Criminal Justice Act 1988

1988 CHAPTER 33

PART I

EXTRADITION

Preliminary

1—21. Scope of Part I.

. . . . . F1

Textual Amendments

F1 Ss. 1–21 repealed by Extradition Act 1989 (c. 33, SIF 48), s. 37, **Sch. 2**

Suppression of terrorism

22 Suppression of terrorism.

(1) Schedule 1 to the M1Suppression of Terrorism Act 1978 shall be amended as follows.

(2) The following sub-paragraph shall be inserted before paragraph 8(a)—

"(za) section 4 (soliciting etc. to commit murder);".

(3) The following shall be inserted after paragraph 9—

"9A The offence of torture under section 134 of the Criminal Justice Act 1988.".

(4) The following shall be inserted after paragraph 13—

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"13A **Nuclear material**

An offence under any provision of the Nuclear Material (Offences) Act 1983.".

(5) The following shall be added at the end—

"21 **Conspiracy**

An offence of conspiring to commit any offence mentioned in a preceding paragraph of this Schedule.".

Marginal Citations

M1 1978 c. 26.

[F2][F2]PART II

DOCUMENTARY EVIDENCE IN CRIMINAL PROCEEDINGS

Textual Amendments

F2 Pt. 2 repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 136(a), 332, 336, **Sch. 37 Pt. 6**; S.I. 2005/950, **art. 2(1)**, Sch. 1 paras. 6, 27, 44(3) (subject to art. 2(2), Sch. 2 (as amended by S.I. 2005/2122, art. 2))

23 First-hand hearsay.

(1) Subject—

(a) to subsection (4) below; **[**[F3]and**]**

(b) to paragraph 1A of Schedule 2 to the [M2]Criminal Appeal Act 1968 (evidence given orally at original trial to be given orally at retrial); [F4]. . .

[F4](c) . . . . . .

a statement made by a person in a document shall be admissible in criminal proceedings as evidence of any fact of which direct oral evidence by him would be admissible if—

(i) the requirements of one of the paragraphs of subsection (2) below are satisfied; or

(ii) the requirements of subsection (3) below are satisfied.

(2) The requirements mentioned in subsection (1)(i) above are—

(a) that the person who made the statement is dead or by reason of his bodily or mental condition unfit to attend as a witness;

(b) that—

(i) the person who made the statement is outside the United Kingdom; and

(ii) it is not reasonably practicable to secure his attendance; or

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(c) that all reasonable steps have been taken to find the person who made the statement, but that he cannot be found.

(3) The requirements mentioned in subsection (1)(ii) above are—

(a) that the statement was made to a police officer or some other person charged with the duty of investigating offences or charging offenders; and

(b) that the person who made it does not give oral evidence through fear or because he is kept out of the way.

(4) Subsection (1) above does not render admissible a confession made by an accused person that would not be admissible under section 76 of the [M3]Police and Criminal Evidence Act 1984.

[F5][F6][(5) . . .]

Textual Amendments

F3 Word in s. 23(1) inserted (14.4.2000) by 1999 c. 23, s. 67, **Sch. 4 para.16** (with Sch. 7 para. 5(2)); S.I. 2000/1034, **art. 2(b)**

F4 S. 23(1)(c) and word preceding it repealed (14.4.2000) by 1999 c. 23, s. 67, **Sch. 6** (with Sch. 7 para. 5(2)); S.I. 2000/1034, **art. 2(c)**,Sch.

F5 S. 23(5) inserted (4.7.1996 with effect as mentioned in Sch. 1, Pt. III of the amending Act) by 1996 c. 25, s. 47, **Sch. 1 Pt. II para. 28**, Pt. III para. 39 (with s. 78(1)); S.I. 1997/683, **art. 1(2)**

F6 S. 23(5) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 60(2), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)

Marginal Citations

M2 1968 c. 19.

M3 1984 c. 60.

24 Business etc. documents.

(1) Subject—

(a) to subsections (3) and (4) below; [[F7]and]

(b) to paragraph 1A of Schedule 2 to the [M4]Criminal Appeal Act 1968; [F8]. . .

[F8](c) . . . . . .

a statement in a document shall be admissible in criminal proceedings as evidence of any fact of which direct oral evidence would be admissible, if the following conditions are satisfied—

(i) the document was created or received by a person in the course of a trade, business, profession or other occupation, or as the holder of a paid or unpaid office; and

(ii) the information contained in the document was supplied by a person (whether or not the maker of the statement) who had, or may reasonably be supposed to have had, personal knowledge of the matters dealt with.

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(2) Subsection (1) above applies whether the information contained in the document was supplied directly or indirectly but, if it was supplied indirectly, only if each person through whom it was supplied received it—

(a) in the course of a trade, business, profession or other occupation; or

(b) as the holder of a paid or unpaid office.

(3) Subsection (1) above does not render admissible a confession made by an accused person that would not be admissible under section 76 of the Police and Criminal Evidence Act 1984.

(4) A statement prepared otherwise than in accordance with **[**[F9]section 7 of the Crime (International Co-operation) Act 2003**]** or an order under paragraph 6 of Schedule 13 to this Act or under section 30 or 31 below for the purposes—

(a) of pending or contemplated criminal proceedings; or

(b) of a criminal investigation,

shall not be admissible by virtue of subsection (1) above unless—

(i) the requirements of one of the paragraphs of subsection (2) of section 23 above are satisfied; or

(ii) the requirements of subsection (3) of that section are satisfied; or

(iii) the person who made the statement cannot reasonably be expected (having regard to the time which has elapsed since he made the statement and to all the circumstances) to have any recollection of the matters dealt with in the statement.

