words “pass sentence on” in subsection (4A); and
  - (iii) for the word “sentence” in the second place where it occurs in subsection (5); and
- (d) the following subsections shall be substituted for subsection (8)—
  - “(8) The power of a court under this section to deal with an offender in a case where the passing of sentence has been deferred thereunder—
    - (a) includes power to deal with him in any way in which the court which deferred passing sentence could have dealt with him; and
    - (b) without prejudice to the generality of the foregoing, in the case of a magistrates’ court, includes the power conferred by section 37 or 38 of the Magistrates’ Courts Act 1980 to commit him to the Crown Court for sentence.
  - (8A) Where, in a case where the passing of sentence on an offender in respect of one or more offences has been deferred under this section, a magistrates’ court deals with him by committing him to the Crown Court under section 37 or 38 of the Act of 1980, the power of the Crown Court to deal with him includes the same power to defer passing sentence on him as if he had just been convicted of the offence or offences on indictment before the court.”.

**Marginal Citations**

M68 1973 c. 62.

*Persons recommended for deportation*

**64 Persons recommended by courts for deportation.**

Schedule 3 to the <sup>M69</sup>Immigration Act 1971 shall be amended in accordance with Schedule 10 to this Act.

**Marginal Citations**

M69 1971 c. 77.



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*Probation and after-care.*

**65**

- (1) The designations “probation and after-care area”, “probation and after-care committee” and “probation and after-care service” are hereby changed to “probation area”, “probation committee” and “probation service” respectively and the new designations shall be substituted for the former designations in every enactment relating to any such area or committee or that service.
- (2) The amendments specified in Schedule 11 to this Act, being amendments relating to probation and after-care and the duties and powers of probation committees, shall have effect.

**66 Right of appeal of probationer etc.**

- (1) The following subsection shall be inserted after subsection (1) of section 50 of the <sup>M70</sup>Criminal Appeal Act 1968 (meaning of “sentence”)—

“(1A) Section 13 of the Powers of Criminal Courts Act 1973 (under which a conviction of an offence for which a probation order or an order for conditional or absolute discharge is made is deemed not to be a conviction except for certain purposes) shall not prevent an appeal under this Act, whether against conviction or otherwise.”.

- (2) The following subsection shall be inserted after subsection (1) of section 108 of the <sup>M71</sup>Magistrates’ Courts Act 1980 (right of appeal to the Crown Court)—

“(1A) Section 13 of the Powers of Criminal Courts Act 1973 (under which a conviction of an offence for which a probation order or an order for conditional or absolute discharge is made is deemed not to be a conviction except for certain purposes) shall not prevent an appeal under this section, whether against conviction or otherwise.”.

- (3) In the <sup>M72</sup>Powers of Criminal Courts Act 1973—

- (a) the following subsection shall be inserted after subsection (1) of section 11 (substitution of conditional discharge for probation)—

“(1A) No application may be made under subsection (1) above while an appeal against the probation order is pending.”; and

- (b) in Schedule 1 (discharge and amendment of probation orders)—

- (i) the following sub-paragraph shall be inserted after paragraphs 1(1) and 3(1)—

“(1A) No application may be made under sub-paragraph (1) above while an appeal against the probation order is pending.”;

- (ii) the following sub-paragraph shall be inserted after paragraph 2(1)—

“(1A) No order may be made under sub-paragraph (1) above while an appeal against the probation order is pending.”;

- (iii) in paragraph 4, for the word “Where” there shall be substituted the words “Subject to paragraph 4A below, where”; and

- (iv) the following paragraph shall be inserted after that paragraph—

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“4A No application may be made under paragraph 4 above while an appeal against the probation order is pending.”

#### Marginal Citations

**M70** 1968 c. 19.

**M71** 1980 c. 43.

**M72** 1973 c. 62.

### Compensation

#### 67 Compensation orders.

In section 35 of the <sup>M73</sup>Powers of Criminal Courts Act 1973 (which gives a court power to make a compensation order in addition to dealing with an offender in any other way)—

(a) the following subsections shall be substituted for subsection (1)—

“(1) Subject to the provisions of this Part of this Act and to section 40 of the Magistrates’ Courts Act 1980 (which imposes a monetary limit on the powers of a magistrates’ court under this section), a court by or before which a person is convicted of an offence, instead of or in addition to dealing with him in any other way, may, on application or otherwise, make an order (in this Act referred to as “a compensation order”) requiring him to pay compensation for any personal injury, loss or damage resulting from that offence or any other offence which is taken into consideration by the court in determining sentence.

(1A) Compensation under subsection (1) above shall be of such amount as the court considers appropriate, having regard to any evidence and to any representations that are made by or on behalf of the accused or the prosecutor.”; and

(b) the following subsection shall be inserted after subsection (4)—

“(4A) Where the court considers—

(a) that it would be appropriate both to impose a fine and to make a compensation order; but

(b) that the offender has insufficient means to pay both an appropriate fine and appropriate compensation,

the court shall give preference to compensation (though it may impose a fine as well).”.

#### Marginal Citations

**M73** 1973 c. 62.

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### *Community service*

#### **68 Community service orders.**

- (1) Schedule 12 to this Act shall have effect with respect—
  - (a) to the powers of courts in England and Wales in relation to community service orders; and
  - (b) to arrangements for persons in England and Wales to perform work under such orders.
- (2) Schedule 13 to this Act shall have effect for the purpose of the enforcement in one part of the United Kingdom of community service orders made in another part.

### *Imprisonment for fine defaulters etc.*

#### **69 Maximum periods of imprisonment for defaulting on fines etc.**

- (1) In section 31 of the <sup>M74</sup>Powers of Criminal Courts Act 1973—
    - (a) the following subsections shall be substituted for subsections (2) to (4)—
      - “(2) Subject to the provisions of this section, if the Crown Court imposes a fine on any person or forfeits his recognizance, the court shall make an order fixing a term of imprisonment or of detention under section 9 of the Criminal Justice Act 1982 (detention of persons aged 17 to 20 for default) which he is to undergo if any sum which he is liable to pay is not duly paid or recovered.
    - (3) No person shall on the occasion when a fine is imposed on him or his recognizance is forfeited by the Crown Court be committed to prison or detained in pursuance of an order under subsection (2) above unless—
      - (a) in the case of an offence punishable with imprisonment, he appears to the court to have sufficient means to pay the sum forthwith;
      - (b) it appears to the court that he is unlikely to remain long enough at a place of abode in the United Kingdom to enable payment of the sum to be enforced by other methods; or
      - (c) on the occasion when the order is made the court sentences him to immediate imprisonment, custody for life, youth custody or detention in a detention centre for that or another offence, or sentences him as aforesaid for an offence in addition to forfeiting his recognizance, or he is already serving a sentence of custody for life or a term—
        - (i) of imprisonment;
        - (ii) of youth custody;
        - (iii) of detention in a detention centre; or
        - (iv) of detention under section 9 of the Criminal Justice Act 1982.
- (3A) Subject to subsections (3B) and (3C) below, the periods set out in the second column of the following Table shall be the maximum periods

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of imprisonment or detention under subsection (2) above applicable respectively to the amounts set out opposite thereto.

TABLE

An amount not exceeding £25	7 days
An amount exceeding £25 but not exceeding £50	14 days
An amount exceeding £50 but not exceeding £200	30 days
An amount exceeding £200 but not exceeding £500	60 days
An amount exceeding £500 but not exceeding £1,000	90 days
An amount exceeding £1,000 but not exceeding £2,500	6 months
An amount exceeding £2,500 but not exceeding £5,000	9 months
An amount exceeding £5,000	12 months

- (3B) Where the amount due at the time imprisonment or detention is imposed is so much of a fine or forfeited recognizance as remains due after part payment, then, subject to subsection (3C) below, the maximum period applicable to the amount shall be the period applicable to the whole sum reduced by such number of days as bears to the total number of days therein the same proportion as the part paid bears to the total sum.
- (3C) In calculating the reduction required under subsection (3B) above any fraction of a day shall be left out of account and the maximum period shall not be reduced to less than five days.
- (4) Where any person liable for the payment of a fine or a sum due under a recognizance to which this section applies is sentenced by the court to, or is serving or otherwise liable to serve, a term of imprisonment or youth custody or a term of detention under section 4 or 9 of the Criminal Justice Act 1982, the court may order that any term of imprisonment or detention fixed under subsection (2) above shall not begin to run until after the end of the first-mentioned term.”; and
- (b) the following subsections shall be substituted for subsections (7) and (8)—
- “(7) Any term fixed under subsection (2) above as respects a fine imposed in pursuance of such an enactment, that is to say a fine which the magistrates’ court could have imposed, shall not exceed the period applicable to that fine (if imposed by the magistrates’ court) under section 149(1) of the Customs and Excise Management Act 1979.
- (8) This section shall not apply to a fine imposed by the Crown Court on appeal against a decision of a magistrates’ court, but subsections (2) to (3C) above shall apply in relation to a fine imposed or recognizance

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forfeited by the criminal division of the Court of Appeal, or by the House of Lords on appeal from that division, as they apply in relation to a fine imposed or recognizance forfeited by the Crown Court, and the references to the Crown Court in subsections (2) and (3) above shall be construed accordingly.”.

(2) ..... F37

**Textual Amendments**

F37 S. 69(2) repealed by [Armed Forces Act 1986 \(c. 21, SIF 7:1\)](#), s. 16(2), [Sch. 2](#)

**Marginal Citations**

M74 1973 c. 62.

*Vagrancy*

**70 Vagrancy offences.**

- (1) Where a person is convicted—
- (a) under section 3 or 4 of the <sup>M75</sup>Vagrancy Act 1824, of wandering abroad, or placing himself in any public place, street, highway, court, or passage, to beg or gather alms; or
  - (b) under section 4 of that Act—
    - (i) of wandering abroad and lodging in any barn or outhouse, or in any deserted or unoccupied building, or in the open air, or under a tent, or in any cart or waggon, and not giving a good account of himself; or
    - (ii) of wandering abroad, and endeavouring by the exposure of wounds and deformities to obtain or gather alms,
- the court shall not have power to sentence him to imprisonment but shall have the same power to fine him as if this section had not been enacted.
- (2) If a person deemed a rogue and vagabond by virtue of section 4 of the Vagrancy Act 1824 is thereafter guilty of an offence mentioned in subsection (1) above, he shall be convicted of that offence under section 4 of that Act and accordingly—
- (a) shall not be deemed an incorrigible rogue; and
  - (b) shall not be committed to the Crown Court,
- by reason only of that conviction.
- (3) This section applies to offences committed before as well as after it comes into effect.

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

C16 S. 70(1) amended (31.10.1991) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), s. 26(5); S.I. 1991/2208, art. 2(4), [Sch.3](#).

**Marginal Citations**

M75 1824 c. 83.

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### *Loitering and soliciting*

#### **71 Abolition of imprisonment for loitering and soliciting for purposes of prostitution.**

(1) The following subsection shall be substituted for section 1(2) of the <sup>M76</sup>Street Offences Act 1959—

“(2) A person guilty of an offence under this section shall be liable on summary conviction to a fine of an amount not exceeding level 2 on the standard scale, as defined in section 75 of the Criminal Justice Act 1982, or, for an offence committed after a previous conviction, to a fine of an amount not exceeding level 3 on that scale.”.

(2) The subsection substituted by subsection (1) above for section 1(2) of the Street Offences Act 1959 shall have effect in relation to offences committed before as well as after this section comes into force.

#### **Marginal Citations**

**M76** 1959 c. 57.

### *Unsworn statements*

#### **72 Abolition of right of accused to make unsworn statement.**

(1) Subject to subsections (2) and (3) below, in any criminal proceedings the accused shall not be entitled to make a statement without being sworn, and accordingly, if he gives evidence, he shall do so on oath and be liable to cross-examination; but this section shall not affect the right of the accused, if not represented by counsel or a solicitor, to address the court or jury otherwise than on oath on any matter on which, if he were so represented, counsel or a solicitor could address the court or jury on his behalf.

(2) Nothing in subsection (1) above shall prevent the accused making a statement without being sworn—

- (a) if it is one which he is required by law to make personally; or
- (b) if he makes it by way of mitigation before the court passes sentence upon him.

(3) Nothing in this section applies—

- (a) to a trial; or
- (b) to proceedings before a magistrates’ court acting as examining justices, which began before the commencement of this section.

### *Recall of witnesses*

#### **73 Recall of witnesses.**

(1) After section 148 of the <sup>M77</sup>Criminal Procedure (Scotland) Act 1975 there shall be inserted the following new section—

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**“148A Recall of witnesses.**

In any trial, on the motion of either party, the presiding judge may permit a witness who has been examined to be recalled.”.

(2) After section 349 of the said Act of 1975 there shall be inserted the following new section—

**“349A Recall of witnesses.**

In any trial, on the motion of either party, the presiding judge may permit a witness who has been examined to be recalled.”.

**Marginal Citations**

M77 1975 c. 21.

*Interpretation*

**74, 75. Construction of references to “statutory maximum”.**

F38

**Textual Amendments**

F38 Ss. 74, 75 repealed by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 170, Sch. 8 para. 16, Sch. 16

*Supplementary*

**76 Financial provision.**

There shall be defrayed out of money provided by Parliament any increase attributable to the provisions of this Act in the sums payable out of such money under any other Act.

**77 Minor and consequential amendments.**

The enactments specified in Schedules 14 and 15 to this Act shall have effect subject to the amendments there specified (being minor amendments and amendments consequential on the foregoing provisions of this Act).

**78 Repeals.**

The enactments specified in Schedule 16 to this Act (which include enactments already obsolete or unnecessary) are repealed to the extent specified in the third column of that Schedule.

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## 79 Transitional.

The transitional provisions in Schedule 17 to this Act shall have effect.

## 80 Commencement.

(1) The following provisions of this Act shall come into force on the day this Act is passed, namely—

section 32;

section 33;

section 57;

...  
F39

...  
F39

section 76;

section 77, so far as it relates to paragraph 20 of Schedule 14;

section 78, so far as it relates to the <sup>M78</sup>Imprisonment (Temporary Provisions) Act 1980;

section 79, so far as it relates to paragraph 15 of schedule 17;

this section; and

section 81.

(2) Subject to subsection (1) above, this Act shall come into operation on such day as the Secretary of State may by order made by statutory instrument appoint, and different days may be so appointed for different provisions and for different purposes.

### Textual Amendments

**F39** Words repealed by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 170, Sch. 8 para. 16, **Sch. 16**

### Modifications etc. (not altering text)

**C17** [S. 80\(2\)](#): power of appointment partly exercised by (E.W.) [S.I. 1982/1857](#), 1983/182 and by (S.) [S.I. 1983/24](#), 1983/758 (Act now wholly in force so far as relating to E.W. and S. with the exception of the repeal in Sch. 16 of s. 38(5)(c)(d) of [Criminal Justice Act 1961 \(c. 39\)](#) which relate principally to sentences in the Channel Islands and the Isle of Man

### Marginal Citations

**M78** [1980 c. 57](#).

## 81 Citation and extent.

(1) This Act may be cited as the Criminal Justice Act 1982.

(2) Subject to the following provisions of this section, this Act extends to England and Wales only.

(3) The following provisions of this Act extend to England and Wales and Scotland—

section 33;

section 41;

section 42;

...  
F40



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... F41

- (4) The following provisions of this Act extend to Scotland only—  
Part IV (including Schedules 6 and 7);  
section 57(2);  
section 73;  
section 74(2).

[<sup>F42</sup>(4A) Section 74(3) above extends to Northern Ireland only]

- (5) The following provisions of this Act extend to England and Wales, Scotland and Northern Ireland—

... F43

section 47(2);  
section 49;  
section 50;  
section 64 (including Schedule 10);  
section 68(2) (including Schedule 13);  
[<sup>F44</sup>section 75;]  
section 76;  
section 80;  
this section.

- (6) Section 52 above extends to England and Wales and Northern Ireland.

- (7) Sections 77 and 78 above extend to any part of the United Kingdom in so far as they amend or repeal any enactment which extends to that Part, except that—

- (a) section 78, so far as it relates to the <sup>M79</sup>Animal Health Act 1981, extends to England and Wales only; and  
(b) the following provisions—  
(i) section 77, so far as it relates to paragraph 2 of Schedule 15; and  
(ii) section 78, so far as it relates to the <sup>M80</sup>Electric Lighting (Clauses) Act 1899,  
extend to Scotland only.

- (8) Section 79 above extends to Scotland only, so far as it relates to paragraph 18 of Schedule 17.

- (9) Section 58 above (including Schedule 8), so far as it relates to any enactment, extends to any place to which that enactment extends.

- (10) Section 78 above, so far as it relates to any enactment contained in—

- (a) the <sup>M81</sup>Army Act 1955;  
(b) the <sup>M82</sup>Air Force Act 1955;  
(c) the <sup>M83</sup>Naval Discipline Act 1957; or  
(d) the <sup>M84</sup>Armed Forces Act 1976,

extends to any place to which that enactment extends.

- (11) Her Majesty may by Order in Council direct that all or any of the enactments specified in subsection (12) below shall extend, subject to such modifications as may be specified in the Order, to the Isle of Man or any of the Channel Islands.

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- (12) The enactments mentioned in subsection (11) above are—
- (a) section 32(1) of the <sup>M85</sup>Criminal Law Act 1977;
  - (b) sections 32 and 143 of the <sup>M86</sup>Magistrates' Courts Act 1980, and
  - (c) in this Act—
    - (i) sections 35 to 38;
    - (ii) section 39 (including Schedules 2 and 3);
    - (iii) section 40;
    - (iv) sections 46 and 47;
    - (v) section 50;
    - (vi) section 64 (including Schedule 10);
    - (vii) section 74(1); and
    - (viii) section 75.
- (13) Her Majesty may by Order in Council provide that section 49 above shall extend, subject to such modification as may be specified in the Order,—
- (a) so far as it relates to section 20 of the <sup>M87</sup>Merchant Shipping Act 1979, to any of the Channel Islands, the Isle of Man or any colony and any country or place outside Her Majesty's dominions in which Her Majesty has jurisdiction in right of the Government of the United Kingdom; and
  - (b) so far as it relates to section 21 of that Act, to any country such as is mentioned in section 15 of the said Act of 1979.
- (14) Section 77 above extends to the Isle of Man and the Channel Islands, so far as it relates to paragraphs 11 to 16 of Schedule 14.
- (15) Section 78 above extends to the Isle of Man and the Channel Islands, so far as it relates to section 32(2)(a), (c) and (e) of the <sup>M88</sup>Criminal Justice Act 1961.

#### Textual Amendments

- F40** Words repealed by [Airports Act 1986 \(c. 31, SIF 9\)](#), s. 83(5), [Sch. 6 Pt. I](#)
- F41** Words repealed by [S.I. 1984/703 \(N.I. 3\)](#), art. 19(1)(2), [Sch. 6 para. 29\(a\)](#), Sch. 1
- F42** [S. 81\(4A\)](#) inserted by [S.I. 1984/703 \(N.I. 3\)](#), art. 19(1), [Sch. 6 para. 29\(b\)](#)
- F43** Words repealed by [Airports Act 1986 \(c. 31, SIF 9\)](#), s. 83(5), [Sch. 6](#)
- F44** Words inserted by [S.I. 1984/703 \(N.I. 3\)](#), art. 19(1), [Sch. 6 para. 29\(c\)](#)

#### Marginal Citations

- M79** 1981 c. 22.
- M80** 1899 c. 19.
- M81** 1955 c. 18.
- M82** 1955 c. 19.
- M83** 1957 c. 53.
- M84** 1976 c. 52.
- M85** 1977 c. 45.
- M86** 1980 c. 43.
- M87** 1979 c. 39.
- M88** 1961 c. 39.

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## SCHEDULES

### SCHEDULE 1

Section 32.

#### OFFENCES EXCLUDED FROM SECTION 32

##### PART I

#### OFFENCES MENTIONED IN SECTION 32(2)(A)

1. Manslaughter.
2. Rape.
3. Kidnapping.
4. Assault (of any description).

<sup>F45</sup>5. ...

##### Textual Amendments

<sup>F45</sup> Sch. 1 Pt. I: entries relating to riot and affray repealed by [Public Order Act 1986 \(c. 64, SIF 39:2\)](#), s. 40(3), [Sch. 3](#)

<sup>F45</sup>6. ...

##### PART II

#### OFFENCES MENTIONED IN SECTION 32(2)(B)

##### *MALICIOUS DAMAGE ACT 1861 (c. 97)*

1. Sections 35, 47 and 48 (criminal damage).

##### *OFFENCES AGAINST THE PERSON ACT 1861 (c. 100)*

2. Section 16 (making threats to kill).
3. Section 18 (wounding with intent to do grievous bodily harm or to resist apprehension).
4. Section 20 (wounding or inflicting grievous bodily harm).
5. Section 21 (garotting).
6. Section 23 (endangering life or causing harm by administering poison).
7. Section 28 (burning, maiming, etc by explosion).

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8. Section 29 (causing explosions or casting corrosive fluids with intent to do grievous bodily harm).