[F10F11]**[**(5) . . . **]**

Textual Amendments

F7 Word in s. 24(1) inserted (14.4.2000) by 1999 c. 23, s. 67, **Sch. 4 para.16** (with Sch. 7 para. 5(2)); S.I. 2000/1034, **art. 2**

F8 S. 24(1)(c) and word preceding it repealed (14.4.2000) by 1999 c. 23, s. 67, **Sch. 6** (with Sch. 7 para. 5(2)); S.I. 2000/1034, art. 2(c), **Sch.**

F9 Words in s. 24(4) substituted (26.4.2004) by Crime (International Co-operation) Act 2003 (c. 32), ss. 91, 94, **Sch. 5 para. 14**; S.I. 2004/786, **art. 3(2)** (with S.I. 2004/787, **art. 3(3)**)

F10 S. 24(5) inserted (4.7.1996 with effect as mentioned in Sch. 1 Pt. III para. 39 of the amending Act) by 1996 c. 25, s. 47, **Sch. 1 Pt. II para. 29** (with s. 78(1)); S.I. 1997/683, **art. 1(2)**

F11 S. 24(5) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 60(3), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)

Marginal Citations

M4 1968 c. 19.

25 Principles to be followed by court.

(1) If, having regard to all the circumstances—

(a) the Crown Court—

(i) on a trial on indictment;

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(ii) on an appeal from a magistrates' court; [F12]. . .

(iii) on the hearing of an application under section 6 of the [M5]Criminal Justice Act 1987 (applications for dismissal of charges of fraud transferred from magistrates' court to Crown Court); or

[[F13](iv) on the hearing of an application under paragraph 5 of Schedule 6 to the Criminal Justice Act 1991 (applications for dismissal of charges in certain cases involving children transferred from magistrates' court to Crown Court); or**]**

(b) the criminal division of the Court of Appeal; or

(c) a magistrates' court on a trial of an information,

is of the opinion that in the interests of justice a statement which is admissible by virtue of section 23 or 24 above nevertheless ought not to be admitted, it may direct that the statement shall not be admitted.

(2) Without prejudice to the generality of subsection (1) above, it shall be the duty of the court to have regard—

(a) to the nature and source of the document containing the statement and to whether or not, having regard to its nature and source and to any other circumstances that appear to the court to be relevant, it is likely that the document is authentic;

(b) to the extent to which the statement appears to supply evidence which would otherwise not be readily available;

(c) to the relevance of the evidence that it appears to supply to any issue which is likely to have to be determined in the proceedings; and

(d) to any risk, having regard in particular to whether it is likely to be possible to controvert the statement if the person making it does not attend to give oral evidence in the proceedings, that its admission or exclusion will result in unfairness to the accused or, if there is more than one, to any of them.

Textual Amendments

F12 Word in s. 25(1)(a)(ii) repealed (4.9.1995) by 1994 c. 33, s. 168(3), **Sch.11**; S.I. 1995/1957, **art.6**

F13 S. 25(1)(a)(iv) inserted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 31**; S.I. 1995/127, art. 2, **Sch. 1**, APPENDIX

Modifications etc. (not altering text)

C1 S. 25 restricted (10.6.1991) by Criminal Justice (International Co-operation) Act 1990 (c. 5, SIF 39:1), **s. 3(8)**; S.I. 1991/1072, art. 2(a), **Sch. Pt. I**

Marginal Citations

M5 1987 c. 38.

26 Statements in documents that appear to have been prepared for purposes of criminal proceedings or investigations.

Where a statement which is admissible in criminal proceedings by virtue of section 23 or 24 above appears to the court to have been prepared, otherwise than in accordance with **[**[F14]section 7 of the Crime (International Co-operation) Act 2003**]** or an order under paragraph 6 of Schedule 13 to this Act or under section 30 or 31 below, for the purposes—

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(a) of pending or contemplated criminal proceedings; or

(b) of a criminal investigation,

the statement shall not be given in evidence in any criminal proceedings without the leave of the court, and the court shall not give leave unless it is of the opinion that the statement ought to be admitted in the interests of justice; and in considering whether its admission would be in the interests of justice, it shall be the duty of the court to have regard—

(i) to the contents of the statement;

(ii) to any risk, having regard in particular to whether it is likely to be possible to controvert the statement if the person making it does not attend to give oral evidence in the proceedings, that its admission or exclusion will result in unfairness to the accused or, if there is more than one, to any of them; and

(iii) to any other circumstances that appear to the court to be relevant.

F15F16**[** . . . . **]**

Textual Amendments

F14 Words in s. 26 substituted (26.4.2004) by Crime (International Co-operation) Act 2003 (c. 32), ss. 91, 94, **Sch. 5 para. 15**; S.I. 2004/786, **art. 3(2)** (with S.I. 2004/787, **art. 3(3)**)

F15 Words in s. 26 inserted (4.7.1996 with effect as mentioned in Sch. 1 Pt. III para. 39 of the amending Act) by 1996 c. 25, s. 47, **Sch. 1 Pt. II para.30**, Pt. III para. 39 (with s. 78(1)); S.I. 1997/683, **art. 1(2)**

F16 Words in s. 26 repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 60(4), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)

27 Proof of statements contained in documents.

Where a statement contained in a document is admissible as evidence in criminal proceedings, it may be proved—

(a) by the production of that document; or

(b) (whether or not that document is still in existence) by the production of a copy of that document, or of the material part of it,

authenticated in such manner as the court may approve; and it is immaterial for the purposes of this subsection how many removes there are between a copy and the original.

F17F18**[** . . . . **]**

Textual Amendments

F17 Words in s. 27 inserted (4.7.1996 with effect as mentioned in Sch. 1 Pt. III para. 39 of the amending Act) by 1996 c. 25, s. 47, **Sch. 1 Pt. II para. 31**, Pt. III para. 39 (with s. 78(1)); S.I. 1997/683, **art. 1(2)**

F18 Words in s. 27 repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 60(5), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I.

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2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)

28 Documentary evidence— supplementary.

(1) Nothing in this Part of this Act shall prejudice—

(a) the admissibility of a statement not made by a person while giving oral evidence in court which is admissible otherwise than by virtue of this Part of this Act; or

(b) any power of a court to exclude at its discretion a statement admissible by virtue of this Part of this Act.

(2) Schedule 2 to this Act shall have effect for the purpose of supplementing this Part of this Act.

PART III

OTHER PROVISIONS ABOUT EVIDENCE IN CRIMINAL PROCEEDINGS

[F19]29 . . . . . .

Textual Amendments

F19 S. 29 repealed (10.6.1991) by Criminal Justice (International Co-operation) Act 1990 (c. 5, SIF 39:1), s. 31(3), **Sch. 5**; S.I. 1991/1072, art. 2(a), **Sch**edule Pt. I

30 Expert reports.

(1) An expert report shall be admissible as evidence in criminal proceedings, whether or not the person making it attends to give oral evidence in those proceedings.

(2) If it is proposed that the person making the report shall not give oral evidence, the report shall only be admissible with the leave of the court.

(3) For the purpose of determining whether to give leave the court shall have regard—

(a) to the contents of the report;

(b) to the reasons why it is proposed that the person making the report shall not give oral evidence;

(c) to any risk, having regard in particular to whether it is likely to be possible to controvert statements in the report if the person making it does not attend to give oral evidence in the proceedings, that its admission or exclusion will result in unfairness to the accused or, if there is more than one, to any of them; and

(d) to any other circumstances that appear to the court to be relevant.

(4) An expert report, when admitted, shall be evidence of any fact or opinion of which the person making it could have given oral evidence.

[F20][F21](4A) . . . . . .]

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(5) In this section "expert report" means a written report by a person dealing wholly or mainly with matters on which he is (or would if living be) qualified to give expert evidence.

Textual Amendments

F20 S. 30(4A) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 60(6), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)

F21 S. 30(4A) inserted (4.7.1996 with effect as mentioned in Sch. 1 Pt. III para. 39 of the amending Act) by 1996 c. 25, s. 47, **Sch. 1 Pt. II para.32** (with s. 78(1)); S.I. 1997/683, **art. 1(2)**

31 Form of evidence and glossaries.

For the purpose of helping members of juries to understand complicated issues of fact or technical terms **[**[F22]Criminal Procedure Rules**]** may make provision—

(a) as to the furnishing of evidence in any form, notwithstanding the existence of admissible material from which the evidence to be given in that form would be derived; and

(b) as to the furnishing of glossaries for such purposes as may be specified;

in any case where the court gives leave for, or requires, evidence or a glossary to be so furnished.

Textual Amendments

F22 Words in s. 31 substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 25** (with art. 2(2))

32 Evidence through television links.

(1) A person other than the accused may give evidence through a live television link **[**[F23]in proceedings to which subsection (1A) below applies**]** if—

(a) the witness is outside the United Kingdom; [F24]. . .

(b) [F25]. . . . . .

but evidence may not be so given without the leave of the court.

[[F26](1A) This subsection applies—

(a) to trials on indictment, appeals to the criminal division of the Court of Appeal and hearings of references under **[**[F27]section 9 of the Criminal Appeal Act 1995**]]**; and

(b) to proceedings in youth courts **[**[F28], appeals to the Crown Court arising out of such proceedings and hearings of references under section 11 of the Criminal Appeal Act 1995 so arising**]**.

(2) [F29]. . . . . .

(3) A statement made on oath by a witness outside the United Kingdom and given in evidence through a link by virtue of this section shall be treated for the purposes of

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section 1 of the [M6]Perjury Act 1911 as having been made in the proceedings in which it is given in evidence.

(3A) [F29]. . . . . .

(3B) [F29]. . . . . .

(3C) [F29]. . . . . .

(3D) [F29]. . . . . .

(3E) [F29]. . . . . .

(4) Without prejudice to the generality of any enactment conferring power to make **[**[F30]Criminal Procedure Rules**]** , such rules may make such provision as appears to the **[**[F31]Criminal Procedure Rule Committee**]** to be necessary or expedient for the purposes of this section.

(5) [F32]. . . . . .

(6) [F29]. . . . . .

Textual Amendments

F23 Words in s. 32(1) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), **s. 55(2)(a)**; S.I. 1992/333, art. 2(2), **Sch. 2**.

F24 S. 32(1)(b) and word preceding it repealed (24.7.2002 for specified purposes and otherwise 6.12.2006) by 1999 c. 23, ss. 67, 68(3), Sch. 6 (with Sch. 7 paras. 3(2), 5(2)); S.I. 2002/1739, art. 2(g)(iii)); S.I. 2006/2885, **art. 2(b)(vii)(aa)**

F25 S. 32(1)(b) and word preceding it repealed (24.7.2002 for certain specified purposes otherwise prosp.) by 1999 c. 23, ss. 67, 68(3), **Sch. 6** (with Sch. 7 paras. 3(2), 5(2)); S.I. 2002/1739, **art. 2(g)(iii)**

F26 S. 32(1A) inserted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), **s. 55(3)**; S.I. 1992/333, art. 2(2), **Sch. 2**.

F27 Words in s. 32(1A)(a) substituted (31.3.1997) by 1995 c. 35, s. 29(1), **Sch. 2** , para. 16(2)(a); S.I. 1997/402, **art. 3**

F28 Words in s. 32(1A)(b) substituted (31.3.1997) by 1995 c. 35, s. 29(1), **Sch. 2 para. 16(2)(b)**; S.I. 1997/402, **art. 3**

F29 S. 32(2)(3A)-(3E)(6) repealed (24.7.2002 for specified purposes and otherwise prosp.) by 1999 c. 23, ss. 67, 68(3), **Sch. 6** (with Sch. 7 paras. 3(2), 5(2)); S.I. 2002/1739, **art. 2(g)(iii)**)

F30 Words in s. 32(4) substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 26(2)(a)** (with art. 2(2))

F31 Words in s. 32(4) substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 26(2)(b)** (with art. 2(2))

F32 S. 32(5) omitted (1.9.2004) by virtue of The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 26(3)** (with art. 2(2))

Modifications etc. (not altering text)

C2 S. 32(1)(1)(b)(2)(a)-(c)(3) applied (with modifications) (8.3.1993) by S.I. 1993/244, **art. 2**

C3 S. 32(1)(3) applied (with modifications) (31.10.2009) by The Court Martial Appeal Court (Evidence) Order (S.I. 2009/2569), {art. 3}

C4 S. 32(1)(a)(3) applied (with modifications) (6.12.2006) by The Criminal Justice Act 1988 (Application to Service Courts) (Evidence) Order 2006 (S.I. 2006/2890), **art. 3**, Sch.