*EXPLOSIVE SUBSTANCES ACT 1883 (c. 3)*

9. Section 2 (causing explosion likely to endanger life or property).

*INFANT LIFE (PRESERVATION) ACT 1929 (c. 34)*

10. Section 1 (child destruction).

*INFANTICIDE ACT 1938 (c. 36)*

11. Section 1(1) (infanticide).

*SEXUAL OFFENCES ACT 1956 (c. 69)*

12. Section 12 (buggery with a male under the age of 16).

13. Section 12 (buggery with a male over 16 without consent).

14. Section 17 (abduction of female by force).

*FIREARMS ACT 1968 (c. 27)*

15. Section 17(1) (use of firearms and imitation firearms to resist arrest).

*THEFT ACT 1968 (c. 60)*

16. Section 8 (robbery).

17. Section 10 (aggravated burglary).

*MISUSE OF DRUGS ACT 1971 (c. 38)*

18. Section 4 (production or supply of a controlled drug).

19. Section 5(3) (possession of a controlled drug with intent to supply it to another).

20. Section 20 (assisting in, or inducing the commission outside the United Kingdom of, an offence relating to drugs punishable under a corresponding law, as defined in section 36(1)).

*CRIMINAL DAMAGE ACT 1971 (c. 48)*

21. Section 1(2)(b) (criminal damage, including arson, endangering life).

*ROAD TRAFFIC ACT 1972 (c. 20)*

22. Section 1 (causing death by reckless driving).

*CUSTOMS AND EXCISE MANAGEMENT ACT 1979 (c. 2)*

23. Section 85(2) (shooting at naval or revenue vessels).

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*AVIATION SECURITY ACT 1982 (c. 36)*

24. Section 1 (hijacking).  
25. Sections 2, 3 and 6 (other offences relating to aircraft).

*[<sup>F46</sup>DRUG TRAFFICKING OFFENCES ACT 1986 (c. 32)*

**Textual Amendments**

**F46** Sch. 1 Pt. 2 para. 26 and heading inserted by [Drug Trafficking Offences Act 1986 \(c. 32, SIF 39:1\)](#), s. 24(6)

26. Section 24 (assisting another to retain the benefit of drug trafficking).]

*[<sup>F47</sup>PUBLIC ORDER ACT 1986*

**Textual Amendments**

**F47** Sch. 1 Pt. 2 paras. 27-29 inserted as provided by [Public Order Act 1986 \(c. 64, SIF 39:2\)](#), 40(2), Sch. 2 para. 4

27. Section 1 (riot).  
28. Section 2 (violent disorder).  
29. Section 3 (affray).]

*[<sup>F48</sup>CRIMINAL JUSTICE ACT 1988 (c.33)*

**Textual Amendments**

**F48** Sch. 1 Pt. 2 para. 30 and heading added by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 170, **Sch. 15 para. 91** (with [Sch. 8 para. 16](#))

30. Section 134 (torture).]

*[<sup>F49</sup>THE ROAD TRAFFIC ACT 1988 (c.52)*

**Textual Amendments**

**F49** Sch. 1 Pt. 2: entry added by [Road Traffic \(Consequential Provisions\) Act 1988 \(c. 54, SIF 107:1\)](#), s. 4, **Sch. 3 para. 24**

- Section 1 (causing death by [<sup>F50</sup>dangerous] driving).]

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#### Textual Amendments

**F50** Word in Sch. 1 Pt. 2 in entry relating to Road Traffic Act 1988 substituted (1.7.1992) by [Road Traffic Act 1991 \(c. 40, SIF 107:1\)](#), s. 48, [Sch. 4 para. 17\(a\)](#); S.I. 1992/1286, art. 2, [Sch.](#)

[<sup>F51</sup>Section 3A (causing death by careless driving when under the influence of drink or drugs).]

#### Textual Amendments

**F51** Words in Sch. 1 Pt. 2 in entry relating to Road Traffic Act 1988 inserted (1.7.1992) by [Road Traffic Act 1991 \(c. 40, SIF 107:1\)](#), s. 48, [Sch. 4 para. 17\(b\)](#); S.I. 1992/1286, art. 2, [Sch.](#)

### *[<sup>F52</sup>CRIMINAL JUSTICE (INTERNATIONAL COOPERATION) ACT 1990 (c. 31)*

#### Textual Amendments

**F52** Sch. 1 Pt. 2: entry inserted (1.7.1991) by [Criminal Justice \(International Co-operation\) Act 1990 \(c. 5, SIF 39:1\)](#), s. 31(1), [Sch. 4 para. 3](#); S.I. 1991/1072, art. 2(b), [Sch. Pt. II](#)

Section 14 (concealing or transferring proceeds of drug trafficking).]

### *[<sup>F53</sup>AVIATION AND MARITIME SECURITY ACT 1990 (c. 31)*

#### Textual Amendments

**F53** Sch. 1 Pt. 2: entries inserted by [Aviation and Maritime Security Act 1990 \(c. 31, SIF 39:2\)](#), s. 53(1), [Sch. 3 para. 7](#)

Section 1 (endangering safety at aerodromes).

Section 9 (hijacking of ships).

Section 10 (seizing or exercising control of fixed platforms).

Sections 11, 12, 13 and 14 (other offences relating to ships and fixed platforms).]

VALID FROM 05/03/1994

### *[<sup>F54</sup>CHANNEL TUNNEL (SECURITY) ORDER 1994 No.570*

#### Textual Amendments

**F54** Sch. 1 Pt. 2: entries inserted (5.3.1994) by [S.I. 1994/570](#), art. 38, [Sch. 3 para. 3](#)

Article 4 (hijacking of Channel Tunnel trains)

Article 5 (seizing or exercising control of the tunnel system)

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Articles 6, 7 and 8 (other offences relating to Channel Tunnel trains or the tunnel system).]

VALID FROM 03/02/1995

**[<sup>F55</sup>DRUG TRAFFICKING ACT 1994**

**Textual Amendments**

**F55** Sch. 1 Pt. 2: entries added (3.2.1995) by 1994 c. 37, ss. 65, 69(2), **Sch. 1 para. 7**

Section 49 (concealing or transferring the proceeds of drug trafficking).

Section 50 (assisting another person to retain the benefit of drug trafficking).

Section 51 (acquisition, possession or use of proceeds of drug trafficking).]

**PART III**

**OFFENCES MENTIONED IN SECTION 32(2)(C)**

Offences under sections 50(2) and (3), 68(2) and 170 of the Customs and Excise Management Act 1979 in connection with a prohibition or restriction on importation or exportation of a controlled drug which has effect by virtue of section 3 of the Misuse of Drugs Act 1971.

**SCHEDULE 2**

Section 39.

**FINES TO REMAIN AT THEIR PRESENT LEVEL**

<b>Enactment creating offence 1</b>	<b>Penalty enactment 2</b>	<b>Present maximum fine 3</b>
TRANSPORT (LONDON) ACT 1969 (c. 35) Offences under section 23(5) (providing a bus service without the agreement of the London Transport Executive).	Section 23(5)	£200
...	...	...
<b>F56</b> PATENTS ACT 1977 (c. 37) Offences under section 110(1) (unauthorised claim of patent rights).	Section 110(1)	£200
Offences under section 111(1) (unauthorised claim that patent has been applied for).	Section 111(1)	£200

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Offences under section 112 (misuse of title "Patent Office").	Section 112	£500
WEST MIDLANDS COUNTY COUNCIL ACT 1977 (c. xiv) Offences under section 6(2) (contravention of byelaws as to operation of aircraft at airports).	Section 6(2)	£500
CITY OF LONDON (VARIOUS POWERS) ACT 1977 (c. xv) Offences under section 7(6) (contravention of notice prohibiting access to forest).	Section 7(6)	£50
Offences under section 24(6) (contravention of order under section 24)	Section 24(6)	£200
KENSINGTON AND CHELSEA CORPORATION ACT 1977 (c. xix) Offences under section 5(2) (causing refuse to be deposited).	Section 5(3)	
NORTH WEST WATER AUTHORITY ACT 1977 (c. xx) Offences under section 6(2) (failure to comply with notice and furnishing false information).	Section 6(2)	£200
PUBLIC PASSENGER VEHICLES ACT 1981 (c. 14) Offences under section 26(2) (contravention of regulations relating to passengers).	Section 26(2)	£50
Offences under section 67 (contravention of regulations generally).	Section 67	£50

#### Textual Amendments

**F56** Entry repealed by [Road Traffic \(Consequential Provisions\) Act 1988 \(c. 54, SIF 107:1\)](#), ss. 3, 5, Sch. 1, Sch. 4 paras. 1, 2



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SCHEDULE 3

Section 39.

SPECIAL INCREASES

<b>Enactment creating offence 1</b>	<b>Penalty enactment 2</b>	<b>Present maximum fine 3</b>	<b>New maximum fine 4</b>
HIGHWAY ACT 1835 (c. 50)			
Offences under section 72 (riding etc. on footpaths).	Section 72	£10	£50
TOWN POLICE CLAUSES ACT 1847 (c. 89)			
Offences under section 21 and 28 (obstruction etc.).	Sections 21, 28	£20	£200
Offences under section 45 (plying for hire without a licence).	Section 45	£20	£500
Offences under section 53 (driver refusing compellable hiring).	Section 53	£10	£50
Offences under section 55 (exacting more than the legal fare).	Section 55	£25	£200
Offences under section 58 (demanding as a fare more than the prescribed amount).	Section 58	£10	£200
LONDON HACKNEY CARRIAGE ACT 1853 (c. 33)			
Offences under section 17 (demanding or taking more than the legal fare etc.).	Section 17	£10	£200
METROPOLITAN PUBLIC CARRIAGE ACT 1869 (c. 115)			
Offences under section 7 (use of unlicensed carriage).	Section 7	£20	£500
MILITARY LANDS ACT 1892 (c. 43)			
Offences under section 17(2)	Section 17(2)	£20	£50

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(offences against byelaws).

PROTECTION OF ANIMALS ACT 1911 (c. 27)

Offences under section 8 (selling poisoned grain or placing on any land any matter rendered poisonous).	Section 8	£25	£500
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CHILDREN AND YOUNG PERSONS ACT 1933 (c. 12)

Offences under section 39(2) (newspaper reports identifying juveniles in court proceedings).	Section 39(2)	£500	£1,000
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Offences under section 49(2) (newspaper reports identifying juveniles in juvenile courts).	Section 49(2)	£500	£1,000
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PUBLIC HEALTH ACT 1936 (c. 49)

Offences under section 143(5) (offences against regulations concerning prevention, etc. of infectious diseases).	Section 143(5)	£100	£1,000
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EDUCATION ACT 1944 (c. 31)

Offences under section 70(3) (failure to register independent school etc.).	Section 70(3)	£50	£500
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Offences under section 73(2) (using disqualified premises as a school).	Section 73(2)	£50	£500
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Offences under section 73(3) (disqualified person acting as proprietor of independent school etc.).	Section 73(3)	£50	£500
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Offences under section 77(4) (obstruction of inspectors).	Section 77(4)	£50	£500
FIRE SERVICES ACT 1947 (c. 41)			
OFFENCES UNDER SECTION 14(5) (IMPROPER USE OF FIRE HYDRANT).	Section 14(5)	£25	£50
OFFENCES UNDER SECTION 30(2) (OBSTRUCTING A MEMBER OF A FIRE BRIGADE).	Section 30(2)	£50	£200
RADIOACTIVE SUBSTANCES ACT 1948 (c. 37)			
OFFENCES UNDER SECTION 7(4) (OBSTRUCTION OF INSPECTORS)	Section 8(1)	£100	£500
Other summary offences under Act	Section 8(3)	£100	£500
...	...	...	...
F57	F57	F57	F57
...	...	...	...
F58	F58	F58	F58
...	...	...	...
F59	F59	F59	F59
BETTING, GAMING AND LOTTERIES ACT 1963 (c. 2)			
Offences under section 28(10) (disclosing information about bookmaker's business).	Section 28(10)	£100	£500
PLANT VARIETIES AND SEEDS ACT 1964 (c. 14)			
Offences under section 25(9) (obstructing an authorised person).	Section 25(9)	£20	£200
Offences under section 27(1) (tampering with samples).	Section 27(1)	£100	£1,000

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#### AGRICULTURE AND HORTICULTURE ACT 1964 (c. 28)

Offences under section 15(1) (obstruction)	Section 20(1)	£20	£200
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Offences under Part III (other than section 15(1)) (offences relating to grading of produce).	Section 20(2)	£100	£1,000
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#### POLICE ACT 1964 (c. 43)

Offences under section 52(1) (impersonating a police officer).	Section 52(1)	£100	£1,000
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#### INDUSTRIAL AND PROVIDENT SOCIETIES ACT 1965 (c. 12)

Offences under section 61 (general offences)	Section 61	£10	£200
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#### FORESTRY ACT 1967 (c. 10)

Offences under section 24(4) (failing to comply with felling licence).	Section 24(4)	£50	£1,000
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Offences under section 46(5) (offences against byelaws).	Section 46(5)	£20	£50
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Offences under section 48(3) (obstruction of Forestry Commission officers).	Section 48(3)	£20	£200
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...	...	...	...
F60	F60	F60	F60

#### AGRICULTURE (MISCELLANEOUS PROVISIONS) ACT 1968 (c. 34)

Offences under section 6(7) (obstructing an officer duly authorised to carry out welfare inspections).	Section 7(2)	£20	£200
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#### TRANSPORT ACT 1968 (c. 73)

Offences under section 97(1)	Section 97(1)	£200	£500
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(tachograph offences).

Offences under section 97A(1) (tachograph offences relating to record sheets and notices).	Section 97A(1)	£200	£500
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Offences under section 97A(2) (employers' failure to secure return of record sheet).	Section 97A(2)	£200	£500
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...	...	...	...
F61	F61	F61	F61

ROAD TRAFFIC (FOREIGN VEHICLES) ACT 1972 (c. 27)

Offences under section 3(1) (disobeying a prohibition on a goods vehicle).	Section 3(1)	£200	£1,000
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RENT (AGRICULTURE) ACT 1976 (c. 80)

Offences under section 25(3) (failure to comply with notice).	Section 25(3)	£5	£500
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RENT ACT 1977 (c. 42)

Offences under section 151(4) (failure of agent to comply with notice requiring information about landlord).	Section 151(4)	£25	£500
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PROTECTION FROM EVICTION ACT 1977 (c. 43)

Offences under section 7 (failure to comply with notice).	Section 7	£25	£500
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...	...	...	...
F62	F62	F62	F62

**Textual Amendments**

- F57** Entry repealed by [Food Act 1984 \(c. 30, SIF 53:1\)](#), s. 134, **Sch. 11**
- F58** Entries repealed by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 3, **Sch. 1 Pt. 1**
- F59** Entries repealed by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 3, **Sch. 1 Pt. 1**
- F60** Entries repealed by [Road Traffic Regulation Act 1984 \(c. 27, SIF 107:1\)](#), ss. 143, 144, 146, **Sch. 14**

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- F61** Entries repealed by [Road Traffic \(Consequential Provisions\) Act 1988 \(c. 54, SIF 107:1\)](#), ss. 3, 5, Sch. 1, Sch. 4 paras. 1, 2
- F62** Entries repealed by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 3, **Sch. 1 Pt. I**

## SCHEDULE 4

Section 39.

## FINES IMPOSED OTHERWISE THAN ON CONVICTION

Description of conduct	Enactment	Present maximum fine	New maximum fine
...	...	...	...
F63	F63	F63	F63
Failure to comply with attachment of earnings order etc.	Attachment of Earnings Act 1971 section 23(3)	£25	£50
Failure to comply with probation order	Powers of Criminal Courts Act 1973 section 6(3)(a) and (6)(a)	£50	£200
Failure to comply with community service order	Section 16(3) and (5)	£50	£200
Failure to comply with suspended sentence supervision order.	Section 27(3)	£50	£200

**Textual Amendments**

- F63** Entry repealed by [County Courts Act 1984 \(c. 28, SIF 34\)](#), s. 148(3), **Sch. 4**

## SCHEDULE 5

Section 48.

SCHEDULE TO BE INSERTED AFTER SCHEDULE 6 TO MAGISTRATES' COURTS ACT 1980

“SCHEDULE 6A

FINES THAT MAY BE ALTERED UNDER SECTION 143

Enactment	Maximum fine
CORONERS ACT 1887 (c. 71)	

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Sections 19(1) and (2) and 23 (refusal to give evidence etc.) £200

COUNTY COURTS ACT 1959 (c. 22)

Section 84(1) (neglecting witness summons) £200

Section 157 (contempt in face of court) £500

CHILDREN AND YOUNG PERSONS ACT 1969 (c. 54)

Section 15(2A) (fines for failure to comply with supervision orders) £50

Section 15(4) (failure to comply with supervision orders) £50 and £1,000

ATTACHMENT OF EARNINGS ACT 1971 (c. 32)

Section 23(3) (judge's fine) £50

POWERS OF CRIMINAL COURTS ACT 1973 (c. 62)

Section 6(3)(a) and (6)(a) (failure to comply with probation order) £200

Section 16(3) and (5) (failure to comply with community service order) £200

Section 27(3) (failure to comply with suspended sentence supervision order) £200

MAGISTRATES' COURTS ACT 1980 (c. 43)

Section 63(3)(a) (disobedience of orders other than payment of money) £1,000

Section 97(4) (refusal to give evidence etc.) £500

CONTEMPT OF COURT ACT 1981 (c. 49)

Section 12(2) (contempt in face of magistrates' court) £500

Section 14(2) (contempt in an inferior court) £500".

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## SCHEDULE 6

Section 56.

### SCHEDULE TO BE INSERTED AS SCHEDULE 7D TO THE CRIMINAL PROCEDURE (SCOTLAND) ACT 1975

#### “SCHEDULE 7D

Section 289H.

FINES TO BE ALTERED OTHER THAN IN ACCORDANCE WITH SECTIONS 289E AND 289F

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#### Enactment 1

#### Amendment 2

#### Present penalty 3

#### New penalty 4

THE ACT 1 & 2 WM. 4 (C. 43) (AS INCORPORATED BY, AND SET OUT IN SCHEDULE (C) TO, THE ROADS AND BRIDGES (SCOTLAND) ACT 1878 (c. 51))

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1. Section 96 (miscellaneous offences of misusing, damaging or obstructing turnpike road, including riding or driving on footways).	For “any sum not exceeding fifty shillings” substitute “a fine not exceeding level 2 on the standard scale”.	(a) for a first offence, £20;(b) for a second or subsequent offence, £50.	£50.
<b>SEA FISHERIES (SCOTLAND) AMENDMENT ACT 1885 (c. 70)</b>			
2. Section 4 (contravention of byelaws prohibiting or regulating trawling).	For “£100, or in the case of a second or subsequent conviction,” substitute “level 5 on the standard scale or”, and omit “or a fine not exceeding £200”.	(a) for a first offence, £100 and forfeiture of fishing gear used in offence;(b) for a second or subsequent offence, £200 or 3 months or both and forfeiture of fishing gear used in offence.	£1,000 or 3 months or both and forfeiture of fishing gear used in offence.
<b>MILITARY LANDS ACT 1892 (c. 43)</b>			
3. Section 17(2) (offences against byelaws).	For “five pounds” substitute “level 2 on the standard scale”.	£20.	£50.
<b>PROTECTION OF ANIMALS (SCOTLAND) ACT 1912 (c. 14)</b>			
4. Section 7 (selling poisoned grain or placing on any land any matter rendered poisonous).	For “ten pounds” substitute “level 4 on the standard scale”.	£25.	£500.
<b>LAND DRAINAGE (SCOTLAND) ACT 1930 (c. 20)</b>			
5. Section 4 (obstruction of person exercising power of entry).	For “twenty pounds” substitute “level 3 on the standard scale”.	£50.	£200.
<b>ILLEGAL TRAWLING (SCOTLAND) ACT 1934 (c. 18)</b>			
6. Section 1(1) (illegal trawling).	For paragraphs (a) to (c) substitute “to a fine not exceeding level 5 on the standard scale or to imprisonment for a period not exceeding 6 months or to both”.	(a) for a first offence, £100 or 3 months;(b) for a second offence, £200 or 6 months;(c) for a third or subsequent offence, £200 and 6 months.	£1,000 or 6 months or both.
<b>LAND DRAINAGE (SCOTLAND) ACT 1941 (c. 13)</b>			
7. Section 2(2) (obstruction of person	For “twenty pounds” substitute “level 3 on the standard scale”.	£50.	£200.



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exercising power of entry).

PUBLIC HEALTH (SCOTLAND) ACT 1945 (c. 15)

8. Section 1(5) (contravention of regulations as to treatment and spread of certain diseases).	For “one hundred pounds” substitute “level 5 on the standard scale”.	£100 and £50 per day during which the offence continues.	£1,000 and £50 per day during which the offence continues.
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FIRE SERVICES ACT 1947 (c. 41)

9. Section 14(5) (improper use of fire hydrant).	For “ten pounds” substitute “level 2 on the standard scale”.	£25.	£50.
10. Section 30(2) (obstructing a member of a fire brigade).	For “twenty-five pounds” substitute “level 3 on the standard scale”.	£50.	£200.

RADIOACTIVE SUBSTANCES ACT 1948 (c. 37)

11. Section 8(1) (obstruction of person exercising power of entry).	For the words from “twenty pounds” to the end substitute “level 4 on the standard scale”.	(a) for a first offence, £50;(b) for a second or subsequent offence, £100.	£500.
12. Section 8(3) (other summary offences under Act).	For the words from “one hundred pounds” where first occurring to “one hundred pounds” where secondly occurring substitute “level 4 on the standard scale”.	(a) for a first offence, £100;(b) for a second or subsequent offence, £100 or 3 months or both.	£500 or 3 months or both.