C5 S. 32(1A) applied (22.7.2013) by The Evidence Through Television Links (England and Wales) Order 2013 (S.I. 2013/1598), arts. 1(1), **2**

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Commencement Information

I1 S. 32 partly in force; s. 32 not in force at Royal Assent see s. 171; s. 32 except subsections (1)(a)(3) in force at 5.1.1989 by 1988/2073, art. 2, Sch.; s. 32(1)(a)(3) in force for certain purposes at 1.9.2004 by S.I. 2004/2167, **art. 2** (subject to art. 3)

Marginal Citations

M6 1911 c. 6.

32A Video recordings of testimony from child witnesses.

[F33] . . . . . .

Textual Amendments

F33 S. 32A repealed (24.7.2002 for certain specified purposes and 6.12.2006 otherwise) by 1999 c. 23, ss. 67, 68(3), Sch. 6 (with Sch. 7 paras. 3(2), 5(2)); S.I. 2002/1739, art. 2(g)(iii); S.I. 2006/2885, **art. 2(b)(vii)(bb)**

[F34]33 Evidence of persons under 14 in committal proceedings.

. . . . . .

Textual Amendments

F34 S. 33 repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(d)

[F35]33A . . . . . .

Textual Amendments

F35 S. 33A repealed (24.7.2002) by 1999 c. 23, s. 67, **Sch. 6** (with Sch. 7 para. 5(2)); S.I. 2002/1739, **art. 2(g)(iii)**

34 Abolition of requirement of corroboration for unsworn evidence of children.

[F36](1) . . . . . .

(2) Any requirement whereby at a trial on indictment it is obligatory for the court to give the jury a warning about convicting the accused on the uncorroborated evidence of a child is abrogated [F37]. . ..

(3) Unsworn evidence admitted by virtue of **[**[F38] section 56 of the Youth Justice and Criminal Evidence Act 1999**]** may corroborate evidence (sworn or unsworn) given by any other person.

Status: *Point in time view as at 13/03/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F36 S. 34(1) repealed (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 100, 101(2), Sch. 11 para. 37, **Sch. 13**; S.I. 1992/333, art. 2(2), **Sch. 2**.

F37 Words in s. 34(2) repealed (4.9.1995) by 1994 c. 33, ss. 32(2), 168(3), **Sch. 11**; S.I. 1995/1957, **art. 6**

F38 Words in s. 34(3) substituted (14.4.2000) by 1999 c. 23, s. 67, **Sch. 4 para.17** (with Sch. 7 para. 5(2)); S.I. 2000/1034, **art. 2(b)**

Modifications etc. (not altering text)

C6 S. 34(2) explained (1.10.1996 subject to savings in art. 3 of the commencing S.I.) by 1996 c. 46, **s. 6(1)(2)**; S.I. 1996/2474, **arts. 2**, 3(1)

[F39]34A . . . . . .

Textual Amendments

F39 S. 34A repealed (4.9.2000) by 1999 c. 23, ss. 67, **Sch. 6** (with Sch. 7 para. 3(2)); S.I. 2000/2091, **art. 2(f)** (with art. 3)

PART IV

REVIEWS OF SENTENCING

Modifications etc. (not altering text)

C7 Pt. IV (ss. 35-36) applied (E.W.)(1.3.1994) by S.I. 1994/119, **art.2** (which Order was revoked (16.5.2006) by S.I. 2006/1116, art. 3, **Sch. 2**)

C8 Pt. IV (ss. 35-36) applied (E.W.) (8.2.1995) by S. I. 1995/10, **art.2** (which Order was revoked (16.5.2006) by S.I. 2006/1116, art. 3, **Sch. 2**)
Pt. IV (ss. 34-36) applied (8.4.1996) by S.R. 1996/40, **art. 2**
Pt. IV (ss. 34-36) applied (21.8.2000) by S.I. 2000/1924, **art. 2** (which Order was revoked (16.5.2006) by S.I. 2006/1116, art. 3, **Sch. 2**)

C9 Pt IV (ss. 35-36) applied (E.W.) (13.10.2003) by The Criminal Justice Act 1988 (Reviews of Sentencing) Order 2003 (S.I. 2003/2267), **art. 2** (which Order was revoked (16.5.2006) by S.I. 2006/1116, art. 3, Sch. 2)
Pt IV (ss. 35-36) applied (16.5.2006) by The Criminal Justice Act 1988 (Reviews of Sentencing) Order 2006 (S.I. 2006/1116), **art. 2**, Sch. 1 (as amended (29.1.2018) by The Criminal Justice Act 1988 (Reviews of Sentencing) (Amendment No. 2) Order 2017 (S.I. 2017/1328), arts. 1(1), **2**)

C10 Pt. IV applied (N.I.) (1.2.2012) by The Criminal Justice Act 1988 (Reviews of Sentencing) Order (Northern Ireland) 2011 (S.R. 2011/428), arts. 1(1), 2, **Sch.**

C11 Pt. IV applied (N.I.) (9.12.2013) by The Criminal Justice Act 1988 (Reviews of Sentencing) Order (Northern Ireland) 2013 (S.R. 2013/249), arts. 1(1), **2**

35 Scope of Part IV.

(1) A case to which this Part of this Act applies may be referred to the Court of Appeal under section 36 below.