RIVERS (PREVENTION OF POLLUTION) (SCOTLAND) ACT 1951 (c. 66)

13. Section 21 (obstruction of person exercising power of entry).	For the words from “five pounds” to the end substitute “level 3 on the standard scale”.	(a) for a first offence, £5;(b) for a second or subsequent offence, £20.	£200.
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LAND DRAINAGE (SCOTLAND) ACT 1958 (c. 24)

14. Section 11(4) (obstruction of person exercising power of entry).	For the words from “five pounds” to the end substitute “level 3 on the standard scale”.	(a) for a first offence, £5;(b) for a second or subsequent offence, £20.	£200.
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BETTING, GAMING AND LOTTERIES ACT 1963 (c. 2)

15. Section 28(10) (disclosing	For “one hundred pounds” substitute	£100.	£500.
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information about bookmaker's business).

“level 4 on the standard scale”.

PLANT VARIETIES AND SEEDS ACT 1964 (c. 14)

16. Section 25(9) (obstructing an authorised person).

For “twenty pounds” substitute “level 3 on the standard scale”.

£20.

£200.

17. Section 27(1) (tampering with samples).

For “one hundred pounds” substitute “level 5 on the standard scale”.

£100 or 3 months or both.

£1,000 or 3 months or both.

AGRICULTURE AND HORTICULTURE ACT 1964 (c. 28)

18. Section 20(1) (obstruction, etc. of authorised officer).

For “twenty pounds” substitute “level 3 on the standard scale”.

£20.

£200.

19. Section 20(2) (offences under Part III).

For the words from “one hundred pounds” to “two hundred and fifty pounds” substitute “level 5 on the standard scale”.

(a) for a first offence, £100 or 3 months or both;(b) for a second or subsequent offence, £250 or 3 months or both.

£1,000 or 3 months or both.

INDUSTRIAL AND PROVIDENT SOCIETIES ACT 1965 (c. 12)

20. Section 61 (general offences).

For “five pounds” substitute “level 3 on the standard scale”.

£10.

£200.

RIVERS (PREVENTION OF POLLUTION) (SCOTLAND) ACT 1965 (c. 13)

21. Section 11(2) (unauthorised disclosure of information).

For the words from “one hundred pounds” to the end substitute “level 5 on the standard scale”.

£100 or 3 months or both.

£1,000.

HOUSING (SCOTLAND) ACT 1966 (c. 49)

22. Section 184 (obstruction of person exercising power of entry).

For “twenty pounds” substitute “level 3 on the standard scale”.

£20.

£200.

23. Section 185(2) (failure to comply with order regarding execution of works).

Omit “for each day during which the failure continues”; for “twenty pounds” substitute “level 3 on the standard scale”.

£20 per day during which the offence continues.

£200.

FORESTRY ACT 1967 (c. 10)

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24. Section 24(4) (failure to comply with felling licence).	For “£50” substitute “level 5 on the standard scale”.	£50.	£1,000.
25. Section 46(5) (offences against byelaws).	In paragraph (a) for “£10” substitute “level 2 on the standard scale”, and in paragraph (b) for “£5” substitute “level 2 on the standard scale”.	£20 and 50 pence per day during which the offence continues.	£50 and 50 pence per day during which the offence continues.
26. Section 48(3) (obstruction of Forestry Commission officers).	For “£5” substitute “level 3 on the standard scale”.	£20.	£200.
ROAD TRAFFIC REGULATION ACT 1967 (c. 76)			
27. Section 12(9) (contravention of temporary provisions etc.)	For “£20” substitute “level 3 on the standard scale”.	£20.	£200.
28. Section 31(3) (contravention of order relating to use of off-street parking place).	For “£20” substitute “level 2 on the standard scale”.	£20.	£50.
29. Section 31(3A) (offences under subsection (3) committed in parking place reserved for disabled persons’ vehicles).	For “£50” substitute “level 3 on the standard scale”.	£50.	£200.
30. Section 31(5) (plying for hire from a parking place).	For “£20” substitute “level 2 on the standard scale”.	£20.	£50.
31. Section 42(1) (contravention of order relating to use of on-street parking place).	For “£20” substitute “level 2 on the standard scale”.	£20.	£50.
32. Section 42(1A) (offences under subsection (1) committed in street parking place reserved for disabled persons’ vehicles).	For “£50” substitute “level 3 on the standard scale”.	£50.	£200.

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33. Section 43(3) (contravention of provisions of designation order relating to parking places).	For “£20” substitute “level 2 on the standard scale”.	£20.	£50.
34. Section 80(8) (removal etc. of fixed penalty ticket).	For “£20” substitute “level 2 on the standard scale”.	£20.	£50.
35. Section 96(2) (offences relating to inquiries).	For “£20” substitute “level 3 on the standard scale”.	£20.	£200.
POLICE (SCOTLAND) ACT 1967 (c. 77)			
36. Section 43(1) (impersonating a police officer).	For “fifty pounds” substitute “level 4 on the standard scale”.	£50 or 3 months.	£500 or 3 months.
37. Section 44(5) (offences by constables).	For “ten pounds” substitute “level 3 on the standard scale”.	£10 or 60 days.	£200 or 60 days.
AGRICULTURE (MISCELLANEOUS PROVISIONS) ACT 1968 (c. 34)			
38. Section 7(2) (obstructing officer authorised to carry out welfare inspections).	For “twenty pounds” substitute “level 3 on the standard scale”.	£20.	£200.
SALE OF VENISON (SCOTLAND) ACT 1968 (c. 38)			
39. Section 1(4) (contravention of provisions regarding registration of venison dealers).	For “£20” substitute “level 3 on the standard scale”.	£20.	£200.
40. Section 2(4) (failure to keep records, etc.).	For “£20” substitute “level 2 on the standard scale”.	£20.	£50.
SEWERAGE (SCOTLAND) ACT 1968 (c. 47)			
41. Section 44 (failure to provide information, etc.)	For “£20” substitute “level 3 on the standard scale”.	£20.	£200.
42. Section 48(9) (obstruction of person having right of entry).	For “£20” substitute “level 3 on the standard scale”.	£20 and £5 per day during which the offence continues.	£200 and £5 per day during which the offence continues.
43. Section 50(3) (unauthorised disclosure of information).	For the words from “£100” to the end substitute “level 5 on the standard scale”.	£100 or 3 months or both.	£1,000.

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## TRANSPORT ACT 1968 (c. 73)

44. Section 97(1) (tachograph offences).	For “£200” substitute “level 4 on the standard scale”.	£200.	£500.
45. Section 97A(1) (tachograph offences).	For “£200” substitute “level 4 on the standard scale”.	£200.	£500.
46. Section 97A(2) (failure by employer to secure compliance with section 97A(1) (a)).	For “£200” substitute “level 4 on the standard scale”.	£200.	£500.

## ROADS (SCOTLAND) ACT 1970 (c. 20)

47. Section 39(7) (obstruction of person exercising right of entry).	For “£20” substitute “level 3 on the standard scale”.	£20 and £5 per day during which the offence continues.	£200 and £5 per day during which the offence continues.
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## RENT (SCOTLAND) ACT 1971 (c. 28)

48. Section 98(2) (failure to provide a rent book, etc.).	For the words “in respect” to the end substitute “be liable to a fine not exceeding level 4 on the standard scale”.	£10 per week.	£500.
49. Section 127(4) (failure to comply with notice requiring disclosure of name and address of landlord, etc.).	For the words “£5” substitute “level 4 on the standard scale”.	£5.	£500.
50. Section 132(2) (failure to provide a rent book, etc.).	For the words from “in respect” where secondly occurring to the end substitute “be liable to a fine not exceeding level 4 on the standard scale”.	£10 per week.	£500.

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## ROAD TRAFFIC (FOREIGN VEHICLES) ACT 1972 (c. 27)

52. Section 3(1) (disobeying prohibition on a goods vehicle).	For “£200” substitute “level 5 on the standard scale”.	£200.	£1,000.
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## EDUCATION (SCOTLAND) ACT 1980 (c. 44)

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53. Section 43(1) (contravention of section 35, 41 or 42).	For the words from "in the case" where first occurring to "£50" where thirdly occurring substitute "to a fine not exceeding level 3 on the standard scale".	(a) for a first offence, £50;(b) for a second offence, £50;(c) for a third or subsequent offence £50 or 1 month or both.	£200 or 1 month or both.
54. Section 66(3) (obstruction of inspectors).	For the words from "£20" to "£50" substitute "level 4 on the standard scale".	(a) for a first offence, £20;(b) for a second or subsequent offence, £50 or 3 months or both.	£500 or 3 months or both.
55. Section 98(2) (failure to register independent school, etc.	For the words from "£20" to "£50" substitute "level 4 on the standard scale".	(a) for a first offence, £20;(b) for a second or subsequent offence, £50 or 3 months or both.	£500 or 3 months or both.
56. Section 101(2) (using disqualified premises).	For the words from "£20" to "£50" substitute "level 4 on the standard scale".	(a) for a first offence, £20;(b) for a second or subsequent offence, £50 or 3 months or both.	£500 or 3 months or both.
57. Section 101(3) (disqualified person acting as proprietor of independent school, etc.)	For the words from "£20" to "£50" substitute "level 4 on the standard scale".	(a) for a first offence, £20;(b) for a second or subsequent offence, £50 or 3 months or both.	£500 or 3 months or both.
WATER (SCOTLAND) ACT 1980 (c. 45)			
58. Section 38(7) (obstruction of person exercising power of entry).	For "£25" substitute "level 3 on the standard scale".	£25.	£200.
59. Section 64(2) (failure to provide information, etc.).	For "£25" substitute "level 3 on the standard scale".	£25.	£200.
60. Section 72(3) (penalty which may be provided for contravention of byelaws).	For "the sum of £400" substitute "level 4 on the standard scale".	£400 and £50 per day during which the offence continues.	£500 and £50 per day during which the offence continues.
61. Section 93(7) (failure to provide information, etc.).	For "£200" substitute "level 4 on the standard scale".	£200 and £20 per day during which the offence continues.	£500 and £20 per day during which the offence continues.
62. Paragraph 10(3) of Schedule 4 (offences relating	For the words from "£50" where first occurring to	£50 per day during which the offence	£200.

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to construction of reservoirs).	“continued” substitute “level 3 on the standard scale”.	is committed or continues.	
63. Paragraph 28 of Schedule 4 (obstruction of person exercising power of entry).	For the words “£25” substitute “level 3 on the standard scale”.	£25.	£200.
CRIMINAL JUSTICE (SCOTLAND) ACT 1980 (c. 62)			
64. Section 9(2) (penalty for failure to attend for precognition).	For “£50” substitute “level 3 on the standard scale”.	£50 or 21 days.	£200 or 21 days.”

SCHEDULE 7

Section 56.

AMENDMENT OF CERTAIN ENACTMENTS TO REFER TO STANDARD SCALE

Enactment 1	Amendment 2	Existing sum 3	New sum 4
MERCHANT SHIPPING ACT 1894 (c. 60)			
1. Section 703(b) (jurisdiction of district court to try summary offences).	For “two hundred pounds” substitute “level 4 on the standard scale”.	£200.	£500.
SEA FISHERIES ACT 1968 (c. 77)			
2. Section 13(2) (power to award compensation).	For “£400” substitute “level 5 on the standard scale”.	£400.	£1,000.
CRIMINAL PROCEDURE (SCOTLAND) ACT 1975 (c. 21)			
3. Section 186(2)(a) (penalty for breach of probation order).	For “£50” substitute “level 3 on the standard scale”.	£50.	£200.
4. Section 284(b) (power of district court to impose fine for common law offence).	For “£200” substitute “level 4 on the standard scale”.	£200.	£500.
5. Section 284(c) (power of district court to ordain accused to find caution).	For “£200” substitute “level 4 on the standard scale”.	£200.	£500.

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6. Section 285(b)(iii) (certain crimes not to be tried in inferior courts).	For “£200” substitute “level 4 on the standard scale”.	£200.	£500.
7. Section 312(z) (form of charge in offences involving dishonest appropriation of property).	For “£200” substitute “level 4 on the standard scale”.	£200.	£500.
8. Section 344(1) (penalty for certain contempts of court).	For “£50” substitute “level 3 on the standard scale”.	£50.	£200.
9. Section 387(2)(a) (penalty for breach of probation order).	For “£50” substitute “level 3 on the standard scale”.	£50.	£200.
10. Section 394(b) (power to mitigate penalties for statutory offences).	For “£200” substitute “level 4 on the standard scale”.	£200.	£500.

FATAL ACCIDENTS AND SUDDEN DEATHS INQUIRY (SCOTLAND) ACT 1976 (c. 14)

11. Section 2(3) (penalty for failure to comply with order to attend for precognition).	For “£25” substitute “level 3 on the standard scale”.	£25.	£200.
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COMMUNITY SERVICE BY OFFENDERS (SCOTLAND) ACT 1978 (c. 49)

12. Section 4(2) (failure to comply with requirements of community service order).	For “£50” substitute “level 3 on the standard scale”.	£50.	£200.
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CRIMINAL JUSTICE (SCOTLAND) ACT 1980 (c. 62)

13. Section 7(1) (jurisdiction of district court to try statutory offences).	For “£200” substitute “level 4 on the standard scale”.	£200.	£500.
14. Section 7(3) (jurisdiction of district court)	For “£200” substitute “level 4 on the standard scale”.	£200.	£500.
15. Section 9(3) (penalty for failure to give evidence during precognition).	For “£50” substitute “level 3 on the standard scale”.	£50.	£200.



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16. Section 59(3)(b) For “£200” substitute £200. £500.  
(power of district “level 4 on the  
court to make standard scale”.  
compensation order).

CONTEMPT OF COURT ACT 1981 (c. 49)

17. Section 15(2) For “£500” substitute £500. £500.  
(a) (penalties for “level 4 on the  
contempt in sheriff standard scale”.  
court other than  
in proceedings on  
indictment).

18. Section 15(2) For “£200” substitute £200. £500.  
(b) (penalties for “level 4 on the  
contempt in district standard scale”.  
court).

SCHEDULE 8

Section 58.

COURTS-MARTIAL ETC.

1 (1) The following subsection shall be inserted after section 57(2) of the <sup>M89</sup>Army Act 1955 and of the <sup>M90</sup>Air Force Act 1955—

“(2A) If the offender has attained seventeen years of age but is under twenty-one years of age, subsection (2) above shall have effect in relation to him as if the power to impose a sentence of imprisonment were a power to make an order under section 71AA below.”.

(2) The subsection inserted by sub-paragraph (1) above in section 57 of the Army Act 1955 and the Air Force Act 1955 shall also be inserted after subsection (3) of section 38 of the <sup>M91</sup>Naval Discipline Act 1957, as subsection (3A) of that section, but with the substitution of “43AA” for “71AA”.

**Marginal Citations**

**M89** 1955 c. 18.

**M90** 1955 c. 19.

**M91** 1957 c. 53.

2 Section 71A of the Army Act 1955 and of the Air Force Act 1955 and section 43A of the Naval Discipline Act 1957 (powers of courts in relation to juveniles) shall have effect subject to the following amendments—

- (a) in subsection (1), for “17” there shall be substituted “21”;
- (b) the following subsections shall be inserted after that subsection—

“(1A) Where a person under 21 years of age is convicted of murder or any other civil offence the sentence for which is fixed by law as imprisonment for life, the court shall sentence him to custody for life unless he is liable to be detained under subsection (3) below.

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- (1B) Where a person aged 17 years or over but under 21 years of age is convicted of any other offence for which a person aged 21 years or over would be liable to imprisonment for life, the court shall sentence him to custody for life if—
- (a) it is of the opinion that no other method of dealing with him is appropriate; and
  - (b) it considers that a custodial sentence for life would be appropriate.

(1C) For the purpose of determining whether any method of dealing with a person to whom subsection (1B) of this section applies, other than sentencing him to custody for life, is appropriate, the court shall obtain and consider information about the circumstances, and shall take into account any information before the court which is relevant to his character and his physical and mental condition.”;

(c) subsection (2) shall be omitted; and

(d) in subsection (5)—

- (i) after the word “of”, in the first place where it occurs, there shall be inserted the words “custody for life or”; and
- (ii) after the word “detention”, in the second place where it occurs, there shall be inserted the words “and to a sentence of custody for life”.

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In section 71AA of the <sup>M92</sup>Army Act 1955 and the <sup>M93</sup>Air Force Act 1955 and in section 43AA of the <sup>M94</sup>Naval Discipline Act 1957 (custodial orders)—

(a) in subsection (1)—

- (i) For the words “instead of so punishing him” there shall be substituted the words “subject to subsection (1A) below”; and
- (ii) for the words from “maximum” to the end there shall be substituted the words “period to be specified in the order not exceeding the maximum period for which he could have been sentenced to imprisonment if he had attained the age of twenty-one years.”;

(b) the following subsections shall be inserted after that subsection—

“(1A) The court shall not make a custodial order in respect of a person unless it is of the opinion that no other method of dealing with him is appropriate.

(1B) For the purposes of determining whether there is any appropriate method of dealing with a person other than making a custodial order in respect of him the court shall obtain and consider information about the circumstances, and shall take into account any information before the court which is relevant to his character and his physical and mental condition.”;

(c) ..... F64

(d) the following subsection shall be inserted after that subsection—

“(6A) Section 15 of the Criminal Justice Act 1982 (release of young offenders) shall apply to persons released from a term of detention under a custodial order as it applies to persons released from a term of detention under a detention centre order or a term of youth custody.”.

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#### Textual Amendments

**F64** Sch. 8 paras. 3(c), 7(d) repealed by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 170(2), Sch. 8 para. 16, Sch. 16

#### Marginal Citations

**M92** 1955 c. 18.

**M93** 1955 c. 19.

**M94** 1957 c. 53.

- 4 (1) In section 71B of the Army Act 1955 and section 71B of the Air Force Act 1955 (power to impose imprisonment for default in payment of fines)—
- (a) at the end of paragraph (b) of subsection (1) there shall be inserted “or
    - (c) in respect of whom the court makes an order under section 71AA above on the same occasion for the same or another offence, or
    - (d) who is already serving or otherwise liable to serve a period of detention under such an order,”;
  - (b) the words “or detention” shall be inserted after the word “imprisonment”—
    - (i) in the third place where it occurs in that subsection; and
    - (ii) in subsection (4); and
  - (c) the following subsection shall be inserted after subsection (5)—

“(5A) An order imposing a term of detention under this section shall be given effect as if it were a custodial order under section 71AA above.”.
- (2) The amendments made by sub-paragraph (1) above shall also be made in section 43B of the <sup>M95</sup>Naval Discipline Act 1957 but with the substitution of “43AA” for “71AA”, in both places where it occurs.

#### Marginal Citations

**M95** 1957 c. 53.

- 5 In section 85 of the <sup>M96</sup>Army Act 1955 and the <sup>M97</sup>Air Force Act 1955 (powers of different descriptions of courts-martial)—
- (a) the words “or make an order committing a person to be detained under section 71AA of this Act for a period exceeding two years” shall be inserted at the end of subsection (2); and
  - (b) the words “or detention under section 71AA of this Act for a period of two years” shall be inserted at the end of subsection (3).

#### Marginal Citations

**M96** 1955 c. 18.

**M97** 1955 c. 19.

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- 6 In section 145(1)(b) of those Acts (forfeiture of pay for absence from duty), for the words “Borstal institution” there shall be substituted the words “youth custody centre”.
- 7 Paragraph 10 of Schedule 5A to the Army Act 1955 and to the Air Force Act 1955 and Schedule 4A to the Naval Discipline Act 1957 (custodial orders) shall have effect subject to the following amendments—
- (a) in sub-paragraph (1)—
- (i) for the words “instead of so punishing him” there shall be substituted the words “subject to subsection (1A) below”; and
- (ii) for the words from “for” to the end there shall be substituted the words—
- “(a) if the order is made by court-martial, for a period to be specified in the order not exceeding the maximum period for which he could have been sentenced to imprisonment if he had attained the age of 21; or
- (b) if it is made by a Standing Civilian Court, for a period of not more than six months.”;
- (b) the following sub-paragraphs shall be inserted after that sub-paragraph—
- “(1A) The court shall not make a custodial order in respect of an offender unless it is of the opinion that no other method of dealing with him is appropriate.
- (1B) For the purposes of determining whether there is any appropriate method of dealing with an offender other than making a custodial order in respect of him the court shall obtain and consider information about the circumstances, and shall take into account any information before the court which is relevant to his character and his mental and physical condition.”;
- (c) the following sub-paragraphs shall be inserted after sub-paragraph (3)—
- “(3A) Where a Standing Civilian Court makes a custodial order in respect of an offender, it shall state in open court the reason for its opinion that no other method of dealing with him is appropriate.
- (3B) A Standing Civilian Court shall cause a reason stated under sub-paragraph (3A) above to be specified in the custodial order and to be recorded in the proceedings.”;
- (d) ..... F65
- (e) the following sub-paragraph shall be inserted after that sub-paragraph—
- “(6A) Section 15 of the Criminal Justice Act 1982 (release of young offenders) shall apply to persons released from a term of detention under a custodial order as it applies to persons released from a term of detention under a detention centre order or a term of youth custody.”.

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### Textual Amendments

**F65** Sch. 8 paras. 3(c), 7(d) repealed by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 170(2), Sch. 8 para. 16, [Sch. 16](#)

- 8 (1) In paragraph 11(2) of Schedule 5A to the <sup>M98</sup>Army Act 1955 and to the <sup>M99</sup>Air Force Act 1955 (compensation orders) for “£400” there shall be substituted “£1,000”.
- (2) Sub-paragraph (1) above has effect only in relation to offences committed after this paragraph comes into force.

### Marginal Citations

**M98** 1955 c. 18.

**M99** 1955 c. 19.

- 9 The following sub-paragraph shall be substituted for sub-paragraphs (1) and (2) of paragraph 13 of those Schedules (imposition of fines on and making of compensation orders against parent or guardian)—

“(1) Where—

- (a) a civilian under 17 years of age is found guilty of any offence for the commission of which a fine may be imposed or a compensation order may be made under paragraph 11 above; and
- (b) the court is of the opinion that the case would best be met by the imposition of a fine or the making of such an order, whether with or without any other punishment,

it shall be the duty of the court to order that the fine or compensation awarded be paid by any parent or guardian of his who is a service parent or guardian, instead of by the person himself, unless the court is satisfied—

- (i) that the parent or guardian cannot be found; or
- (ii) that it would be unreasonable to make an order for payment, having regard to the circumstances of the case.

(2) An order under this paragraph may be made against the parent or guardian if—

- (a) he has been required to attend in the manner prescribed by Rules of Procedure under section 103 above or, as the case may be, by an order under paragraph 12 of Schedule 3 to the Armed Forces Act 1976 to attend the court, and
- (b) he has failed to do so,

but, save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.”.

- 10 (1) In paragraph 14(1) of those Schedules (recognisances from parents and guardians) for “£50” there shall be substituted “£500”.
- (2) Sub-paragraph (1) above has effect only in relation to offences committed after this paragraph comes into force.
- 11 In paragraph 15(3) of those Schedules (scale of punishments and orders)—

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- (a) in the Table, in paragraph 3, in the second column, for the word "imprisonment" there shall be substituted the words "custody for life"; and
  - (b) in paragraph (i) of the Note following that Table for the word "imprisonment" there shall be substituted the words "custody for life".
- 12 (1) In section 8(1)(b) of the Armed Forces Act 1976 (powers of Standing Civilian Court to fine and sentence) for "£400" there shall be substituted "£1,000".
- (2) Sub-paragraph (1) above has effect only in relation to offences committed after this paragraph comes into force.

## SCHEDULE 9

Section 59.

### AMENDMENTS OF MAGISTRATES' <sup>M100</sup>COURTS ACT 1980 RELATING TO REMANDS IN CUSTODY

#### **Marginal Citations**

**M100** 1980 c. 43

- 1 The words "or would be required to be brought before the court but for section 128(3A) below" shall be added at the end—
- (a) of subsection (2) of section 5 (adjournment of inquiry into offence);
  - (b) of subsection (4) of section 10 (adjournment of trial); and
  - (c) of subsection (4) of section 18 (initial procedure on information against adult for offence triable either way).
- 2 In paragraph (a) of subsection (1) of section 128 (remand in custody or on bail) after the word "court", in the first place where it occurs, there shall be inserted the words " , subject to subsection (3A) below,".
- 3 The following subsections shall be inserted after the said subsection (1)—
- “(1A) Where—
- (a) on adjourning a case under section 5, 10(1) or 18(4) above the court proposes to remand or further remand a person in custody; and
  - (b) he is before the court; and
  - (c) he has attained the age of 17; and
  - (d) he is legally represented in that court,
- it shall be the duty of the court—
- (i) to explain the effect of subsections (3A) and (3B) below to him in ordinary language; and
  - (ii) to inform him in ordinary language that, notwithstanding the procedure for a remand without his being brought before a court, he would be brought before a court for the hearing and determination of at least every fourth application for his remand, and of every application for his remand heard at a time when it appeared to the court that he had no solicitor acting for him in the case.

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(1B) For the purposes of subsection (1A) above a person is to be treated as legally represented in a court if, but only if, he has the assistance of counsel or a solicitor to represent him in the proceedings in that court.

(1C) After explaining to an accused as provided by sub-section (1A) above the court shall ask him whether he consents to the hearing and determination of such applications in his absence.”.

4 The following subsections shall be inserted after subsection (3) of that section—

“(3A) Subject to subsection (3B) below, where a person has been remanded in custody, the court may further remand him on an adjournment under section 5, 10(1) or 18(4) above without his being brought before it if it is satisfied—

- (a) that he gave his consent, either in response to a question under subsection (1C) above or otherwise, to the hearing and determination in his absence of any application for his remand on an adjournment of the case under any of those provisions; and
- (b) that he has not by virtue of this subsection been remanded without being brought before the court on more than two such applications immediately preceding the application which the court is hearing; and
- (c) that he had attained the age of 17 years when he gave his consent to the hearing and determination of such applications in his absence; and
- (d) that he has not withdrawn his consent to their being so heard and determined.

(3B) The court may not exercise the power conferred by sub-section (3A) above if it appears to the court, on an application for a further remand being made to it, that the person to whom the application relates has no solicitor acting for him in the case (whether present in court or not).

(3C) Where—

- (a) a person has been remanded in custody on an adjournment of a case under section 5, 10(1) or 18(4) above; and
  - (b) an application is subsequently made for his further remand on such an adjournment; and
  - (c) he is not brought before the court which hears and determines the application; and
  - (d) that court is not satisfied as mentioned in subsection (3A) above,
- the court shall adjourn the case and remand him in custody for the period for which it stands adjourned.

(3D) An adjournment under subsection (3C) above shall be for the shortest period that appears to the court to make it possible for the accused to be brought before it.

(3E) Where—

- (a) on an adjournment of a case under section 5, 10(1) or 18(4) above a person has been remanded; in custody without being brought before the court; and
- (b) it subsequently appears—

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- (i) to the court which remanded him in custody; or  
(ii) to an alternate magistrates' court to which he is remanded under section 130 below,
- that he ought not to have been remanded in custody in his absence, the court shall require him to be brought before it at the earliest time that appears to the court to be possible.”.
- 5 The following subsection shall be inserted after subsection (4) of section 130 (transfer of remand hearings)—
- “(4A) Where a magistrates' court is satisfied as mentioned in section 128(3A) above—
- (a) subsection (1) above shall have effect as if for the words “he be brought up for any subsequent remands before” there were substituted the words “applications for any subsequent remands be made to”;
- (b) subsection (2) above shall have effect as if for the words “the accused to be brought before” there were substituted the words “an application for a further remand to be made to”; and
- (c) subsection (4) above shall have effect as if for the words “him to be brought before” there were substituted the words “an application for a further remand to be made to”.”.
- 6 Section 131(3) (by virtue of which so long as an accused person is detained under a custodial sentence an application for a further remand in custody may be made and determined without his appearance in court, provided that he is represented by counsel or a solicitor who signifies consent to the application being so heard) shall cease to have effect.
- 7 In paragraph 3 of Schedule 5 (transfer of remand hearings) for the words from “the court” onwards there shall be substituted the words “the terms of the order or remand to the court before which the accused is to be brought for the hearing on any application for a subsequent remand or, as the case may be, before which any such application is to be made without his being brought before it”.

## SCHEDULE 10

Section 64.

### AMENDMENTS OF SCHEDULE 3 TO <sup>M101</sup>IMMIGRATION ACT 1971

#### **Marginal Citations**

**M101** 1971 c. 77.

- 1 In paragraph 2—
- (a) in sub-paragraph (1), after the word “directs”, in the first place where it occurs, there shall be inserted the words “or a direction is given under sub-paragraph (1A) below,”;
- (b) the following sub-paragraph shall be inserted after that sub-paragraph—
- “(1A) Where—



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- (a) a recommendation for deportation made by a court on conviction of a person is in force in respect of him; and
- (b) he appeals against his conviction or against that recommendation,

the powers that the court determining the appeal may exercise include power to direct him to be released without setting aside the recommendation.”; and

- (c) the following sub-paragraphs shall be substituted for sub-paragraph (5)—

“(5) A person to whom this sub-paragraph applies shall be subject to such restrictions as to residence and as to reporting to the police as may from time to time be notified to him in writing by the Secretary of State.

- (6) The persons to whom sub-paragraph (5) above applies are—

- (a) a person liable to be detained under sub-paragraph (1) above, while by virtue of a direction of the Secretary of State he is not so detained; and
- (b) a person liable to be detained under sub-paragraph (2) or (3) above, while he is not so detained.”.

- 2 The following shall be added after paragraph 3—

*“ Powers of courts pending deportation*

- 4 Where the release of a person recommended for deportation is directed by a court, he shall be subject to such restrictions as to residence and as to reporting to the police as the court may direct.

- 5 (1) On an application made—
  - (a) by or on behalf of a person recommended for deportation whose release was so directed; or
  - (b) by a constable; or
  - (c) by an immigration officer,the appropriate court shall have the powers specified in sub-paragraph (2) below.

- (2) The powers mentioned in sub-paragraph (1) above are—
  - (a) if the person to whom the application relates is not subject to any such restrictions imposed by a court as are mentioned in paragraph 4 above, to order that he shall be subject to any such restrictions as the court may direct; and
  - (b) if he is subject to such restrictions imposed by a court by virtue of that paragraph or this paragraph—
    - (i) to direct that any of them shall be varied or shall cease to have effect; or
    - (ii) to give further directions as to his residence and reporting.

- 6 (1) In this Schedule “the appropriate court” means, except in a case to which sub-paragraph (2) below applies, the court which directed release.

- (2) This sub-paragraph applies where the court which directed release was—
  - (a) the Crown Court;

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- (b) the Court of Appeal;
  - (c) the High Court of Justiciary;
  - (d) the Crown Court in Northern Ireland; or
  - (e) the Court of Appeal in Northern Ireland.
- (3) Where the Crown Court or the Crown Court in Northern Ireland directed release, the appropriate court is—
- (a) the court that directed release; or
  - (b) a magistrates’ court acting for the commission area or county court division where the person to whom the application relates resides.
- (4) Where the Court of Appeal or the Court of Appeal in Northern Ireland gave the direction, the appropriate court is the Crown Court or the Crown Court in Northern Ireland, as the case may be.
- (5) Where the High Court of Justiciary directed release, the appropriate court is—
- (a) that court; or
  - (b) in a case where release was directed by that court on appeal, the court from which the appeal was made.
- 7 (1) A constable or immigration officer may arrest without warrant any person who is subject to restrictions imposed by a court under this Schedule and who at the time of arrest is in the relevant part of the United Kingdom—
- (a) if he has reasonable grounds to suspect that that person is contravening or has contravened any of those restrictions; or
  - (b) if he has reasonable grounds for believing that that person is likely to contravene any of them.
- (2) In sub-paragraph (1) above “the relevant part of the United Kingdom” means—
- (a) England and Wales, in a case where a court with jurisdiction in England or Wales imposed the restrictions;
  - (b) Scotland, in a case where a court with jurisdiction in Scotland imposed them; and
  - (c) Northern Ireland, in a case where a court in Northern Ireland imposed them.
- 8 (1) A person arrested in England or Wales or Northern Ireland in pursuance of paragraph 7 above shall be brought as soon as practicable and in any event within 24 hours after his arrest before a justice of the peace for the petty sessions area or district in which he was arrested.
- (2) In reckoning for the purposes of this paragraph any period of 24 hours, no account shall be taken of Christmas Day, Good Friday or any Sunday.
- 9 (1) A person arrested in Scotland in pursuance of paragraph 7 above shall wherever practicable be brought before the appropriate court not later than in the course of the first day after his arrest, such day not being a Saturday, a Sunday or a court holiday prescribed for that court under section 10 of the Bail etc. (Scotland) Act 1980.
- (2) Nothing in this paragraph shall prevent a person arrested in Scotland being brought before a court on a Saturday, a Sunday or such court holiday as is

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mentioned in sub-paragraph (1) above where the court is, in pursuance of section 10 of the said Act of 1980, sitting on such day for the disposal of criminal business.

- 10 Any justice of the peace or court before whom a person is brought by virtue of paragraph 8 or 9 above—
- (a) if of the opinion that that person is contravening, has contravened or is likely to contravene any restriction imposed on him by a court under this Schedule, may direct—
    - (i) that he be detained; or
    - (ii) that he be released subject to such restrictions as to his residence and reporting to the police as the court may direct; and
  - (b) if not of that opinion, shall release him without altering the restrictions as to his residence and his reporting to the police.”.

## SCHEDULE 11

Section 65.

### PROBATION AND AFTER-CARE

- 1 In the <sup>M102</sup>Powers of Criminal Courts Act 1973—
- (a) section 4 (day training centres);
  - (b) so much of section 49 as enables rules made by the Secretary of State to provide that no person shall be appointed to be in charge of an approved bail hostel or an approved probation hostel unless the Secretary of State has consented to his appointment and as permits the appointment of a person to be in charge of any such hostel in case of emergency without such consent; and
  - (c) section 50 (inspection of non-approved institutions for the residence of probationers and persons on bail),
- shall cease to have effect.

#### Marginal Citations

M102 1973 c. 62.

- 2 In section 2(3) of that Act (probation orders) for the words “and 4” there shall be substituted the words “, 4A and 4B”.

- 3 The following sections shall be inserted after section 4 of that Act—

#### “4A Requirements in probation orders.

- (1) Without prejudice to the generality of section 2(3) above, the power conferred by that subsection includes power, subject to the provisions of this section, to require the probationer—

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- (a) to present himself to a person or persons specified in the order at a place or places so specified;
  - (b) to participate or refrain from participating in activities specified in the order—
    - (i) on a day or days so specified; or
    - (ii) during the probation period or such portion of it as may be so specified.
- (2) A court shall not include in a probation order a requirement such as is mentioned in subsection (1) above unless it has first consulted a probation officer as to—
- (a) the offender’s circumstances; and
  - (b) the feasibility of securing compliance with the requirements, and is satisfied, having regard to the probation officer’s report, that it is feasible to secure compliance with them.
- (3) A court shall not include a requirement such as is mentioned in subsection (1) (a) above or a requirement to participate in activities if it would involve the co-operation of a person other than the probationer and the probation officer responsible for his supervision, unless that other person consents to its inclusion.
- (4) A requirement such as is mentioned in subsection (1)(a) above shall operate to require the probationer—
- (a) in accordance with instructions given by the probation officer responsible for his supervision, to present himself at a place for not more than 60 days; and
  - (b) while there, to comply with instructions given by, or under the authority of, the person in charge of the place.
- (5) A place specified in the order shall have been approved by the probation committee for the area in which the premises are situated as providing facilities suitable for persons subject to probation orders.
- (6) A requirement to participate in activities shall operate to require the probationer—
- (a) in accordance with instructions given by the probation officer responsible for his supervision, to participate in the activities for not more than 60 days; and
  - (b) while participating, to comply with instructions given by, or under the authority of, the person in charge of the activities.
- (7) Instructions given by a probation officer under sub-section (4) or (6) above shall, as far as practicable, be such as to avoid any interference with the times, if any, at which the probationer normally works or attends a school or other educational establishment.

#### **4B Probation orders requiring attendance at day centre.**

- (1) Without prejudice to the generality of sections 2(3) and 4A above, the power conferred by section 2(3) above includes power, subject to the provisions of this section, to require the probationer during the probation period to attend at a day centre specified in the order.

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- (2) A court shall not include such a requirement in a probation order unless—
    - (a) it has consulted a probation officer; and
    - (b) it is satisfied—
      - (i) that arrangements can be made for the probationer’s attendance at a centre; and
      - (ii) that the person in charge of the centre consents to the inclusion of the requirement.
  - (3) A requirement under subsection (1) above shall operate to require the probationer—
    - (a) in accordance with instructions given by the probation officer responsible for his supervision, to attend on not more than 60 days at the centre specified in the order; and
    - (b) while attending there to comply with instructions given by, or under the authority of, the person in charge of the centre.
  - (4) Instructions given by a probation officer under sub-section (3) above shall, so far as is practicable, be such as to avoid any interference with the times, if any, at which the probationer normally works or attends a school or other educational establishment.
  - (5) References in this section to attendance at a day centre include references to attendance elsewhere than at the centre for the purpose of participating in activities in accordance with instructions given by, or under the authority of, the person in charge of the centre.
  - (6) In this section “day centre” means premises at which non-residential facilities are provided for use in connection with the rehabilitation of offenders and which—
    - (a) are provided by a probation committee; or
    - (b) have been approved by the probation committee for the area in which the premises are situated as providing facilities suitable for persons subject to probation orders.”.
- 4 In section 47(a) of that Act (the probation service and its functions) for the word “case” there shall be substituted the words “probation liaison”.
- 5 In Schedule 1 to that Act (discharge and amendment of probation orders)—
  - (a) in sub-paragraph (2) of paragraph 1 (by virtue of which the power to discharge a probation order is to be exercised by the supervising court where the order was made by the court by or before which the probationer was convicted, or on appeal) after the word “appeal” there shall be inserted the words “or by the Crown Court, where a magistrates’ court has committed an offender to it for sentence, or by a magistrates’ court to which the offender has been remitted for sentence under section 39 of the <sup>M103</sup>Magistrates’ Courts Act 1980,”;
  - (b) in sub-paragraph (3) of that paragraph (which enables the Crown Court to reserve to itself the power to discharge a probation order) after the words “Crown Court”, in the first place where they occur, there shall be

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- inserted the words “or where the Crown Court made the order following the offender’s committal to it for sentence by a magistrates’ court”; and
- (c) in sub-paragraph (1) of paragraph 3 (which relates to the cancellation etc. of requirements) for the words “or 4” there shall be substituted the words “, 4A or 4B”.

#### Marginal Citations

M103 1980 c. 43.

- 6 In Schedule 3 to that Act (duties and powers of probation committees)—
- (a) in paragraph 3—
- (i) in sub-paragraph (1)(a) (under which it is the duty of every such committee to appoint sufficient probation officers for their probation area and to ensure that at least one probation officer who is a man and one probation officer who is a woman is appointed for or assigned to each petty sessions area) the words from “and to ensure” to “petty sessions area” shall cease to have effect;
- (ii) in sub-paragraph (2) (powers of probation committee to give financial and other assistance to persons under the supervision of probation officers appointed for their area) for the words “under the supervision of probation officers appointed for their area” there shall be substituted the words “in relation to whom probation officers appointed for their area have responsibilities”;
- (iii) the following sub-paragraph shall be inserted after that sub-paragraph—
- “(2A) A probation committee may provide facilities for enabling—
- (a) directions given by a supervisor by virtue of subsection (2) of section 12 of the Children and Young Persons Act 1969; and
- (b) requirements included in a supervision order by virtue of subsection (3C) of that section,
- to be carried out effectively.”;
- (iv) in sub-paragraph (3) (by virtue of which a committee may delegate functions to a sub-committee, but only with the approval of the Secretary of State) the words “with the approval of the Secretary of State” shall cease to have effect; and
- (v) the following sub-paragraph shall be inserted after sub-paragraph (4)—
- “(5) In this paragraph “supervision order” and “supervisor” have the meanings assigned to them by section 11 of the Children and Young Persons Act 1969.”;
- (b) the following paragraphs shall be substituted for paragraphs 4 and 5 (case committees)—

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### Probation liaison committees

- “4 (1) For every petty sessions area outside the inner London area there shall be one or more committees, to be called “probation liaison committees”, and every such committee shall, subject to paragraphs 6 and 7 below, consist—
- (a) if the petty sessions area is a separate probation area, of the probation committee;
  - (b) in any other case, of not less than three justices appointed by the justices acting for that petty sessions area.
- (2) It shall be the duty of probation liaison committees for areas outside the inner London area to review the work of probation officers, and to perform such other duties in connection with the work of probation officers as may be prescribed.
- (3) A probation committee for any area outside the inner London area shall pay any expenses incurred in accordance with rules made by the Secretary of State under this Schedule by a probation liaison committee for a petty sessions area in their probation area, and any allowances under paragraph 13 below to members of any such committee.
- “5 (1) The probation committee for the inner London area may appoint such probation liaison committees, constituted in such manner and for such areas within that area, as the probation committee may determine, and shall pay the expenses of any probation liaison committee appointed under this sub-paragraph.
- (2) Any probation liaison committee appointed for an area within the inner London area shall exercise functions conferred on probation liaison committees for areas outside the inner London area by paragraph 4(2) above to such extent and in such cases as may be determined by the probation committee for the inner London area.”;
- (c) in paragraphs 6 and 7 (which relate to the co-option of members of probation committees and case committees) a reference to a probation liaison committee shall be substituted for every reference to a case committee;
  - (d) in paragraph 10 (functions of probation committees in relation to community service orders)—
    - (i) in sub-paragraph (1) (under which a probation committee may, with the approval of the Secretary of State, secure that arrangements for persons to perform work under community service orders are made for their area or for any petty sessions area comprised in it) for the words “may, with the approval of the Secretary of State,” there shall be substituted the word “shall” and for the word “any” there shall be substituted the word “each”; and
    - (ii) sub-paragraph (2) (appointment of community service committees) shall cease to have effect;
  - (e) in sub-paragraphs (1) and (3) of paragraph 13 (travelling and subsistence allowances) and sub-paragraph (1)(a) of paragraph 18 (rules) references to

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- a probation liaison committee shall be substituted for the references to a case committee;
- (f) in paragraphs 18(1)(b) and 18A (both of which relate to the qualifications etc. of probation officers and their ancillary staff) the words “and staff appointed under paragraph 10 above” shall cease to have effect.

## SCHEDULE 12

Section 68.