Status: *Point in time view as at 13/03/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) Subject to Rules of Court, the jurisdiction of the Court of Appeal under section 36 below shall be exercised by the criminal division of the Court, and references to the Court of Appeal in this Part of this Act shall be construed as references to that division.

(3) This Part of this Act applies to any case **[**[F40]—

(a) of a description specified in an order under this section; or

(b) in which sentence is passed on a person—

(i) for an offence triable only on indictment; or

(ii) for an offence of a description specified in an order under this section**]**

(4) The Secretary of State may by order made by statutory instrument provide that this Part of this Act shall apply to any case **[**[F41]of a description specified in the order or to any case**]**in which sentence is passed on a person for an offence triable either way of a description specified in the order.

(5) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) In this Part of this Act "sentence" has the same meaning as in the [M7]Criminal Appeal Act 1968, except that it does not include an interim hospital order under Part III of the [M8]Mental Health Act 1983, and "sentencing" shall be construed accordingly.

(7) In its application to Northern Ireland, this section shall have effect subject to the modifications set out in subsections (8) to (11).

(8) Subsection (2) shall be omitted.

(9) In this section—

"offence triable only on indictment" means an offence punishable only on conviction on indictment;

"offence triable either way" means an offence punishable on conviction on indictment or on summary conviction.

[[F42](9A) Any reference in subsection (4) to the Secretary of State must be construed as a reference to the Department of Justice in Northern Ireland.**]**

(10) For subsection (5) there shall be substituted—

"(5) An order under subsection (4) above shall be a statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (and not a statutory instrument), and any **[**[F43]such order shall be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954)**]**.".

(11) The references in subsection (6) to the [M9]Criminal Appeal Act 1968 and Part III of the [M10]Mental Health Act 1983 shall be respectively construed as references to Part I of the [M11]Criminal Appeal (Northern Ireland) Act 1980 and Part III of the [M12]Mental Health (Northern Ireland) Order 1986.

Textual Amendments

F40 S. 35(3)(a)(b)(i)(ii) substituted (9.1.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 34(a)**; S.I. 1994/3192, **art. 2**,Sch.

F41 Words in s. 35(4) inserted (9.1.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 34(b)**; S.I. 1994/3192, **art. 2**,Sch.

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F42 S. 35(9A) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 14 para. 30(2)** (with arts. 28-31)

F43 Words in s. 35(10) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 14 para. 30(3)** (with arts. 28-31)

Marginal Citations

M7 1968 c. 19.
M8 1983 c. 20.
M9 1968 c. 19.
M10 1983 c. 20.
M11 1980 c. 47.
M12 S.I. 1986/4 (N.I.).

36 Reviews of sentencing.

(1) If it appears to the Attorney General—

(a) that the sentencing of a person in a proceeding in the Crown Court has been unduly lenient; and

(b) that the case is one to which this Part of this Act applies,

he may, with the leave of the Court of Appeal, refer the case to them for them to review the sentencing of that person; and on such a reference the Court of Appeal may—

(i) quash any sentence passed on him in the proceeding; and

(ii) in place of it pass such sentence as they think appropriate for the case and as the court below had power to pass when dealing with him.

(2) Without prejudice to the generality of subsection (1) above, the condition specified in paragraph (a) of that subsection may be satisfied if it appears to the Attorney General that the judge

[[F44](a) erred in law as to his powers of sentencing; or

(b) failed to impose a sentence required by—

[[F45](zi) section 1A(5) of the Prevention of Crime Act 1953;**]**

(i) section 51A(2) of the Firearms Act 1968;

[[F46](ia) section 139AA(7) of this Act;**]**

(ii) section 110(2) or 111(2) of the Powers of Criminal Courts (Sentencing) Act 2000; [F47] . . .

(iii) **[**[F48]section**[**[F49]224A,**]** 225(2) or 226(2)**]** of the Criminal Justice Act 2003.**]**

[[F50]or

(iv) under section 29(4) or (6) of the Violent Crime Reduction Act 2006.**]**

.

(3) For the purposes of this Part of this Act any two or more sentences are to be treated as passed in the same proceeding if they would be so treated for the purposes of section **[**[F51]11**]** of the Criminal Appeal Act 1968.

[[F52](3A) Where a reference under this section relates to an order under subsection (2) of section 269 of the Criminal Justice Act 2003 (determination of minimum term in relation to mandatory life sentence), the Court of Appeal shall not, in deciding what order under that section is appropriate for the case, make any allowance for the fact that the person to whom it relates is being sentenced for a second time.**]**

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(4) No judge shall sit as a member of the Court of Appeal on the hearing of, or shall determine any application in proceedings incidental or preliminary to, a reference under this section of a sentence passed by himself.

(5) Where the Court of Appeal have concluded their review of a case referred to them under this section the Attorney General or the person to whose sentencing the reference relates may refer a point of law involved in any sentence passed on that person in the proceeding to **[**[F53]the Supreme Court for its opinion**]** , and **[**[F54]the Supreme Court shall consider the point and give its opinion**]** on it accordingly, and either remit the case to the Court of Appeal to be dealt with or **[**[F55]itself deal with the case.**]**

(6) A reference under subsection (5) above shall be made only with the leave of the Court of Appeal or **[**[F56]the Supreme Court**]** ; and leave shall not be granted unless it is certified by the Court of Appeal that the point of law is of general public importance and it appears to the Court of Appeal or **[**[F56]the Supreme Court**]** (as the case may be) that the point is one which ought to be considered by **[**[F56]the Supreme Court**]** .

(7) For the purpose of dealing with a case under this section the **[**[F57]Supreme Court**]** may exercise any powers of the Court of Appeal.

(8) The supplementary provisions contained in Schedule 3 to this Act shall have effect.