## COMMUNITY SERVICE ORDERS—ENGLAND AND WALES

- 1 In section 14 of the <sup>M104</sup>Powers of Criminal Courts Act 1973 (community service orders in respect of convicted persons)—
- (a) In subsection (1)—
- (i) for the word “seventeen” there shall be substituted the word “sixteen”; and
- (ii) the words from “for such” to “in the order” shall cease to have effect;
- (b) the following subsection shall be inserted after that sub-section—
- “(1A) The number of hours which a person may be required to work under a community service order shall be specified in the order and shall be in the aggregate—
- (a) not less than 40; and
- (b) not more—
- (i) in the case of an offender aged sixteen, than 120; and
- (ii) in other cases, than 240.”;
- (c) the following subsections shall be substituted for subsection (2)—
- “(2) A court shall not make a community service order in respect of any offender unless the offender consents and after considering a report by a probation officer or by a social worker of a local authority social services department about the offender and his circumstances and, if the court thinks it necessary, hearing a probation officer or a social worker of a local authority social services department, the court is satisfied that the offender is a suitable person to perform work under such an order.
- (2A) Subject to sections 17A and 17B below,—
- (a) a court shall not make a community service order in respect of any offender who is of or over seventeen years of age unless the court is satisfied that provision for him to perform work under such an order can be made under the arrangements for persons to perform work under such orders which exist in the petty sessions area in which he resides or will reside; and
- (b) a court shall not make a community service order in respect of an offender who is under seventeen years of age unless—



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- (i) it has been notified by the Secretary of State that arrangements exist for persons of the offender's age who reside in the petty sessions area in which the offender resides or will reside to perform work under such orders; and
  - (ii) it is satisfied that provision can be made under the arrangements for him to do so.”; and
- (d) in subsection (3), for the words “in subsection (1) above” there shall be substituted the words “specified in paragraph (b)(i) or (ii) of subsection (1A) above.”; and
- (e) in subsection (7), for the words from “subsection (1)” to “this subsection” there shall be substituted the words “subsection (1A) above shall be amended by substituting for the maximum number of hours for the time being specified in paragraph (b)(i) or (ii) of that subsection”.

**Marginal Citations**

M104 1973 c. 62.

2 In section 17 of that Act (amendment and revocation of community service orders)

- (a) the following subsections shall be inserted after subsection (4)—
- “(4A) Where—
- (a) an offender in respect of whom a community service order is in force is convicted of an offence before a magistrates' court other than a magistrates' court acting for the petty sessions area for the time being specified in the order; and
  - (b) the court imposes a custodial sentence on him; and
  - (c) it appears to the court, on the application of the offender or the relevant officer, that it would be in the interests of justice to do so having regard to circumstances which have arisen since the order was made,
- the court may—
- (i) if the order was made by a magistrates' court, revoke it; and
  - (ii) if the order was made by the Crown Court, commit him in custody or release him on bail until he can be brought or appear before the Crown Court;
- and where the court deals with his case under sub-paragraph (ii) above, it shall send to the Crown Court such particulars of the case as may be desirable.
- (4B) Where by virtue of subsection (4A)(c)(ii) above the offender is brought or appears before the Crown Court and it appears to the Crown Court to be in the interests of justice to do so, having regard to circumstances which have arisen since the order was made, the Crown Court may revoke the order.”; and
- (b) the following subsections shall be substituted for subsection (5)—

“(5) If—

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- (a) a magistrates' court acting for the petty sessions area for the time being specified in a community service order is satisfied that the offender proposes to change, or has changed, his residence from that petty sessions area to another petty sessions area; and
- (b) the conditions specified in subsection (5A) below are satisfied,

the court may, and on the application of the relevant officer shall, amend the order by substituting the other petty sessions area for the area specified in the order.

(5A) The conditions referred to in subsection (5) above are—

- (a) if the offender is of or over 17 years of age, that it appears to the court that provision can be made for him to perform work under the community service order under the arrangements which exist for persons who reside in the other petty sessions area to perform work under such orders; and
- (b) if the offender is under 17 years of age—
  - (i) that the court has been notified by the Secretary of State that arrangements exist for persons of his age who reside in the other petty sessions area to perform work under such orders; and
  - (ii) it appears to the court that provision can be made under the arrangements for him to do so.”

## SCHEDULE 13

Section 68.

### COMMUNITY SERVICE ORDERS—RECIPROCAL ARRANGEMENTS

#### PART I

#### RECIPROCAL ARRANGEMENTS (ENGLAND AND WALES)— PERSONS RESIDING IN SCOTLAND OR NORTHERN IRELAND

1 The following shall be inserted after section 17 of the <sup>M105</sup>Powers of Criminal Courts Act 1973—

*“ Community service orders relating to persons  
residing in Scotland or Northern Ireland*

#### **17A Making and amendment of community service orders relating to persons residing in Scotland.**

- (1) Where a court considering the making of a community service order is satisfied that the offender resides, or will be residing when the order comes

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into force, in Scotland, section 14 above shall have effect as if the following subsection were substituted for subsection (2A)—

- (2A) A court shall not make a community service order in respect of any offender unless—
- (a) the court has been notified by the Secretary of State that arrangements exist for persons who reside in the locality in Scotland in which the offender resides, or will be residing when the order comes into force, to perform work under community service orders made under section 1 of the Community Service by Offenders (Scotland) Act 1978; and
  - (b) it appears to the court that provision can be made for him to perform work under those arrangements..
- (2) Where a community service order has been made and—
- (a) a magistrates' court acting for a petty sessions area for the time being specified in it is satisfied that the offender proposes to reside or is residing in Scotland;
  - (b) that court has been notified by the Secretary of State that arrangements exist for persons who reside in the locality in Scotland in which the offender proposes to reside or is residing to perform work under community service orders made under section 1 of the Community Service by Offenders (Scotland) Act 1978;
  - (c) it appears to that court that provision can be made for him to perform work under the community service order under those arrangements, it may amend the order by specifying that the unpaid work required to be performed by the order be so performed.
- (3) A community service order made or amended in accordance with this section shall—
- (a) specify the locality in Scotland in which the offender resides or will be residing when the order or the amendment comes into force; and
  - (b) require the regional or islands council in whose area the locality specified under paragraph (a) above is situated to appoint or assign an officer who will discharge in respect of the order the functions in respect of community service orders conferred on the local authority officer by the Community Service by Offenders (Scotland) Act 1978.

### **17B Making and amendment of community service orders relating to persons residing in Northern Ireland.**

- (1) Where a court considering the making of a community service order is satisfied that the offender resides, or will be residing when the order comes into force, in Northern Ireland, it shall not make the order unless it is also satisfied that he is of or over 17 years of age.
  - (2) Where the court is satisfied that he is of or over that age, section 14 above shall have effect as if the following subsection were substituted for subsection (2A)—
- (2A) court shall not make a community service order in respect of any offender unless it appears to the court that provision can be made by the Probation

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Board for Northern Ireland (in this section referred to as “the Probation Board”) for him to perform work under the order.

- (3) Where a community service order has been made and—
- (a) a magistrates’ court acting for a petty sessions area for the time being specified in it is satisfied that the offender has attained the age of 17 years and proposes to reside or is residing in Northern Ireland;
  - (b) it appears to that court that provision can be made by the Probation Board for him to perform work under the order.

it may amend the order by specifying that the unpaid work required to be performed by the order be so performed.

- (4) A community service order made or amended in accordance with this section shall—
- (a) specify the petty sessions district in Northern Ireland in which the offender resides or will be residing when the order or the amendment comes into force; and
  - (b) require the Probation Board to select an officer who will discharge in respect of the order the functions in respect of community service orders conferred on the relevant officer by the <sup>M106</sup>Treatment of Offenders (Northern Ireland) Order 1976.

### **17C Community service orders relating to persons residing in Scotland or Northern Ireland— general.**

- (1) Where a community service order is made or amended in the circumstances specified in section 17A or 17B of this Act, the court which makes or amends the order shall send three copies of it as made or amended to the home court, together with such documents and information relating to the case as it considers likely to be of assistance to that court.

- (2) In this section—

“home court” means—

- (a) if the offender resides in Scotland, or will be residing in Scotland at the relevant time, the sheriff court having jurisdiction in the locality in which he resides or proposes to reside; and
- (b) if he resides in Northern Ireland, or will be residing in Northern Ireland at the relevant time, the court of summary jurisdiction acting for the petty sessions district in which he resides or proposes to reside; and

“the relevant time” means the time when the order or the amendment to it comes into force.

- (3) A community service order made or amended in the circumstances specified in section 17A or 17B of this Act shall be treated to the following provisions of this section, as if it were a community service order made in the part of the United Kingdom in which the offender resides, or will be residing at the relevant time; and the legislation relating to community service orders which has effect in that part of the United Kingdom shall apply accordingly.
- (4) Before making or amending a community service order in those circumstances the court shall explain to the offender in ordinary language—

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- (a) the requirements of the legislation relating to community service orders which has effect in the part of the United Kingdom in which he resides or will be residing at the relevant time;
  - (b) the powers of the home court under that legislation, as modified by this section; and
  - (c) its own powers under this section,and an explanation given in accordance with this section shall be sufficient without the addition of an explanation under section 14(5) above.
- (5) The home court may exercise in relation to the community service order any power which it could exercise in relation to a community service order made by a court in the part of the United Kingdom in which the home court exercises jurisdiction, by virtue of the legislation relating to such orders which has effect in the part of the United Kingdom in which it has jurisdiction except—
  - (a) a power to vary the order by substituting for the number of hours' work specified in it any greater number than the court which made the order could have specified;
  - (b) a power to revoke the order; and
  - (c) a power to revoke the order and deal with the offender for the offence in respect of which it was made in any manner in which he could have been dealt with for that offence by the court which made the order if the order had not been made.
- (6) If at any time while legislation relating to community service orders which has effect in one part of the United Kingdom applies by virtue of subsection (3) above to a community service order made in another part—
  - (a) it appears to the home court—
    - (i) if that court is in Scotland, on evidence on oath from the local authority officer under the <sup>M107</sup>Community Service by Offenders (Scotland) Act 1978; and
    - (ii) if it is in Northern Ireland, upon a complaint being made to a justice of the peace acting for the petty sessions district for the time being specified in the order, that the offender has failed to comply with any of the requirements of the legislation applicable to the order; or
  - (b) it appears to the home court of the application of the offender or—
    - (i) if that court is in Scotland, of the local authority officer; and
    - (ii) if it is in Northern Ireland, of the relevant officer, as defined in the <sup>M106</sup>Treatment of Offenders (Northern Ireland) Order 1976,that it would be in the interests of justice to exercise a power mentioned in subsection (5)(b) or (c) above,the home court may require the offender to appear before the court by which the order was made.
- (7) Where an offender is required by virtue of subsection (6) above to appear before the court which made a community service order, that court—
  - (a) may issue a warrant for his arrest; and

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- (b) may exercise any power which it could exercise in respect of the community service order if the offender resided in the part of the United Kingdom where the court has jurisdiction, and any enactment relating to the exercise of such powers shall have effect accordingly.”.

**Marginal Citations**

M105 1973 c. 62.

M106 S.I. 1976 No. 226 (N.I. 4)

M107 1978 c. 49

- 2 (1) In section 58 of that Act (application to Scotland), after “13,” there shall be inserted “17C”.
- (2) In section 59(1) of that Act (Northern Ireland) for the word “Section” there shall be substituted the words “Sections 17C and”.

**PART II**

RECIPROCAL ARRANGEMENTS (SCOTLAND)—PERSONS  
 RESIDING IN ENGLAND AND WALES OR NORTHERN IRELAND

- 3 In sections 183(5A) and 384(5A) of the <sup>M108</sup>Criminal Procedure (Scotland) Act 1975 (requirement that probationer shall perform unpaid work), in paragraph (c)(i), for the words “and 6” there shall be substituted the words “, 6 and 6A”.

**Marginal Citations**

M108 1975 c. 21.

- 4 In section 6 of the <sup>M109</sup>Community Service by Offenders (Scotland) Act 1978 (community service orders relating to persons residing in England or Wales)—
- (a) in subsections (1) and (2) for the word “17” there shall be substituted the word “16”;
- (b) in subsection (1)—
- (i) in section 1(2)(b) as substituted by paragraph (a) of that subsection, at the beginning there shall be inserted the words “where the offender is under the age of 17 years,” and after the word “persons” there shall be inserted the words “of the offender’s age”;
- (ii) in section 1(2)(d) as so substituted, for the words from “under the arrangements” to the end of paragraph (d) there shall be substituted the words “for the offender to perform work under the order made under subsection (1) above under the arrangements which exist in the petty sessions area in which he resides or will be residing for persons to perform work under community service orders made under section 14 of the <sup>M110</sup>Powers of Criminal Courts Act 1973;”;
- (iii) at the end of paragraph (a) there shall be inserted the words “and as if for the words “such an order” in paragraph (c) of the said

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- subsection (2) there were substituted the words “a community service order”;
- (iv) in paragraph (b), for the words “section 1(2)(b)” there shall be substituted the words “section 1(2)(d)”;
- (c) in subsection (2)—
- (i) at the beginning of paragraph (b) there shall be inserted the words “where the offender is under the age of 17 years”;
- (ii) after the word “persons” in paragraph (b) there shall be inserted the words “of the offender’s age”;
- (iii) in paragraph (c), for the words from “under those arrangements” to “section 1(1)” there shall be substituted the words “for the offender to perform work under the order made under the said section 1(1) under the arrangements which exist in the petty sessions area in which he proposes to reside or is residing for persons to perform work under community service orders made under section 14 of the Powers of Criminal Courts Act 1973”;
- (iv) for the words “paragraph (b)” there shall be substituted the words “paragraph (c)”;
- (d) after subsection (2) there shall be inserted the following subsection—
- “(2A) community service order made under section 1(1) of this Act as amended by this section or amended in accordance with this section shall—
- (a) specify the petty sessions area in England or Wales in which the offender resides or will be residing when the order or the amendment comes into force; and
- (b) require the probation committee for that area to appoint or assign a probation officer who will discharge in respect of the order the functions in respect of community service orders conferred on relevant officers by the Powers of Criminal Courts Act 1973.”.

**Marginal Citations**

**M109** 1978 c. 49.

**M110** 1973 c. 42.

5 After section 6 of that Act there shall be inserted the following sections—

**“6A Community service orders relating to persons residing in Northern Ireland.**

- (1) Where a court is considering the making of a community service order under section 1(1) of this Act and it is satisfied that the offender has attained the age of 17 years and resides, or will be residing when the order comes into force, in Northern Ireland, then—
- (a) the said section 1 shall have effect as if, in subsection (2) thereof—
- (i) paragraph (b) were omitted;
- (ii) for paragraph (d) there were substituted the following paragraph—

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- (d) it appears to the court that provision can be made by the Probation Board for Northern Ireland for him to perform work under such an order; ;
  - (b) the order shall specify that the unpaid work required to be performed by order shall be performed under the provision made by the Probation Board for Northern Ireland and referred to in section 1(2)(d) of this Act as substituted by paragraph (a) above.
- (2) Where a community service order has been made under the said section 1(1) and—
- (a) the appropriate court is satisfied that the offender has attained the age of 17 years and proposes to reside or is residing in Northern Ireland; and
  - (b) it appears to that court that provision can be made by the Probation Board for Northern Ireland for him to perform work under the order made under the said section 1(1),
- it may amend the order by specifying that the unpaid work required to be performed by the order shall be performed under the provision made by the Probation Board for Northern Ireland and referred to in paragraph (b) of this subsection.
- (3) A community service order made under section 1(1) of this Act as amended by this section or amended in accordance with this section shall—
- (a) specify the petty sessions district in Northern Ireland in which the offender resides or will be residing when the order or the amendment comes into force; and
  - (b) require the Probation Board for Northern Ireland to select an officer who will discharge in respect of the order the functions in respect of community service orders conferred on the relevant officer by the Treatment of Offenders (Northern Ireland) Order 1976.

## **6B Community service orders relating to persons residing in England or Wales or Northern Ireland— general.**

- (1) Where a community service order is made or amended in the circumstances specified in section 6 or 6A of this Act, the court which makes or amends the order shall send three copies of it as made or amended to the home court, together with such documents and information relating to the case as it considers likely to be of assistance to that court.
- (2) In this section—
- “home court” means—
- (a) if the offender resides in England or Wales, or will be residing in England or Wales at the relevant time, the magistrates’ court acting for the petty sessions area in which he resides or proposes to reside; and
  - (b) if he resides in Northern Ireland, or will be residing in Northern Ireland at the relevant time, the court of summary jurisdiction acting for the petty sessions district in which he resides or proposes to reside; and
- “the relevant time” means the time when the order or the amendment to it comes into force.



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- (3) A community service order made or amended in the circumstances specified in section 6 or 6A of this Act shall be treated, subject to the following provisions of this section, as if it were a community service order made in the part of the United Kingdom in which the offender resides, or will be residing at the relevant time; and the legislation relating to community service orders which has effect in that part of the United Kingdom shall apply accordingly.
- (4) Before making or amending a community service order in those circumstances the court shall explain to the offender in ordinary language—
- (a) the requirements of the legislation relating to community service orders which has effect in the part of the United Kingdom in which he resides or will be residing at the relevant time;
  - (b) the powers of the home court under that legislation, as modified by this section; and
  - (c) its own powers under this section,
- and an explanation given in accordance with this section shall be sufficient without the addition of an explanation under section 1(4) of this Act.
- (5) The home court may exercise in relation to the community service order any power which it could exercise in relation to a community service order made by a court in the part of the United Kingdom in which the home court exercises jurisdiction, by virtue of the legislation relating to such orders which has effect in that part of the United Kingdom except—
- (a) a power to vary the order by substituting for the number of hours' work specified in it any greater number than the court which made the order could have specified;
  - (b) a power to revoke the order; and
  - (c) a power to revoke the order and deal with the offender for the offence in respect of which it was made in any manner in which he could have been dealt with for that offence by the court which made the order if the order had not been made.
- (6) If at any time while legislation relating to community service orders which has effect in one part of the United Kingdom applies by virtue of subsection (3) above to a community service order made in another part—
- (a) it appears to the home court—
    - (i) if that court is in England or Wales, on information to a justice of the peace acting for the petty sessions area for the time being specified in the order; or
    - (ii) if it is in Northern Ireland, upon a complaint being made to a justice of the peace acting for the petty sessions district for the time being specified in the order,that the offender has failed to comply with any of the requirements of the legislation applicable to the order; or
  - (b) it appears to the home court on the application of—
    - (i) the offender; or
    - (ii) if that court is in England and Wales, the relevant officer under the Powers of Criminal Courts Act 1973; or
    - (iii) if that court is in Northern Ireland, the relevant officer under the Treatment of Offenders (Northern Ireland) Order 1976,

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that it would be in the interests of justice to exercise a power mentioned in subsection (5)(b) or (c) above,

the home court may require the offender to appear before the court by which the order was made.

(7) Where an offender is required by virtue of subsection (6) above to appear before the court which made a community service order, that court—

- (a) may issue a warrant for his arrest; and
- (b) may exercise any power which it could exercise in respect of the community service order if the offender resided in the part of the United Kingdom where the court has jurisdiction,

and any enactment relating to the exercise of such powers shall have effect accordingly.”

6 In section 15 of that Act for subsection (5) there shall be substituted the following subsection—

“(5) Section 6B and this section extend to England and Wales and Northern Ireland.”.

### PART III

#### RECIPROCAL ARRANGEMENTS (NORTHERN IRELAND)— PERSONS RESIDING IN ENGLAND AND WALES OR SCOTLAND

##### *Making an amendment of community service orders relating to persons residing in England and Wales*

7 (1) Where a court in Northern Ireland considering the making of a community service order is satisfied that the offender resides, or will be residing when the order comes into force, in England or Wales, the <sup>MIII</sup>Treatment of Offenders (Northern Ireland) Order 1976 shall have effect as if the following were substituted for Article 7(4)—

“(4) A court shall not make a community service order in respect of any offender unless the offender consents and—

- (a) it appears to the court that provision for the offender to perform work under such an order can be made under the arrangements for persons to perform work under such orders which exist in the petty sessions area in England or Wales in which he resides or will reside; and
- (b) the court is satisfied after considering a report by a probation officer about the offender and his circumstances and, if the court thinks it necessary, hearing a probation officer, that the offender is a suitable person to perform work under such an order.”.

(2) Where a community service order has been made by a court in Northern Ireland and—

- (a) a court of summary jurisdiction acting for a petty sessions district in Northern Ireland for the time being specified in it is satisfied that the offender proposes to reside or is residing in England or Wales;

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- (b) it appears to that court that provision can be made for him to perform work under the community service order under the arrangements for persons to perform work under such orders which exist in the petty sessions area in England or Wales in which he resides or will reside,
- it may amend the order by specifying that the unpaid work required to be performed by the order be so performed.
- (3) A community service order made or amended in accordance with this paragraph shall—
- (a) specify the petty sessions area in England or Wales in which the offender resides or will be residing when the order or the amendment comes into force; and
- (b) require the probation committee for that area to appoint or assign a probation officer who will discharge in respect of the order the functions in respect of community service orders conferred on relevant officers by the <sup>M112</sup>Powers of Criminal Courts Act 1973.

#### Marginal Citations

M111 S.I. 1976 No. 226 (N.I. 4).

M112 1973 c. 62.

#### *Making and amendment of community service orders relating to persons residing in Scotland*

- 8 (1) Where a court in Northern Ireland considering the making of a community service order is satisfied that the offender resides, or will be residing when the order comes into force, in Scotland, the <sup>M113</sup>Treatment of Offenders (Northern Ireland) Order 1976 shall have effect as if the following were substituted for Article 7(4)—
- “(4) A court shall not make a community service order in respect of any offender unless the offender consents and—
- (a) the court has been notified by the Secretary of State that arrangements exist for persons who reside in the locality in Scotland in which the offender resides or will be residing when the order comes into force, to perform work under community service orders made under section 1 of the Community Service by Offenders (Scotland) Act 1978; and
- (b) the court is satisfied after considering a report by a probation officer about the offender and his circumstances and, if the court thinks it necessary, hearing a probation officer, that the offender is a suitable person to perform work under such an order; and
- (c) it appears to the court that provisions can be made for him to perform work under the arrangements mentioned in sub-paragraph (a) above.”.
- (2) Where a community service order has been made by a court in Northern Ireland and—
- (a) a court of summary jurisdiction acting for a petty sessions district in Northern Ireland for the time being specified in it is satisfied that the offender proposes to reside or is residing in Scotland;

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- (b) that court has been notified by the Secretary of State that arrangements exist for persons who reside in the locality in Scotland in which the offender proposes to reside or is made under section 1 of the Community Service by Offenders (Scotland) Act 1978;
  - (c) it appears to that court that provision can be made for him to perform work under the community service order under those arrangements,
- it may amend the order by specifying that the unpaid work required to be performed by the order be so performed.
- (3) A community service order made or amended in accordance with this paragraph shall—
- (a) specify the locality in Scotland in which the offender resides or will be residing when the order or the amendment comes into force; and
  - (b) require the regional or islands council in whose area the locality specified under paragraph (a) above is situated to appoint or assign an officer who will discharge in respect of the order the functions in respect of community service orders conferred on the local authority officer by the<sup>M114</sup>Community Service by Offenders (Scotland) Act 1978.

#### Marginal Citations

**M113** S.I. 1976 No. 226 (N.I. 4).

**M114** 1978 c. 49.

#### *Community service orders relating to persons residing in England and Wales or Scotland—General*

- 9 (1) Where a community service order is made or amended in the circumstances specified in paragraph 7 or 8 above, the court which makes or amends the order shall send three copies of the order as made or amended to the home court, together with such documents and information relating to the case as it considers likely to be of assistance to that court.
- (2) In this paragraph—
- “home court” means—
- (a) if the offender resides in England or Wales, or will be residing in England or Wales at the relevant time, the magistrates’ court acting for the petty sessions area in which he resides or proposes to reside; and
  - (b) if he resides in Scotland, or will be residing in Scotland at the relevant time, the sheriff court having jurisdiction in the locality in which he resides or proposes to reside;
- “the relevant time” means the time when the order or the amendment to it comes into force.
- (3) A community service order made or amended in the circumstances specified in paragraph 7 or 8 above shall be treated, subject to the following provisions of this paragraph, as if it were a community service order made in the part of the United Kingdom in which the offender resides, or will be residing at the relevant time; and

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the legislation relating to community service orders which has effect in that part of the United Kingdom shall apply accordingly.

- (4) Before making or amending a community service order in the circumstances specified in paragraph 7 or 8 above the court shall explain to the offender in ordinary language—
- (a) the requirements of the legislation relating to community service orders which has effect in the part of the United Kingdom in which he resides or will be residing at the relevant time;
  - (b) the powers of the home court under that legislation, as modified by this Part of this Schedule; and
  - (c) its own powers under this Part of this Schedule,
- and an explanation given in accordance with this sub-paragraph shall be sufficient without the addition of an explanation under Article 7(7) of the <sup>M115</sup>Treatment of Offenders (Northern Ireland) Order 1976.
- (5) The home court may exercise in relation to the community service order any power which it could exercise in relation to a community service order made by a court in the part of the United Kingdom in which the home court exercises jurisdiction, by virtue of the legislation relating to such orders which has effect in the part of the United Kingdom in which it has jurisdiction except—
- (a) a power to vary the order by substituting for the number of hours' work specified in it any greater number than the court which made the order could have specified;
  - (b) a power to revoke the order; and
  - (c) a power to revoke the order and deal with the offender for the offence in respect of which it was made in any manner in which he could have been dealt with for that offence by the court which made the order if the order had not been made.
- (6) If at any time whilst legislation relating to community service orders which has effect in one part of the United Kingdom applies by virtue of sub-paragraph (3) above to a community service order made in another part—
- (a) it appears to the home court—
    - (i) if that court is in England or Wales, on information to a justice of the peace acting for the petty sessions area for the time being specified in the order;
    - (ii) if it is in Scotland, on evidence on oath from the local authority officer under the <sup>M116</sup>Community Service by Offenders (Scotland) Act 1978,that the offender has failed to comply with any of the requirements of the legislation applicable to the order; or
  - (b) it appears to the home court on the application of the offender or—
    - (i) if it is in England and Wales, of the relevant officer under the <sup>M117</sup>Powers of Criminal Courts Act 1973; and
    - (ii) if it is in Scotland, of the local authority officer,that it would be in the interests of justice to exercise a power mentioned in sub-paragraph (5)(b) or (c) above,
- the home court may require the offender to appear before the court by which the order was made.

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- (7) Where an offender is required to appear before a court by virtue of sub-paragraph (6) above, that court—
  - (a) may issue a warrant for his arrest; and
  - (b) may exercise any power which it could exercise in respect of the community service order if the offender resided in the part of the United Kingdom where the court has jurisdiction,
 and any enactment relating to the exercise of such powers shall have effect accordingly.

**Marginal Citations**  
 M115 S.I. 1976 No. 226 (N.I. 4).  
 M116 1978 c. 49.  
 M117 1973 c. 62.

SCHEDULE 14

Section 77.

MINOR AND CONSEQUENTIAL AMENDMENTS

*Vagrancy Act 1824 (c. 83)*

- 1 In the Vagrancy Act 1824 the words “, subject to section 70 of the Criminal Justice Act 1982,” shall be inserted—
  - (a) in sections 3 and 4, before the words “it shall be lawful”; and
  - (b) in section 5—
    - (i) before the words “be deemed an incorrigible rogue”; and
    - (ii) before the words “it shall be lawful”.

*Merchant Shipping Act 1894 (c. 60)*

- 2 (1) In paragraph (b) of subsection (1) of section 680 of the Merchant Shipping Act 1894 (summary trial of offences for which maximum fine does not exceed £1,000) for the words “one thousand pounds” there shall be substituted the words “level 5 on the standard scale”.
- (2) ..... F66

**Textual Amendments**  
 F66 Sch. 14 para. 2(2) repealed by S.I. 1984/703 (N.I. 3), art. 19(2), Sch. 7

*Customs and Excise Act 1952 (c. 44)*

- [F673 For section 283(5) of the Customs and Excise Act 1952 there shall be substituted the following subsection—

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“(5) The proviso to subsection (2) of this section shall not apply to Scotland; and in the application of the said sub-section (2) to Scotland the maximum term of imprisonment which may be imposed on summary conviction in the sheriff court shall be 6 months, and the penalty for an offence which is triable only summarily by virtue of paragraph (b) of that subsection shall be that to which a person was liable on summary conviction of the offence immediately before 29th July 1977 (the date of the passing of the <sup>M118</sup> Criminal Law Act 1977) subject to any increase by virtue of Part IV of the Criminal Justice Act 1982.”.]

#### Textual Amendments

**F67** Sch. 14 para. 3 repealed so far as it relates to car tax by Car Tax Act 1983 (c. 53, SIF 40:2), Sch. 3 and repealed so far as it relates to value added tax by Value Added Tax Act 1983 (c. 55, SIF 40:2), Sch. 11

#### Marginal Citations

**M118** 1977 c. 45

#### Prison Act 1952 (c. 52)

- 4 In section 13(2) of the Prison Act 1952 (which among other things provides that a prisoner is to be deemed to be in legal custody while he is being taken to any place to which he is required or authorised by or under that Act to be taken, or is kept in custody in pursuance of any such requirement or authorisation) after the words “authorised by or under this Act” there shall be inserted the words “or the Criminal Justice Act 1982”.
- 5 In section 22(2)(b) of that Act (removal of prisoners for medical etc. purposes)—
- (a) after the word “requires” there shall be inserted the words “medical investigation or observation or”; and
  - (b) after the words “of the” there shall be inserted the words “investigation, observation or”.
- 6 In section 37(4) of that Act (closing of prisons) for the words “Borstal institution” there shall be substituted the words “youth custody centre”.
- 7 In section 47 of that Act (rules for the management of prisons and other institutions)
- (a) in subsection (1), for the words “Borstal institutions” there shall be substituted the words “youth custody centres”; and
  - (b) in subsection (5), for the words “Borstal institution” there shall be substituted the words “remand centre, youth custody centre”.
- 8 In section 49 of that Act (persons unlawfully at large)—
- (a) in subsection (1) for the words “or Borstal training” there shall be substituted the words “custody for life or youth custody”, and after the word “centre” where first occurring there shall be inserted the words “or a young offenders institution”;
  - (b) in subsection (2)—

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- (i) for the words “Borstal training” there shall be substituted the words “youth custody”; and
- (ii) for the words “prison, Borstal institution or detention centre, as the case may be” there shall be substituted the words “place in which he is required in accordance with law to be detained”; and
- (c) in paragraph (a) of the proviso to that subsection, for the words following “prison” there shall be substituted the words “, youth custody centre, remand centre or detention centre;”.

- 9 In section 53(1) of that Act (interpretation) for the words “subsection (2) of section forty-eight of the Criminal Justice Act 1948” there shall be substituted the words “section 16 of the Criminal Justice Act 1982”.

*Criminal Justice Act 1961 (c. 39)*

- 10 In section 23 of the Criminal Justice Act 1961 (by virtue of which, among other things, a prisoner who is serving a term of more than one month and would otherwise be discharged on a Saturday is instead discharged on Friday)—

- (a) in subsection (3), for the words “one month” there shall be substituted the words “five days”; and
- (b) in subsection (4), for the words “borstal institutions” there shall be substituted the words “youth custody centres”.

- 11 The following subsections shall be substituted for subsections (4) to (7) of section 26 of that Act (transfer to serve sentence)—

“(4) Subject to the following provisions of this section, a person transferred under this section to any part of the United Kingdom or to any of the Channel Islands or the Isle of Man there to serve his sentence or the remainder of his sentence shall be treated for purposes of detention, release, supervision, recall and otherwise as if that sentence (and any other sentence to which he may be subject) had been an equivalent sentence passed by a court in the place to which he is transferred.

(4A) A person who has been sentenced to a sentence of a length which could not have been passed on an offender of his age in the place to which he has been transferred shall be treated for the purposes mentioned in subsection (4) of this section as the Secretary of State may direct.”.

- 12 The words “youth custody centre” shall be substituted for the words “Borstal institution” in section 29(1) (removal of prisoners etc. for judicial purpose) and section 30(3) (prisoners unlawfully at large) of that Act.

- 13 In subsection (2) of section 32 of that Act (supervision and recall)—

- (a) in paragraph (i) for the word “section” there shall be substituted the words “sections 206,”;
- (b) at the end there shall be added the following paragraphs—
  - “(j) section 15 of the Criminal Justice Act 1982;
  - (k) section 73(4), (5) and (6) of the <sup>M119</sup>Children and Young Persons Act (Northern Ireland) 1968.”.



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### Marginal Citations

M119 1968 c. 34. (N.I.)

- 14 The words “or of any authorised officer” shall be added at the end of section 33 of that Act (orders relating to transfers of prisoners and others to be under hand of the Secretary of State or of an Under-Secretary or Assistant Under-Secretary of State).
- 15 In section 38 of that Act (construction of references to imprisonment, detention, etc.)—
- (a) in paragraph (a) of subsection (3)—
- (i) after the word “imprisonment”, in the second place where it occurs, there shall be inserted the words “custody for life, youth custody,”; and
- (ii) for the words “or detention in a detention centre or young offenders institution” there shall be substituted the words “detention in a detention centre or young offenders institution or detention under an equivalent sentence passed by a court in the Channel Islands or the Isle of Man”;
- (b) the following subsection shall be inserted after subsection (5)—
- “(6) The Secretary of State may by order designate as equivalent sentences for the purposes of this Act and of any enactment referred to in Part III of this Act a description of sentence which a court with jurisdiction in one part of the United Kingdom or in the Channel Islands or the Isle of Man may pass and a description of sentence which a court elsewhere in the United Kingdom or in those Islands may pass;”.
- 16 In section 39 of that Act (interpretation)—
- (a) in subsection (1), the following definition shall be substituted for the definition of “appropriate institution”—
- ““appropriate institution”, in relation to any person, means, subject to subsection (1A) of this section, any institution which would be appropriate for the detention of an offender of the same age serving an equivalent sentence passed by a court in the place to which he has been transferred;”;
- (b) the following subsections shall be inserted after that subsection—
- “(1A) Subsection (1) of this section shall have effect in relation to a person serving a sentence of a length which could not have been passed on an offender of his age by a court in the place to which he has been transferred as if it defined “appropriate institution” as meaning such place as the Secretary of State may direct.
- (1B) Any reference in this Act to a sentence being equivalent to another sentence is to be construed as a reference to its having been so designated under section 38(6) of this Act.”.
- 17 In section 42(1) of that Act (application to Scotland), and in section 42(2) (application to Northern Ireland), after the word “thirty-five;” there shall be inserted the words “section thirty-six;”.

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*Criminal Justice Act 1967 (c. 80)*

18—21. . . . . F68

**Textual Amendments**

**F68** Sch. 14 paras. 18–21 repealed by Prisons (Scotland) Act 1989 (c. 45, SIF 39:1), s. 45(2), Sch. 3

22 The following subsections shall be inserted after subsection (2) of section 67 of that Act (computation of sentence of imprisonment)—

“(2A) Where a person is sentenced to imprisonment with an order under section 47(1) of the <sup>M120</sup> Criminal Law Act 1977 (sentences partly suspended), subsection (1) above—

- (a) operates to reduce the part of the sentence required to be served in prison;
- (b) operates to reduce the whole period of the sentence for the purposes of section 47(3) of that Act; but
- (c) does not operate to reduce any part of the sentence which is ordered under section 47(1) of that Act to be held in suspense.

(2B) Where—

- (a) an offender has been sentenced to imprisonment with an order under section 47(1) of that Act; and
- (b) he has been released from prison after serving part of his sentence; and
- (c) an order is subsequently made restoring part of his sentence,

the restored part shall for the purposes of this section be treated as a sentence of imprisonment imposed by the order restoring it (but shall not be reduced by any period spent in custody by the offender before the original sentence was passed).”.

**Marginal Citations**

**M120** 1977 c. 45

*Criminal Appeal Act 1968 (c. 19)*

23 In section 10 of the Criminal Appeal Act 1968 (appeal against sentence passed by Crown Court for an offence not tried on indictment)—

- (a) in subsection (2)(b), after the word “discharge” there shall be inserted the words “or an attendance centre order”;
- (b) in subsection (3)(a), after the word “imprisonment” there shall be inserted the words “or to youth custody under section 6 of the Criminal Justice Act 1982”; and
- (c) the following subsection shall be inserted after subsection (4)—

“(5) If by virtue of an order made under section 14 of the Criminal Justice Act 1982, the term of 4 months specified in section 4 of that Act is increased to a term of 6 months or more, subsection (3)

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(a) above shall have effect, for so long as the term so specified is 6 months or more, as if after the word “more” there were inserted the words “or an order for his detention in a detention centre for a term of 6 months or more has been made under section 4 of the Criminal Justice Act 1982”.

*Firearms Act 1968 (c. 27)*

24 In section 21 of the Firearms Act 1968 (possession of firearms by persons previously convicted of crime)—

- (a) in subsection (1)—
  - (i) after the word “sentenced”, in the first place where it occurs, there shall be inserted the words “to custody for life or”; and
  - (ii) after the word “more” there shall be inserted the words “or to youth custody for such a term”; and
- (b) in subsection (2), after the word “years”, in the second place where it occurs, there shall be inserted the words “or to youth custody for such a term”.

*Children and Young Persons Act 1969 (c. 54)*

25 The following words shall be added at the end of section 15(1) of the Children and Young persons Act 1969 (variation and discharge of supervision orders) — “ or power to insert in the supervision order a requirement in pursuance of section 12(3C)(b) of this Act in respect of any day which falls outside the period of 3 months beginning with the date when the order was originally made. ”.

26 In section 16(10) of that Act (which includes a definition of an “attendance centre order”)—

- (a) for the words “19 of the Criminal Justice Act 1948” there shall be substituted the words “17 of the Criminal Justice Act 1982”; and
- (b) for the word “(5)” there shall be substituted the word “(13)”.

27 In section 23(4) of that Act (remand to care of local authorities etc.) for the words “borstal sentence” there shall be substituted the words “youth custody sentence”.

28 The following subsection shall be added at the end of section 69(4) of that Act (orders and regulations etc.)—

“(5) The power conferred by subsection (4)(c) of this section shall be construed in its application to orders under section 73(2) of this Act as authorising the inclusion in any such order of a provision directing that—

- (a) the words “child or” wherever occurring in section 55 of the <sup>M121</sup>Children and Young Persons Act 1933 (power to order parent or guardian to pay fine etc.); and
- (b) the words from “except” to the end of section 17(4) of the Criminal Justice Act 1982 (limit of aggregate number of hours for which an attendance centre order may require an offender under 14 years of age to attend at an attendance centre),

shall cease to have effect on a day specified in the order.”.

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**Marginal Citations**

M121 1933 c. 12

*Fire Precautions Act 1971 (c. 40)*

- 29 In section 40(2)(a) of the Fire Precautions Act 1971 (which provides that no fire certificate is required in respect of prisons and similar institutions) for the words “Borstal institution” there shall be substituted the words “youth custody centre”.

*Powers of Criminal Courts Act 1973 (c. 62)*

- 30 In subsection (3)(c) of section 6 of the Powers of Criminal Courts Act 1973 (breach of requirements of probation order) for the words “19 of the Criminal Justice Act 1948” there shall be substituted the words “17 of the Criminal Justice Act 1982”.
- 31 In section 13 of that Act (under which a conviction of an offence for which a probation order or an order for conditional or absolute discharge is made is deemed not to be a conviction except for certain purposes)—
- (a) in subsection (1), after the word “below,” there shall be inserted the words “and to section 50(1A) of the <sup>M122</sup>Criminal Appeal Act 1968 and section 108(1A) of the Magistrates’ Courts Act 1980,”; and
  - (b) in subsection (4)(a), for the words “appeal against his conviction or rely on it” there shall be substituted the words “rely on his conviction”.

**Marginal Citations**

M122 1968 c. 19.

- 32 The following subsection shall be added at the end of section 20 of that Act—
- “(5) For the purposes of this section the age of a person shall be deemed to be that which it appears to the court to be after considering any available evidence.”.
- 33 In section 32(2) of that Act (enforcement etc. of fines imposed and recognizances forfeited by Crown Court) after the word “imprisonment,” in the first place where it occurs, there shall be inserted the words “or detention under section 9 of the Criminal Justice Act 1982”.
- 34 The following subsection shall be inserted as subsection (2) of section 42 of that Act—
- “(2) Where an offender is committed by a magistrates’ court for sentence under section 37 of the <sup>M123</sup>Magistrates’ Courts Act 1980 (committal for sentence of offender aged 15 or 16 convicted of indictable offences), the Crown Court shall enquire into the circumstances of the case and shall have power—
- (a) subject to section 7(8) of the Criminal Justice Act 1982 (term of youth custody for offenders aged 15 or 16 not to exceed 12 months), to sentence him to a term of youth custody not exceeding the

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- maximum term of imprisonment for the offence on conviction on indictment; or
- (b) to deal with him in any manner in which the magistrates' court might have dealt with him.”.

**Marginal Citations**  
M123 1980 c. 43

*Juries Act 1974 (c. 23)*

- 35 In Schedule 1 to the Juries Act 1974 (persons ineligible for or disqualified from jury service)—
- (a) in Part I, in the entry beginning “governors, chaplains,”, for the words “borstal institution” there shall be substituted the words “youth custody centre”; and
  - (b) in Part II—
    - (i) in sub-paragraph (a) for the words “or for a term of five years or more” there shall be substituted the words “, custody for life or to a term of imprisonment or youth custody of five years or more”; . . .  
F69
    - (ii) . . . . . F70

**Textual Amendments**

- F69 Word repealed by *Juries (Disqualification) Act 1984 (c. 34, SIF 72:1)*, ss. 1(2), 2(2)
- F70 Sch. 14 para. 35(b)(ii) repealed by *Juries (Disqualification) Act 1984 (c. 34, SIF 72:1)*, ss. 1(2), 2(2)

*Rehabilitation of Offenders Act 1974 (c. 53)*

- 36 In section 5(1) of the Rehabilitation of Offenders Act 1974 (sentences excluded from rehabilitation)—
- (a) in paragraph (b) after word “imprisonment” there shall be inserted the words “youth custody”; and
  - (b) after paragraph (d) there shall be the following words “and
    - (e) a sentence of custody for life”.
- 37 In section 5(2) (rehabilitation periods for particular sentences)—
- (a) in Table A, after the word “imprisonment”, in both places where it occurs, there shall be inserted the words “or youth custody”; and
  - (b) in Table B, after the words “made under” there shall be inserted the words “section 4 of the Criminal Justice Act 1982,”.