(9) In the application of this section to Northern Ireland—

(a) any reference to the Attorney General shall be construed as a reference to the **[**[F58]Director of Public Prosecutions for Northern Ireland **]**;

[[F59](aa) the reference to section 51A(2) of the Firearms Act 1968 shall be construed as a reference to Article 70(2) of the Firearms (Northern Ireland) Order 2004;

(ab) the reference to section 29(4) or (6) of the Violent Crime Reduction Act 2006 shall be construed as a reference to paragraph 2(4) or (5) of Schedule 2 to that Act; [F60] . . . **]**

[[F61](ac) the reference to any of sections 225 to 229 of the Criminal Justice Act 2003 shall be construed as a reference to either of Articles 13 and 14 of the Criminal Justice (Northern Ireland) Order 2008.**]**

(b) the references to sections **[**[F62]11 and 35(1)**]** of the [M13]Criminal Appeal Act 1968 shall be construed as references to sections 10(2) and 33(1) of the [M14]Criminal Appeal (Northern Ireland) Act 1980, respectively.**[**[F63], and

(c) the reference in subsection (3A) to an order specified in subsection (3B) shall be construed as a reference to an order under Article 5(1) of the Life Sentences (Northern Ireland) Order 2001.**]**

Textual Amendments

F44 S. 36(2)(a)(b) substituted (4.4.2005) for words in s. 36(2) by Criminal Justice Act 2003 (c. 44), ss. 304, 336, **Sch. 32 Pt. 1 para. 46**; S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 23, 42(21) (subject to art. 2(2), Sch. 2 (as amended by S.I. 2005/2122, art. 2))

F45 S. 36(2)(b)(zi) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 26 para. 5(2)**; S.I. 2012/2770, art. 2(f)

F46 S. 36(2)(b)(ia) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 26 para. 5(3)**; S.I. 2012/2770, art. 2(f)

F47 Word in s. 36(2)(b)(ii) repealed (6.4.2007) by Violent Crime Reduction Act 2006 (c. 38), ss. 49, 65, 66(4)-(8), Sch. 1 para. 3(2), **Sch. 5**; S.I. 2007/858, **art. 2(g)(n)(iv)**

F48 Words in s. 36(2)(b)(iii) substituted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 148, 153, **Sch. 26 para. 23**; S.I. 2008/1586, **art. 2**, Sch. 1 para. 48(i)

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F49 Figure in s. 36(2)(b)(iii) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 19 para. 2**; S.I. 2012/2906, art. 2(q)

F50 S. 36(2)(b)(iv) and preceding word inserted (6.4.2007) by Violent Crime Reduction Act 2006 (c. 38), ss. 49, 66(4)-(8), **Sch. 1 para. 3(2)**; S.I. 2007/858, **art. 2(g)**

F51 Words in s. 36(3) substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 331, 336, **Sch. 36 Pt. 6 para. 96(a)**; S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 43(c) (subject to art. 2(2), Sch. 2 (as amended by S.I. 2005/2122, art. 2))

F52 S. 36(3A) inserted (18.12.2003) by Criminal Justice Act 2003 (c. 44), **ss. 272(1)**, 336(1)(12)

F53 Words in s. 36(5) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 48(2)(a)(i)**; S.I. 2009/1604, **art. 2**

F54 Words in s. 36(5) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 48(2)(a)(ii)**; S.I. 2009/1604, **art. 2**

F55 Words in s. 36(5) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 48(2)(a)(iii)**; S.I. 2009/1604, **art. 2**

F56 Words in s. 36(6) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 48(2)(b)**; S.I. 2009/1604, **art. 2**

F57 Words in s. 36(7) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 48(2)(c)**; S.I. 2009/1604, **art. 2**

F58 Words in s. 36(9)(a) substituted (with application in accordance with s. 41(1) of the amending Act) by Justice (Northern Ireland) Act 2002 (c. 26), **ss. 41(5)**, 87(1); S.R. 2010/113, art. 2, Sch. para. 12

F59 S. 36(9)(aa)(ab) inserted (6.4.2007) by Violent Crime Reduction Act 2006 (c. 38), ss. 49, 66(4)-(8), **Sch. 1 para. 3(3)**; S.I. 2007/858, **art. 2(g)**

F60 Word in s. 36(9)(ab) repealed (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 149, 153, **Sch. 28 Pt. 3**; S.I. 2008/1586, **art. 2**, Sch. 1 para. 50(3)(e)

F61 S. 36(9)(ac) inserted (N.I.) (15.5.2008) by The Criminal Justice (Northern Ireland) Order S.I. 2008/1216 (N.I. 1), arts. 1, 102, **Sch. 5 para. 6**; S.R. 2008/217, **art. 2**, Sch.

F62 Words in s. 36(9)(b) substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 331, 336, **Sch. 36 Pt. 6 para. 96(b)**; S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 43(c) (subject to art. 2(2), Sch. 2 (as amended by S.I. 2005/2122, art. 2))

F63 S. 36(9)(c) and preceding word inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 46(3)**, 153; S.I. 2008/1586, **art. 2**, Sch. 1 para. 25

Modifications etc. (not altering text)

C12 S. 36 applied (18.12.2003) by Criminal Justice Act 2003 (c. 44), ss. 276, 336(1)(12), **Sch. 22 para. 15**

C13 S. 36 applied (12.7.2007) by The Criminal Justice Act 2003 (Reviews of Sentencing) (Consequential and Supplementary Provisions) Order 2007 (S.I. 2007/1762), **art. 2**

Marginal Citations

M13 1968 c. 19.

M14 1980 c. 47.

Status: *Point in time view as at 13/03/2014. This version of this Act contains provisions that are prospective.*
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PART V

JURISDICTION, IMPRISONMENT, FINES, ETC.

Jurisdiction

37 Certain either way offences relating to motor vehicles to be summary offences.

(1) In section 12 of the [M15]Theft Act 1968 (taking motor vehicle or other conveyance without authority etc.)—

(a) in subsection (2), for the words "on conviction on indictment be liable to imprisonment for a term not exceeding three years." there shall be substituted the words "be liable on summary conviction to a fine not exceeding level 5 on the standard scale, to imprisonment for a term not exceeding six months, or to both."; and

(b) at the end of subsection (4) there shall be added the words "and if he is found guilty of it, he shall be liable as he would have been liable under subsection (2) above on summary conviction.".

(2[F64]

Textual Amendments

F64 Ss. 37(2), 63, 68 repealed by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), ss. 3, 5, Sch. 1, Sch. 4 paras. 1, **2**

Marginal Citations

M15 1968 c. 60.

38 Criminal damage etc. as summary offences.

(1) In subsection (1) of section 22 of the [M16]Magistrates' Courts Act 1980 (under which, where an offence of or related to criminal damage is charged and it appears to a magistrates' court clear that the value involved does not exceed the relevant sum, the court is required to proceed as if the offence charged were triable only summarily) in the second paragraph (which states the relevant sum) for "£400" there shall be substituted "£2,000".

(2) Subsection (1) above does not apply to an offence charged in respect of an act done before this section comes into force.

(3) The following subsection shall be inserted after subsection (10) of that section—

"(11) Where—

(a) the accused is charged on the same occasion with two or more scheduled offences and it appears to the court that they constitute or form part of a series of two or more offences of the same or a similar character; or

(b) the offence charged consists in incitement to commit two or more scheduled offences,

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this section shall have effect as if any reference in it to the value involved were a reference to the aggregate of the values involved.”.

(4) Subsection (3) above does not apply where any of the offences are charged in respect of acts done before this section comes into force.

Marginal Citations

M16 1980 c. 43.

39 Common assault and battery to be summary offences.

Common assault and battery shall be summary offences and a person guilty of either of them shall be liable to a fine not exceeding level 5 on the standard scale, to imprisonment for a term not exceeding six months, or to both.

40 Power to join in indictment count for common assault etc.

(1) A count charging a person with a summary offence to which this section applies may be included in an indictment if the charge—

(a) is founded on the same facts or evidence as a count charging an indictable offence; or

(b) is part of a series of offences of the same or similar character as an indictable offence which is also charged,

but only if (in either case) the facts or evidence relating to the offence [F65]... **[**[F66] are disclosed by material which, in pursuance of regulations made under paragraph 1 of Schedule 3 to the Crime and Disorder Act 1998 (procedure where person sent for trial under section 51 **[**[F67]or 51A)**]**, has been served on the person charged**]**.

(2) Where a count charging an offence to which this section applies is included in an indictment, the offence shall be tried in the same manner as if it were an indictable offence; but the Crown Court may only deal with the offender in respect of it in a manner in which a magistrates’ court could have dealt with him.

(3) The offences to which this section applies are—

(a) common assault;

[F68]**[**(aa) an offence under section 90(1) of the Criminal Justice Act 1991 (assaulting a prisoner custody officer);

(ab) an offence under section 13(1) of the Criminal Justice and Public Order Act 1994 (assaulting a secure training centre custody officer)**]**

(b) an offence under section 12(1) of the [M17]Theft Act 1968 (taking motor vehicle or other conveyance without authority etc.);

(c) an offence under **[**[F69]section 103(1)(b) of the Road Traffic Act 1988**]** (driving a motor vehicle while disqualified);

(d) an offence mentioned in the first column of Schedule 2 to the [M18]Magistrates’ Courts Act 1980 (criminal damage etc.) which would otherwise be triable only summarily by virtue of section 22(2) of that Act; and

(e) any summary offence specified under subsection (4) below.

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(4) The Secretary of State may by order made by statutory instrument specify for the purposes of this section any summary offence which is punishable with imprisonment or involves obligatory or discretionary disqualification from driving.

(5) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F65 Words in s. 40(1) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 60(7)(a), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1102, art. 2(1)(d)

F66 Words in s. 40(1) inserted (4.1.1999 for specified purposes and otherwise 15.1.2001) by 1998 c. 37, s. 119, **Sch. 8 para. 66**; S.I. 1998/2327, **art. 4(2)(c)**; S.I. 2000/3283, **art. 2(c)**

F67 Words in s. 40(1) inserted (9.5.2005 for specified purposes, 18.6.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44) , s. 336(3)(4) , **Sch. 3 para. 60(7)(b)** ; S.I. 2005/1267 , arts. 2(1)(2)(b), Sch. Pt. 2; S.I. 2012/1320 , art. 4(1)(c)(2)(3) (with arts. 3, 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103 art. 4); S.I. 2013/1103, art. 2(1)(d)

F68 S. 40(3)(aa)(ab) inserted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 35**; S.I. 1995/127, art. Sch. 1, Appendix A

F69 Words substituted by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 108:1), s. 4, **Sch. 3 para. 39**

Modifications etc. (not altering text)

C14 S. 40 modified (1.12.1998) by 1998 c. 37, s. 52(6), **Sch. 3 para. 6(8)**; S.I. 1998/2327, **art. 4(2)**

Marginal Citations

M17 1968 c. 60.

M18 1980 c. 43.

[F70]41 Power of Crown Court to deal with summary offence where person committed for either way offence.

. . . . . .

Textual Amendments

F70 S. 41 repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 60(8), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)

[F71]42 . . . . . .

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Textual Amendments

F71 S. 42 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Power of Court of Appeal to order retrial

43 Power of Court of Appeal to order retrial.

(1) The [M19]Criminal Appeal Act 1968 shall be amended as follows.

(2) In section 7(1), the words "and do so only by reason of evidence received or available to be received by them under section 23 of this Act" shall cease to have effect.

(3) At the end of subsection (1) of section 8 there shall be added the words "but after the end of two months from the date of the order for his retrial he may not be arraigned on an indictment preferred in pursuance of such a direction unless the Court of Appeal give leave."

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

"(1A) Where a person has been ordered to be retried but may not be arraigned without leave, he may apply to the Court of Appeal to set aside the order for retrial and to direct the court of trial to enter a judgment and verdict of acquittal of the offence for which he was ordered to be retried.