*Criminal Law Act 1977 (c. 45)*

- 38 In section 36 of the Criminal Law Act 1977 (enforcement of fines imposed on young offenders)—

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- (a) in subsection (2) for the words “the statutory restrictions upon the imprisonment of young offenders” there shall be substituted the words “section 1 of the Criminal Justice Act 1982”; and
  - (b) in subsection (4)(a) for the words “19(1) of the Criminal Justice Act 1948” there shall be substituted the words “17 of the Criminal Justice Act 1982”.
- 39 In subsection (5) of section 38A of that Act (execution in different parts of United Kingdom of warrants for imprisonment for non-payment of fine) in the definition of “prison”, after paragraph (i) there shall be inserted the following paragraph—
- “(ia) in the case of a person under that age arrested in England and Wales, any place in which he could be detained under section 12(10) of the Criminal Justice Act 1982;”.
- 40 The following shall be inserted after paragraph 3 of Schedule 9 to that Act (ancillary provisions relating to partly suspended sentences)—

*“ Consecutive sentences of imprisonment*

- 3A (1) This paragraph applies where—
- (a) an offender is serving consecutive sentences of imprisonment; and
  - (b) at least one of the sentences was passed with an order under section 47(1) of this Act.
- (2) Where this paragraph applies the offender shall, so far as the consecutive sentences are concerned, be treated for the purposes—
- (a) of computing the date when he should be released from prison; and
  - (b) of calculating the term of imprisonment liable to be restored under section 47(3) of this Act,
- as if he had been sentenced to a single term of imprisonment with an order under section 47(1) of this Act of which the part which he is immediately required to serve in prison were the aggregate—
- (i) of the part which he is required to serve in prison of any consecutive sentence passed with an order under section 47(1) of this Act; and
  - (ii) of the whole term of any other consecutive sentence,
- and of which the part which is held in suspense were the aggregate of all parts of the sentences which were ordered to be held in suspense under that section.
- (3) Section 47(6) of this Act shall have effect, in relation to any consecutive sentence passed with an order under section 47(1) of this Act, as if for the words following the word “prison” there were substituted the following words “if—
- (a) none of the sentences to which he is subject had been passed with an order under subsection (1) above; and
  - (b) he had not had, in respect of any sentence passed with such an order, any remission under section 25(1) of the Prison Act 1952 (industry and good conduct in prison).”

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(4) In this paragraph “a consecutive sentence” means a sentence which is one of two or more sentences of imprisonment the terms of which have been ordered to run consecutively.”.

41 In paragraph 7 of that Schedule, for the word “Where” there shall be substituted the words “Subject to section 60(1C) of the <sup>M124</sup>Criminal Justice Act 1967 (release on licence), where”.

**Marginal Citations**

M124 1967 c. 80.

*Customs and Excise Management Act 1979 (c. 2)*

42 Section 147(5) of the Customs and Excise Management Act 1979 is repealed.

43 In section 156 of that Act (saving for outlying enactments of certain general provisions as to offences)—

(a) in subsection (3), the words “This subsection does not apply to Scotland” are repealed;

(b) for subsection (4) there shall be substituted the following subsections—

“(4) The maximum term of imprisonment which may be imposed on summary conviction in the sheriff court of an offence under any of the outlying provisions of the customs and excise Acts shall be 6 months.

(5) Where, in Scotland, an offence under any of the outlying provisions of the customs and excise Acts is triable only summarily by virtue of subsection (3)(b) above, the penalty for the offence shall be that to which a person was liable on summary conviction of the offence immediately before 29th July 1977 (the date of the passing of the Criminal Law Act 1977) subject to any increase by virtue of section 289C(5) of the Criminal Procedure (Scotland) Act 1975 or Part IV of the Criminal Justice Act 1982.”.

*Child Care Act 1980 (c. 5)*

44 In section 10(2) of the Child Care Act 1980 (parental powers of local authorities) for the words “regulations made in pursuance of section” there shall be substituted the words “section 21A of this Act and to regulations made in pursuance of section 21A or”.

F71 45 .....

**Textual Amendments**

F71 Sch. 14 para. 45 repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(7), Sch. 15 (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, art. 3(2)

F72 46 .....

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### Textual Amendments

**F72** Sch. 14 para. 46 repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(7), Sch.15 (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, art. 3(2)

#### *Magistrates' Courts Act 1980 (c. 43)*

- 47 In section 24(3) of the Magistrates' Courts Act 1980 (powers of sentencing with respect to persons under the age of 17 tried summarily for indictable offences) for the words following the word "section" there shall be substituted the words "1(1) of the Criminal Justice Act 1982, it could have sentenced him to imprisonment for a term not exceeding—
- (a) the maximum term of imprisonment for the offence on conviction on indictment; or
  - (b) six months,
- whichever is the less. ”.
- 48 In section 31 of that Act (general limit on powers of magistrates' courts to impose imprisonment) the words "or youth custody" shall be inserted after the word "imprisonment" in subsections (1) and (2).
- 49 The following subsections shall be substituted for subsection (1) of section 37 of that Act (committal to Crown Court with a view to Borstal sentence)—
- “(1) Where a person who is not less than 15 nor more than 16 years old is convicted by a magistrates' court of an offence punishable on conviction on indictment with a term of imprisonment exceeding six months, then, if the court is of opinion that he should be sentenced to a greater term of youth custody than it has power to impose, the court may commit him in custody or on bail to the Crown Court for sentence.
- (1A) If by virtue of an order made under section 14 of the Criminal Justice Act 1982, the term specified in section 7(5) of that Act as the usual term of youth custody is increased to a term exceeding six months, subsection (1) above shall have effect, for so long as the term so specified exceeds six months, as if after the word "opinion" there were inserted the following words—
- (a) that a youth custody sentence should be passed on him but that it has no power to do so; or
  - (b) ."” .
- 50 In section 77(2) of that Act (power to fix a term of imprisonment and postpone issue of warrant of distress) after the word "imprisonment" there shall be inserted the words "or detention under section 9 of the Criminal Justice Act 1982 (detention of persons aged 17 to 20 for default)".
- 51 In section 81(1) of that Act (enforcement of fines imposed on young offenders) for the words "the statutory restrictions upon the imprisonment of young offenders" there shall be substituted the words "section 1 of the Criminal Justice Act 1982".



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- 52 In section 82 of that Act (restriction on power to impose imprisonment for default)
- (a) in subsection (1)(c), after the word “imprisonment”, in the first place where it occurs, there shall be inserted the words “, youth custody”; and
  - (b) in subsections (1)(c), (3)(a) and (5)(b) for the words “a term of imprisonment” there shall be substituted the words “a sentence of custody for life, or a term of imprisonment, youth custody, detention under section 9 of the Criminal Justice Act 1982”.

- 53 In section 88 of that Act (supervision pending payment)—
- (a) in subsection (4), for the word “prison”—
    - (i) in the first place where it occurs, there shall be substituted the words “detention under section 9 of the Criminal Justice Act 1982”; and
    - (ii) in the next place where it occurs, there shall be substituted the words “to such detention”; and
  - (b) in subsection (5), for the word “prison” there shall be substituted the words “such detention”.

- 54 The following section shall be inserted after section 96 of that Act—

**“96A Application of Part III to persons aged 17 to 20.**

This Part of this act shall have effect in relation to a person aged 17 or over but less than 21 as if any reference to committing a person to prison, or fixing a term of imprisonment for a default, were a reference to committing the person to, or, as the case may be, to fixing a term of, detention under section 9 of the Criminal Justice Act 1982; and any reference to warrants of commitment, or to periods of imprisonment imposed for default, shall be construed accordingly.”.

- 55 The words “or the Crown Court” shall be added at the end of section 119(3) of that Act (postponement of taking recognizance).

- 56 In section 133(1) of that Act (consecutive terms of imprisonment) after the word “imprisonment” wherever it appears there shall be inserted the words “or youth custody”.

- 57 At the end of section 134 of that Act (detention in police cells etc.) there shall be inserted the following subsection—

“(8) This section shall have effect in relation to a person aged 17 or over but less than 21 as if references in it to imprisonment were references to youth custody.”.

- 58 The following subsection shall be added as subsection (3) of section 135 of that Act (detention of offender for one day in court house or police station) and as subsection (4) of section 136 of that Act (committal to custody overnight at police station for non-payment of sum adjudged by conviction)—

“(0) This section shall have effect in relation to a person aged 17 or over but less than 21 as if references in it to prison were references to detention under section 9 of the Criminal Justice Act 1982 (detention of persons aged 17 to 20 for default).”.

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59 In Schedule 4 to that Act (imprisonment for default) the words “or detention” shall be inserted after the word “imprisonment” in paragraphs 1 and 2(1).

*Contempt of Court Act 1981 (c. 49)*

60 The following subsection shall be inserted after subsection (2) of section 14 of the Contempt of Court Act 1981 (which relates to penalties for contempt and kindred offences in proceedings in England and Wales)—

“(2A) In the exercise of jurisdiction to commit for contempt of court or any kindred offence the court shall not deal with the offender by making an order under section 17 of the Criminal Justice Act 1982 (an attendance centre order) if it appears to the court, after considering any available evidence, that he is under 17 years of age.”.

SCHEDULE 15

Section 77.

MINOR AND CONSEQUENTIAL AMENDMENTS SCOTLAND

*Trespass (Scotland) Act 1865 (c. 56)*

1 In section 4 of the Trespass (Scotland) Act 1865 (apprehension and punishment of offenders) for the words from “, and on being convicted” onwards, substitute the words “; and every person committing an offence against the provisions of this act shall be liable, on summary conviction, to a fine not exceeding level 1 on the standard scale.”.

*Electric Lighting Act 1882 (c. 56)*

2 ..... F73

**Textual Amendments**  
F73 Sch. 15 para. 2 repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112, Sch. 17 para. 35(1), Sch. 18

*Merchant Shipping Act 1894 (c. 60)*

3 In section 680 of the Merchant Shipping Act 1894 (prosecution of offences)—  
(a) in subsection (1) omit the words “and to the provisions herein-after contained with respect to Scotland”; and  
(b) at end of that section insert the following subsection—  
“(4) Subsection (2) above shall extend to Scotland, but save as aforesaid this section shall not extend to Scotland.”.

4 At the beginning of section 702 of that Act (offences punishable as misdemeanors) insert the words “Subject to section 703 of this Act,”.

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5 For paragraph (a) of section 703 of that Act (summary proceedings in Scotland) substitute the following paragraphs—

“(a) subject to section 43(2) of the Merchant Shipping Act 1979 (which among other things makes certain offences triable either summarily or on indictment), any offence under this Act which was triable only summarily immediately before 1st January 1980 (the date of commencement of the said section 43) shall continue to be so triable and shall be deemed to have been so triable at all times since that date;

(aa) subject to any special provisions of this Act—

(i) an offence under this Act described as a misdemeanor shall be triable either summarily or on indictment and, subject to any other penalty prescribed in respect of any particular offence, shall be punishable on summary conviction with a fine not exceeding the statutory maximum or imprisonment for a term not exceeding 6 months or both, and on conviction on indictment with a fine or imprisonment for a term not exceeding 2 years or both;

(ii) subject to sub-paragraph (i) above, an offence under this Act made punishable with imprisonment for any term not exceeding 6 months or with a fine or a maximum fine which does not exceed level 5 on the standard scale shall be triable only summarily;

(iii) an offence under this Act not falling within paragraph (a) above or the preceding provisions of this paragraph shall be triable either summarily or on indictment:

Provided that in relation to the period before the commencement of section 54 of the Criminal Justice Act 1982 sub-paragraph (ii) above shall have effect as if for “level 5 on the standard scale” there were substituted “£1,000”;

*Public Health (Scotland) Act 1897 (c. 38)*

6 In section 18 of the Public Health (Scotland) Act 1897 (power of entry to local authority or their officers)—

(a) before the word “conviction” insert the word “summary”; and

(b) for the words “a penalty not exceeding five pounds” substitute the words “a fine not exceeding level 3 on the standard scale”.

7 In section 24 of that Act (penalty for contravention of decree and of interdict)—

(a) for the words “to a penalty of not more than £10 per day during his failure so to comply” substitute the words “on summary conviction to a fine not exceeding level 2 on the standard scale”; and

(b) for the words “to a penalty not exceeding £20 per day during such infringement” substitute the words “on summary conviction to a fine not exceeding level 2 on the standard scale”.

*Food and Drugs (Scotland) Act 1956 (c. 30)*

8 In section 56 of the Food and Drugs (Scotland) Act 1956 (orders and regulations)—

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- (a) in subsection (8)(e), for the words “section forty of this Act” substitute “subsection (8A) below”; and
- (b) after subsection (8), insert the following new subsection—
  - “(8A) The maximum penalties referred to in subsection (8)(e) above are—
    - (a) on conviction of an offence triable only summarily, a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding 6 months or both;
    - (b) in relation to an offence triable either summarily or on indictment—
      - (i) on summary conviction, a fine not exceeding the statutory maximum or imprisonment for a term not exceeding 6 months or both;
      - (ii) on conviction on indictment, a fine or imprisonment for a term not exceeding one year or both.”.

*South of Scotland Electricity Order Confirmation Act 1956 (c. xciv)*

- 9 For section 51 of the South of Scotland Electricity Order 1956 as set out in the Schedule to the South of Scotland Electricity Order Confirmation Act 1956 there shall be substituted the following section—

**Injury to electricity lines, meters, seals etc. and interference with meters.**

- (1) If any person—
  - (a) wilfully, fraudulently or by culpable negligence—
    - (i) injures or suffers to be injured any electric lines, meter or fittings belonging to the Board;
    - (ii) alters the index to any meter; or
    - (iii) prevents any meter from duly registering the quality of electricity supplied; or
  - (b) wilfully—
    - (i) injures or detaches or suffers to be injured or detached any of the sealing or locking devices attached to any sealed or locked receptacle, meter or apparatus affixed by the Board to any electric line within a consumer’s premises; or
    - (ii) opens or suffers to be opened any such sealed or locked receptacle, meter or apparatus;

he shall (without prejudice to any other right or remedy for the protection of the Board or the punishment of the offender) be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

- (2) The prosecution of any such offence shall not prevent the Board from recovering the amount of any damage caused to them by the offence, and, if the offence involves wilful or fraudulent injury to or interference with any electric lines, meter or fittings belonging to the Board, the Board may also, until the matter has been remedied, but no longer, discontinue the supply of electricity to the person so offending (notwithstanding any contract previously existing).

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(3) The existence of artificial means for causing an alteration of the index to any meter or preventing any meter from duly registering the quantity of electricity supplied, when the meter is under the custody or control of the consumer, shall be prima facie evidence that the alteration or prevention, as the case may be, has been fraudulently and wilfully caused by the consumer using the meter.

(4) If any person—

- (a) accidentally injures or detaches any seal or locking device referred to in paragraph (b) of subsection (1) of this section; or
- (b) accidentally opens any sealed or locked receptacle, meter or apparatus referred to in that paragraph;

he shall within 48 hours of doing so notify the Board in writing.

(5) Any person who fails to comply with subsection (4) of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.”.

10 In section 55 of that Order (penalty for interference with works) for the words “five pounds” substitute the words “level 3 on the standard scale”.

*North of Scotland Electricity Order Confirmation Act 1958 (c. ii)*

11 For section 36 of the North of Scotland Electricity Order 1958 as set out in the Schedule to the North of Scotland Electricity Order Confirmation Act 1958 there shall be substituted the following section—

**Injury to electricity lines, meters, seals etc. and interference with meters.**

(1) If any person—

(a) wilfully, fraudulently or by culpable negligence—

- (i) injures or suffers to be injured any electric lines, meter or fittings belonging to the Board;
- (ii) alters the index to any meter; or
- (iii) prevents any meter from duly registering the quantity of electricity supplied; or

(b) wilfully—

- (i) injures or detaches or suffers to be injured or detached any of the sealing or locking devices attached to any sealed or locked receptacle, meter or apparatus affixed by the Board to any electric line within a consumer’s premises; or
- (ii) opens or suffers to be opened any such sealed or locked receptacle, meter or apparatus;

he shall (without prejudice to any other right or remedy for the protection of the Board or the punishment of the offender) be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) The prosecution of any such offence shall not prevent the Board from recovering the amount of any damage caused to them by the offence, and, if the offence involves any wilful or fraudulent injury to or interference with any electric lines, meter or fittings belonging to the Board, the Board

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may also, until the matter has been remedied, but no longer, discontinue the supply of electricity to the person so offending (notwithstanding any contract previously existing).

(3) The existence of artificial means for causing an alteration of the index to any meter or preventing any meter from registering the quantity of electricity supplied, when the meter is under the custody or control of the consumer, shall be prima facie evidence that the alteration or prevention, as the case may be, has been fraudulently and wilfully caused by the consumer using the meter.

(4) If any person—

- (a) accidentally injures or detaches any seal or locking device referred to in paragraph (b) of subsection (1) of this section; or
- (b) accidentally opens any sealed or locked receptacle, meter or apparatus referred to in that paragraph;

he shall within 48 hours of doing so notify the Board in writing.

(5) Any person who fails to comply with subsection (4) of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.”.

12 In section 40 of that Order (penalty for interference with works) for the words “five pounds” substitute the words “level 3 on the standard scale”.

*Roads (Scotland) Act 1970 (c. 20)*

13 In section 48 of the Roads (Scotland) Act 1970 (prosecution of certain offences under the Act), after the word “Act” where first occurring insert the words “shall be triable only summarily and”.

14 ..... F74

**Textual Amendments**

F74 Sch. 15 para. 14 repealed (S.) by Rent (Scotland) Act 1984 (c. 58, SIF 75:4), s. 117(3), Sch. 9 para. 6, Sch. 10

*Immigration Act 1971 (c. 77)*

15 In section 6 of the Immigration Act 1971 (recommendations by court for deportation)—

- (a) in paragraph (b) of subsection (3), for the words “first offenders” substitute the words “persons who have not previously been sentenced to imprisonment”;
- (b) in subsection (5), the words “except in Scotland,” and paragraph (b) and the word “and” preceding it are repealed.

16 ..... F75

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### Textual Amendments

- F75** Sch. 15 para. 16 repealed by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), ss. 3, 5, Sch. 1, Sch. 4 paras. 1, 2

### *Criminal Procedure (Scotland) Act 1975 (c. 21)*

- 17 In section 193A of the Criminal Procedure (Scotland) Act 1975 (fines on conviction on indictment to be without limit)—
- (a) at the beginning, insert “(1)”;
  - (b) for the words “section 8 of the Criminal Justice (Scotland) Act 1980” substitute the words “section 457A(4) of this Act”;
  - (c) after the word “fine” where first occurring insert the words “of or”;
  - (d) for the word “section” in the second and third places where it occurs substitute the words “subsection”;
  - (e) at the end, insert the following new subsection—
    - “(2) Where any Act confers a power by subordinate instrument to make a person liable on conviction on indictment of any offence mentioned in subsection (1) above to a fine or a maximum fine of a specified amount, or which shall not exceed a specified amount, the fine which may be provided in the exercise of that power shall by virtue of this subsection be a fine of an unlimited amount.”
- 18 In section 421(1) of the Criminal Procedure (Scotland) Act 1975 (recall to young offenders institution on reconviction)—
- (a) omit the words “in a”;
  - (b) for the words “an institution” substitute the word “detention”.
- 19 In section 462(1) of that Act (interpretation), in the definition of “fine”, after the word “penalty”, insert the words “(but not a pecuniary forfeiture or pecuniary compensation)”.

### *National Health Service (Scotland) Act 1978 (c. 29)*

- 20 In paragraph 1(1) of Schedule 9 to the National Health Service (Scotland) Act 1978 (buying or selling goodwill of medical practice) omit the words from “not exceeding” where first occurring to “£500”.
- 21 In paragraph 7 of Schedule 10 to that Act (penalties for contravention of provisions regarding control of maximum prices for medical supplies)—
- (a) in sub-paragraph (2)(a) for the words “£100” substitute the words “the statutory maximum”;
  - (b) in sub-paragraph (2)(b) omit the words “not exceeding £500”; and
  - (c) sub-paragraph (3) is repealed.

22 ..... F76

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### Textual Amendments

**F76** Sch. 15 para. 22 repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112, Sch. 17 para. 35(1), Sch. 18

### *Water (Scotland) Act 1980 (c. 45)*

- 23 In section 38(6) of the Water (Scotland) Act 1980 (penalties for disclosure of information) in paragraph (a) for the words “£50” substitute the words “the statutory maximum”.
- 24 In section 77 of that Act (obtaining supplies to meet drought)—
- (a) for paragraphs (i) and (ii) of subsection (8) substitute the words “to the penalties mentioned in subsection (9).”;
  - (b) after subsection (8) insert the following subsection—
    - “(9) The penalties referred to in subsection (8) are—
    - (a) in the case of an offence under paragraph (a) of that subsection—
      - (i) on summary conviction, a fine not exceeding the statutory maximum; and
      - (ii) on conviction on indictment, a fine; and
    - (b) in the case of an offence under paragraph (b) of that subsection, a fine not exceeding level 3 on the standard scale.”.
- 25 In section 94(a) of that Act (penalties for false information) for the words “£50” substitute the words “the statutory maximum”.
- 26 In section 95(a) of that Act (penalties for offences not otherwise provided for), for the words “£50” substitute the words “the statutory maximum”.
- 27 In paragraph 10(3) of Schedule 4 to that Act (offences relating to construction of reservoirs)—
- (a) in sub-paragraph (i), for the words “£50 in respect of each such day” substitute the words “the statutory maximum”; and
  - (b) in sub-paragraph (ii), omit the words “in respect of each such day”.
- 28 In paragraph 37 of Schedule 4 to that Act (pollution of water by manufacture of gas, etc.), for the words “£50” substitute the words “the statutory maximum”.
- 29 In paragraph 43 of Schedule 4 to that Act—
- (a) at the end of sub-paragraph (1) insert the words “but all such offences shall be triable only summarily.”; and
  - (b) at the end of the paragraph insert the following sub-paragraph—
    - “(3) For the avoidance of doubt it is declared that conduct in respect of which a person is made liable to a fine by or under the provisions of this Schedule is an offence.”.

### *Criminal Justice (Scotland) Act 1980 (c. 62)*



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- 30 In section 55 of the Criminal Justice (Scotland) Act 1980 (disqualification and endorsement where orders for probation or for absolute discharge are made)—
- (a) after the word “subsection” insert the words “, which shall form subsection (8) of the said section 93 and subsection (9) of the said 4 section 101”;
  - (b) omit the word “(8)”.

## SCHEDULE 16

Section 78.

### REPEALS

Chapter	Short title	Extent of repeal
48 & 49 Vict. c. 70.	Sea Fisheries (Scotland) Amendment Act 1885.	In section 4, the words “or a fine not exceeding £200”.
57 & 58 Vict. c. 60.	Merchant Shipping Act 1894.	In section 680(1), the words “and to the provisions hereinafter contained with respect to Scotland”.
61 & 62 Vict. c. 36.	Criminal Evidence Act 1898.	In section 1, paragraph (h) of the proviso.
62 & 63 Vict. c. 19.	Electric Lighting (Clauses) Act 1899.	In the Schedule, section 38 of the Gasworks Clauses Act 1871 as set out in the Appendix (this repeal having effect for the purposes of the Schedule as incorporated with the Electricity Act 1947 or any other enactment).
15 & 16 Geo. 5 c. 86.	Criminal Justice Act 1925.	Section 12, so far as unrepealed.
11 & 12 Geo. 6. c. 58.	Criminal Justice Act 1948.	Sections 19 and 20. Section 48(2). Section 52. Section 76(2).
15 & 16 Geo. 6. & 1 Eliz. 2. c. 52.	Prison Act 1952. Sections 44 to 46. Section 49(2)(b).	In section 55(3), the words “Subsection (2) of section twenty-two, and”.
3 & 4 Eliz. 2. c. 18.	Army Act 1955.	Section 71A(2).
3 & 4 Eliz. 2. c. 19.	Air Force Act 1955.	Section 71A(2).
5 & 6 Eliz. 2. c. 53.	Naval Discipline Act 1957.	Section 43A(2).
9 & 10 Eliz. 2. c. 39.	Criminal Justice Act 1961.	Section 1. Sections 3 to 7. Sections 10 to 13. Section 32(2)(a), (c) and (e). Section 34. Section 38(5). In section 39(1), the definition of “the

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		statutory restriction on the imprisonment of young offenders". Schedule 1. In Schedule 4, the entries relating to sections 19 and 20 of the Criminal Justice Act 1948 and the entries relating to sections 43, 44 and 45 of the Prison Act 1952. Schedule 6.
1966 c. 49.	Housing (Scotland) Act 1966.	In section 185(2), the words "for each day during which the failure continues".
1967 c. 80.	Criminal Justice Act 1967.	In section 60, in subsection (3), paragraph (b) and the word "or" immediately preceding it, the words from "Provided" to the end and subsection (5A)(b) and (c). Section 63. Section 66(1). Section 67(1)(b). Section 95(1).
1968 c. 19.	Criminal Appeal Act 1968.	In section 20, the words "(hereafter referred to as "the registrar")".
1969 c. 54.	Children and Young Persons Act 1969.	Section 7(1), (3) and (4). Section 31. In section 34(1), paragraph (d) and the words in paragraph (f) from "or section" to "fifteen". In Schedule 4, paragraph 6. In Schedule 5, paragraphs 5, 23 and 44.
1971 c. 23.	Courts Act 1971.	In Schedule 8, paragraph 22.
1971 c. 77.	Immigration Act 1971.	In section 6(5) the words "except in Scotland," and paragraph (b) and the word "and" preceding it.
1972 c. 71.	Criminal Justice Act 1972.	Section 42. In Schedule 5, the entry relating to the Children and Young Persons Act 1933, the entries relating to the Criminal Justice Act 1961 and the first paragraph of the entry relating to the Children and Young Persons Act 1969.
1973 c. 62.	Powers of Criminal Courts Act 1973.	In section 2, in subsection (6), the

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words from “under”, in the first place where it occurs, to “Act”, and subsection (8).Section 4.In section 14(1), the words from “for such” to “in the order”.Section 19.In section 21, in subsection (1), the words “Borstal training or detention in a detention centre” and subsection (3) (c).In section 23, in subsection (1), the words “which have arisen since the suspended sentence was passed”, and subsections (3), (4) and (5).Section 29(6).In section 32(2), the words “Schedule 4 to that Act or”.In section 45(4), the words “Borstal training or detention in a detention centre”.In section 47(d), the words “day training centres and other”.Section 48(3) and (4).In section 49, in subsection (2), the words from “and” to the end, and subsection (3).Section 50.Section 51(2).In section 57(1), the definition of “day training centre”.In Schedule 1, paragraph 7.In Schedule 3, in paragraph 3, in sub-paragraph (1)(a) the words from “and to ensure” to the end and in sub-paragraph (3) the words “with the approval of the Secretary of State”, paragraph 10(2), in paragraph 11, the words “day training centres”, paragraph 13(2), paragraph 14(2) and (3), in paragraph 18(1), in paragraph (a), the words “community service committees” and in paragraph (b), the words “and staff appointed under paragraph 10 above” and in paragraph 18A, the words “and staff appointed under paragraph 10 above”.In

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		Schedule 5, paragraphs 1, 13 and 33.
1974 c. 53.	Rehabilitation of Offenders Act 1974.	In section 5(1)(c), the word "and".
1975 c. 21.	Criminal Procedure (Scotland) Act 1975.	Section 8(2). In Section 289D, in subsection (2), the words "or (3A)", and subsection (3A). Section 291(1). In section 421(1), the words "in a".
1976 c. 52.	Armed Forces Act 1976.	In section 13, the words "not exceeding 12 months".
1976 c. 63.	Bail Act 1976.	In Schedule 2, paragraphs 40 and 42.
1977 c. 45.	Criminal Law Act 1977.	In section 31, subsection (4) (c) and the word "and" immediately preceding it and subsection (7). In section 36, subsection (1) and in subsection (9) the definition of "the statutory restrictions upon the imprisonment of young offenders". Section 37(1). In Schedule 9, in paragraph 10, the words from "and at" onwards. In Schedule 11, paragraphs 3 and 6. In Schedule 12, the entry relating to the Criminal Justice Act 1948, the entry relating to the Prison Act 1952, paragraph 1 and paragraph 2(3) and (4) of the entry relating to the Criminal Justice Act 1961, paragraphs 7(2) and 8 of the entry relating to the Criminal Justice Act 1967, paragraph 1 of the entry relating to the Children and Young Persons Act 1969, and in the entry relating to the Powers of Criminal Courts Act 1973, paragraph 1(6) and in paragraph 11(6) the words "or staff appointed under paragraph 10 of Schedule 3".
1978 c. 29.	National Health Service (Scotland) Act 1978.	In Schedule 9, in paragraph 1(1), the words from "not exceeding" where first

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		occurring to “£500”.In Schedule 10, in paragraph 7, in sub-paragraph (2)(b), the words “not exceeding £500”, and sub-paragraph (3).
1978 c. 49.	Community Service by Offenders (Scotland) Act 1978.	Section 6(3).Schedule 1.
1979 c. 2.	Customs and Excise Management Act 1979.	Section 147(5).In section 156(3), the words “This subsection does not apply to Scotland.”.In Schedule 4, in the entry relating to the Powers of Criminal Courts Act 1973, the words “31(7) and”.
1979 c. 11.	Electricity (Scotland) Act 1979.	In section 41(1)(b), the words “not exceeding £500”.
1979 c. 39.	Merchant Shipping Act 1979.	In section 43, subsections (4) and (5), and in subsection (6), the words “or an order under subsection (4) of this section”.
1980 c. 43.	Magistrates’ Courts Act 1980.	In section 76(1), the words “and section 19 of the Powers of Criminal Courts Act 1973”.In section 81(8), the definition of “the statutory restrictions upon the imprisonment of young offenders”.Section 108(3) (a).Section 131(3).In Schedule 7, paragraphs 38 to 42, 79 and 84 and in paragraph 120(a), the words from “and for” to the end of the paragraph.
1980 c. 45.	Water (Scotland) Act 1980.	In Schedule 4, in paragraph 10(3)(ii), the words “in respect of each such day”.
1980 c. 57.	Imprisonment (Temporary Provisions) Act 1980.	Section 5.
1980 c. 62.	Criminal Justice (Scotland) Act 1980.	In section 7, in subsection (3), the words from the beginning to “provisions)” and the words from “and accordingly” to the end.Section 8.In section 46(1), paragraphs

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		(a) and (b), in paragraph (c), the words “£25” and”, “respectively” and “£50” and”, and paragraph (d). In section 55, the word “(8)”. In Schedule 7, paragraphs 7, 12 and 50.
S.I. 1980/1088.	Criminal Justice and Armed Forces (Northern Ireland) Consequential Amendments Order 1980.	In Article 2, paragraph (1)(a) (ii) and (iii) and (e).
1981 c. 22.	Animal Health Act 1981.	Section 70.
1981 c. 49.	Contempt of Court Act 1981.	Section 12(3).Section 14(3).

## SCHEDULE 17

Section 79.

### TRANSITIONAL PROVISIONS

#### *Young offenders*

- 1 (1) Where an offender has before the commencement of sections 1 to 15 above been committed for sentence to the Crown Court under section 37 of the <sup>M125</sup>Magistrates’ Courts Act 1980 but has not been dealt with by the Crown Court before the commencement of those sections, he shall be deemed to have been committed for sentence under section 37 of that Act as amended by this Act.
- (2) A court to which it falls to determine for the purposes of any enactment how a previous court could or might have dealt with an offender, shall if the offender is under 21 years of age make that determination as if sections 1 to 15 above had been in force when the offender was dealt with by the previous court and the powers conferred by them had accordingly been available to that court when dealing with him instead of the powers which were in fact available to it.

#### **Marginal Citations**

**M125** 1980 c. 43

- 2 (1) Subject to sub-paragraph (2) below, an order for detention in a detention centre for a term which has not expired at the commencement of sections 1 to 15 above shall be treated for all purposes of detention, release and supervision as if it had been made under section 4 above.
- (2) Where an order for detention of an offender in a detention centre was made before the commencement of sections 1 to 15 above and the term for which he was ordered to be so detained has not expired at the commencement of those sections, nothing in sub-paragraph (1) above shall prevent his detention in such a centre after that date.

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- 3 (1) Subject to sub-paragraph (2) below, where at the commencement of sections 1 to 15 above and offender is detained in a detention centre by reason of his having been recalled under paragraph 2 of Schedule 1 to the <sup>M126</sup>Criminal Justice Act 1961 (recall for breach of supervision requirement), he shall be treated as if the order recalling him had been a detention centre order made on the same date for 30 days or, if the maximum period for which he was liable to recall was less than 30 days, for that period.
- (2) If at the commencement of sections 1 to 15 above an offender has been in custody by virtue of an order under the said paragraph 2 for 30 days or more, he shall be released on the commencement of those sections.
- (3) Nothing in this paragraph shall render an offender liable to a period of supervision on release from a detention centre additional to any such period to which he is liable by virtue of paragraph 1 of Schedule 1 to the Criminal Justice Act 1961 immediately before the commencement of sections 1 to 15 above.

#### Marginal Citations

M126 1961 c. 39.

- 4 An offender who was sentenced to Borstal training on a date before the commencement of sections 1 to 15 above and whose sentence has not expired at the commencement of those sections shall be treated for all purposes of detention, release and supervision as if his sentence had been a youth custody sentence for a term of 12 months.
- 5 (1) A custodial order to which this sub-paragraph applies shall be treated as a youth custody sentence for all purposes of detention, release and supervision of the offender in respect of whom it was made.
- (2) Sub-paragraph (1) above applies to a custodial order specifying a maximum period of detention which has not expired at the commencement of sections 1 to 15 above—
- (a) if the maximum period of detention which it specifies is more than 4 months; or
  - (b) if—
    - (i) the maximum period is 4 months or less; and
    - (ii) the offender is female.
- (3) A custodial order to which this sub-paragraph applies shall be treated as a detention centre order for all purposes of detention, release and supervision of the offender.
- (4) Sub-paragraph (3) above applies to a custodial order made in respect of a male offender and specifying a maximum period of detention of 4 months or less which has not expired at the commencement of sections 1 to 15 above.
- (5) In this paragraph “custodial order” means an order—
- (a) under section 71AA of the <sup>M127</sup>Army Act 1955, section 71AA of the <sup>M128</sup>Air Force Act 1955 or section 43AA of the <sup>M129</sup>Naval Discipline Act 1957; or
  - (b) under paragraph 10 of Schedule 5A to the Army Act 1955, Schedule 5A to the Air Force Act 1955 or Schedule 4A to the Naval Discipline Act 1957.

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#### Marginal Citations

M127 1955 c. 18.

M128 1955 c. 19.

M129 1957 c. 53.

- 6 (1) Subject to sub-paragraph (3) below, where at the commencement of sections 1 to 15 above an offender is detained in a borstal institution by reason of his having been recalled under section 45(4) of the <sup>M130</sup>Prison Act 1952 (recall for breach of supervision requirement) he shall be treated as if the order recalling him had been a sentence of youth custody for a term of thirty days commencing from the date on which he was taken into custody.
- (2) Subject to sub-paragraph (3) below, where at the commencement of sections 1 to 15 above an offender is detained in a borstal institution by reason of his having been returned to such an institution under section 12 of the <sup>M131</sup>Criminal Justice Act 1961 (return to borstal institution on re-conviction), he shall be treated as if the order returning him to the institution had been an order made on the same date sentencing him to youth custody for a term of thirty days.
- (3) If at the commencement of sections 1 to 15 above an offender has been in custody by virtue of an order referred to in sub-paragraph (1) or (2) above for thirty days or more, he shall be released on the commencement of those sections.
- (4) Nothing in this paragraph shall render an offender who is released after being detained by virtue of an order referred to in sub-paragraph (1) or (2) above liable to a period of supervision additional to any such period to which he was liable by virtue of section 45 of the <sup>M132</sup>Prison Act 1952 immediately before the commencement of sections 1 to 15 above.

#### Marginal Citations

M130 1952 c. 52.

M131 1961 c. 39.

M132 1952 c. 52.

- 7 (1) This paragraph applies to any offender who at the commencement of sections 1 to 15 above is serving a sentence of imprisonment which was passed on him when he was under 21 years of age.
- (2) The Secretary of State may from time to time direct that an offender to whom this paragraph applies is to be detained—
- (a) in a youth custody centre; or
  - (b) in a remand centre.
- (3) An offender to whom this paragraph applies shall be treated for the purposes of release and supervision as if he had been sentenced on the date when the sentence of imprisonment was imposed to an equal term of youth custody.
- 8 Where at the commencement of sections 1 to 15 above an offender is serving a sentence of life imprisonment which was passed on him while he was under 21 years of age, he shall be treated for all purposes as if he had been sentenced to custody for life on the date when the sentence of life imprisonment was imposed.



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- 9 Rules under section 47 of the Prison Act 1952 may provide that any awards for an offence against discipline made before the commencement of sections 1 to 15 above shall continue to have effect, subject to such modifications as the Secretary of State may consider appropriate in relation to any particular description of award.
- 10 (1) Where under section 23(1)(a) or (b) of the <sup>M133</sup>Powers of Criminal Courts Act 1973 a court orders that a suspended sentence shall take effect and the offender has not attained the age of 21 at the time when the order is made, the order shall be treated for all purposes as a detention centre order or a youth custody sentence.
- (2) The question whether an order under sub-paragraph (1) above is to be treated as a detention centre or a youth custody sentence shall be determined—
- (a) by reference to the length of the term which the offender is required to serve under that order; or
- (b) where the offender is subject to any other term with which that term is wholly or partly concurrent or upon which that term is ordered under section 23(2) of the Powers of Criminal Courts Act 1973 to run consecutively, by reference to the total length of the term which he is required to serve.
- (3) Sections 1 to 15 above shall have effect for the purposes of this paragraph as they have effect when an offender falls to be sentenced for an offence.

**Marginal Citations**

M133 1973 c. 62.

- 11 A person who immediately before the commencement of sections 1 to 15 above is under supervision by virtue of paragraph 1 of Schedule 1 to the <sup>M134</sup>Criminal Justice Act 1961 (supervision of a person released from a detention centre) shall be treated—
- (a) as if he were under supervision by virtue of section 15 above; and
- (b) as if the requirements specified in the notice given to him under that paragraph had been specified in a notice given under subsection (10) of that section;
- and the supervision period for the purposes of that section shall end at the end of the period of three months from his release or on the commencement of sections 1 to 15 above, whichever is the later.

**Marginal Citations**

M134 1961 c. 39.

- 12 A person who immediately before the commencement of sections 1 to 15 above is subject to supervision by virtue of section 45 of the <sup>M135</sup>Prison Act 1952 (supervision of a person released from a Borstal institution) shall be treated—
- (a) as if he were under supervision by virtue of section 15 above; and
- (b) as if the requirements specified in the notice given to him under section 45(3) of the Prison Act 1952 had been specified in a notice given under section 15(10) above;

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and the supervision period for the purposes of that section shall end at the end of the period of twelve months from the date he was sentenced to borstal training or on the commencement of sections 1 to 15 above, whichever is the later.

#### Marginal Citations

M135 1952 c. 52.

- 13 A person who immediately before the commencement of sections 1 to 15 above is subject to a licence under section 60(3)(b) of the <sup>M136</sup>Criminal Justice Act 1967 (release on licence of a person serving a sentence of imprisonment for a term of 18 months or more who was under the age of 21 when the sentence was passed) or is subject to supervision by virtue of section 63(1) of that Act (supervision of a person released from prison after serving a sentence of imprisonment for a term of less than 18 months who was under the age of 21 when the sentence was passed) shall be treated—
- (a) as if he were under supervision by virtue of section 15 above; and
  - (b) as if the conditions specified in the licence or, as the case may be, the requirements specified in the notice given to him under paragraph 1 of Schedule 1 to the Criminal Justice Act 1961, had been specified in a notice given under section 15(10) above.

#### Marginal Citations

M136 1967 c. 80.

- 14 (1) Where—
- (a) a person has been released from prison, a Borstal institution or a detention centre before the commencement of sections 1 to 15 above; and
  - (b) he is subject to supervision or to a licence, by virtue of any of the enactments specified in sub-paragraph (2) below; and
  - (c) the Secretary of State has recalled him by virtue of any of the enactments specified in sub-paragraph (3) below but he is not yet in custody in consequence of his recall at the commencement of sections 1 to 15 above.
- he shall be detained—
- (i) in a prison or a youth custody centre as the Secretary of State may direct, if he was recalled to prison;
  - (ii) in a youth custody centre, if he was recalled to a borstal institution; and
  - (iii) in a detention centre, if he was recalled to such a centre.
- for a period of 30 days or for the maximum period for which he was liable to be recalled, whichever is the shorter.
- (2) The enactments referred to in sub-paragraph (1)(b) above are—
- (a) section 45(1) of the <sup>M137</sup>Prison Act 1952 (supervision of a person released from a Borstal institution);
  - (b) paragraph 1 of Schedule 1 to the <sup>M138</sup>Criminal Justice Act 1961 (supervision of a person released from a detention centre);

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- (c) section 60(3)(b) of the <sup>M139</sup>Criminal Justice Act 1967 (release on licence of a person serving a sentence of imprisonment for a term of 18 months or more who was under the age of 21 when the sentence was passed); and
  - (d) section 63 of that Act (supervision of a person serving a sentence of imprisonment for a term of less than 18 months who was under the age of 21 when the sentence was passed).
- (3) The enactments referred to in sub-paragraph (1)(c) above are—
- (a) section 45(4) of the Prison Act 1952 (recall of persons supervised under that section);
  - (b) paragraph 2 of Schedule 1 to the Criminal Justice Act 1961 (recall of persons released under that Schedule and under section 63 of the Criminal Justice Act 1967); and
  - (c) section 62(1) of the Criminal Justice Act 1967 (recall of persons released under section 60 or 61 of that Act).
- (4) Detention under sub-paragraph (1) above does not prejudice the continuation of the supervision period to which a person is subject by virtue of paragraph 11, 12 or 13 above.

**Marginal Citations**

**M137** 1952 c. 52.

**M138** 1961 c. 39.

**M139** 1967 c. 80.

- 15      Until the commencement of sections 1 to 15 above, if a person—
- (a) is serving a sentence of imprisonment for a term of 18 months or more who was under the age of 21 when the sentence was passed; and
  - (b) is to be released from prison in pursuance of an order under section 32 above,
- his release shall be a release on licence under section 60 of the <sup>M140</sup>Criminal Justice Act 1967, irrespective of whether at the time of his release he could have been released on licence under that section by virtue of subsection (3) thereof.

**Marginal Citations**

**M140** 1967 c. 80.

*Probation*

- 16      Any requirement under section 4 of the <sup>M141</sup>Powers of Criminal Courts Act 1973 (attendance at day training centre) which is included in a probation order in force at the commencement of paragraph 1 of Schedule 11 to this Act shall thereafter have effect as if it were a requirement imposed under section 4B of that Act specifying as the day centre which the probationer is required to attend the day centre at the premises of the day training centre.

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**Marginal Citations**

M141 1973 c. 62.

- 17 Case committees which are in existence at the commencement of paragraph 6(b) of Schedule 11 to this Act shall continue in existence as probation liaison committees after the commencement of this sub-paragraph.

*Fines*

- 18 Any provision of Schedule 15 to this Act which alters the penalty for any offence shall not affect the penalty for an offence committed before that provision comes into force.

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