(1B) On an application under subsection (1) or (1A) above the Court of Appeal shall have power—

(a) to grant leave to arraign; or

(b) to direct the entry of a judgment and verdict of acquittal,but shall not give leave to arraign unless they are satisfied—

(i) that the prosecution has acted with all due expedition; and

(ii) that there is a good and sufficient cause for a retrial in spite of the lapse of time since the order under section 7 of this Act was made."

(5) Nothing in this section applies where notice of appeal or of application for leave to appeal was given before the commencement of this section.

Marginal Citations

M19 1968 c. 19.

Imprisonment

44 Firearms offences.

(1) Part 1 of Schedule 6 to the [M20]Firearms Act 1968 (prosecution and punishment of offences) shall be amended as follows.

(2) For the third and fourth columns of the entries relating to an offence under section 2(1) (possessing, etc. shotgun without shotgun certificate) there shall be substituted—

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Changes to legislation: *Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"(a) Summary.	6 months or the statutory maximum or both.
(b) On indictment.	3 years or a fine; or both."

(3) "Life imprisonment" shall be substituted for "14 years" in the fourth column of the entries relating to offences under—

(a) section 17(2) (possessing firearm or imitation firearm at time of committing or being arrested for certain offences); and

(b) section 18(1) (carrying firearm or imitation firearm with criminal intent).

(4) Nothing in this section shall affect the punishment for an offence committed before this section comes into force.

Marginal Citations

M20 1968 c. 27.

45 Increase in maximum term of imprisonment for cruelty to children and young persons.

(1) In section 1(1)(a) of the [M21]Children and Young Persons Act 1933 (under which the maximum term of imprisonment for cruelty to persons under 16 is two years) and in section 12(1)(a) of the [M22]Children and Young Persons (Scotland) Act 1937 (which makes corresponding provision for Scotland), for "two" there shall be substituted "ten".

(2) Nothing in subsection (1) above shall affect the punishment for an offence committed before this section comes into force.

Marginal Citations

M21 1933 c. 12.

M22 1937 c. 37.

46 Maximum term of imprisonment on summary conviction under Prevention of Crime Act 1953 and maximum fine under Restriction of Offensive Weapons Act 1959.

(1) In section 1(1)(a) of the [M23]Prevention of Crime Act 1953 "six months" shall be substituted for "three months".

(2) The maximum fine that may be imposed for an offence under section 1 of the [M24]Restriction of Offensive Weapons Act 1959 shall be a fine not exceeding level 5 on the standard scale.

(3) This section shall not have effect in relation to anything done before it comes into force.

Marginal Citations

M23 1953 c. 14.

Status: *Point in time view as at 13/03/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

M24 1959 c. 37.

F72 47 Corruption.

. . . . . .

Textual Amendments

F72 S. 47 repealed (1.7.2011) by Bribery Act 2010 (c. 23), s. 19(1), **Sch. 2** (with ss. 16, 19(5)); S.I. 2011/1418, art. 2

F73 48 . . . . . .

Textual Amendments

F73 S. 48 repealed (15.2.1994) by 1993 c. 36, ss. 78(3), 79(14), **Sch. 6 Pt.I**; S.I. 1994/71, **art. 2**,Sch., Appendix

49 Repeal of s.134 of Magistrates' Courts Act 1980.

F74 . . . . . .

Textual Amendments

F74 S. 49 repealed (21.7.2008) by Statute Law (Repeals) Act 2008 (c. 12), s. 1(1), **Sch. 1 Pt. 3**

50 Suspended and partly suspended sentences on certain civilians in courts-martial and Standing Civilian Courts.

F75 . . . . . .

Textual Amendments

F75 S. 50 repealed (28.3.2009 for certain purposes and otherwise prosp.) by Armed Forces Act 2006 (c. 52), s. 378, 383, Sch. 16 para. 112, **Sch. 17**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059)

Maximum fines under subordinate legislation

51 Statutory maximum as penalty on summary conviction for offences triable either way in subordinate legislation.

(1) For any offence triable either way under a subordinate instrument made before the commencement of this section, the maximum fine which may be imposed on summary conviction shall by virtue of this subsection be the statutory maximum unless the offence is one for which by virtue of the instrument a larger maximum fine may be imposed on summary conviction.

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(2) Where apart from this section the maximum fine would be one amount in the case of a first conviction and 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) Subsection (1) above shall not affect so much of any instrument as (in whatever words) makes a person liable on summary conviction to a fine not exceeding a specified amount for each period of a specified length during which a continuing offence is continued after conviction or the occurrence of any other specified event.

(4) Where there is under any enactment (however framed or worded) contained in an Act passed before the commencement of this section a power by subordinate instrument to impose penal provisions, being a power which allows the creation of offences triable either way, the maximum fine which may in the exercise of that power be authorised on summary conviction in respect of an offence triable either way shall by virtue of this subsection be the statutory maximum unless some larger maximum fine can be authorised on summary conviction of such an offence by virtue of an enactment contained in an Act passed before the commencement of this section.

(5) Where there is under any enactment (however framed or worded) contained in an Act passed before the commencement of this section a power by subordinate instrument to create offences triable either way, the maximum fine for an offence triable either way so created may be expressed as a fine not exceeding the statutory maximum.

(6) Subsection (5) above has effect in relation to exercises of powers before as well as after the commencement of this section.

(7) Nothing in this section shall affect the punishment for an offence committed before the commencement of this section.

(8) In this section and sections 52, 53, 55, 57 and 59 below "fine" includes a pecuniary penalty but does not include a pecuniary forfeiture or pecuniary compensation.

52 Penalties on conviction for summary offences under subordinate legislation—conversion of references to amounts to references to levels on scale.

(1) Where under a relevant subordinate instrument the maximum fine on conviction of a summary offence specified in the instrument is an amount shown in the second column of the standard scale, the reference in the instrument to the amount of the maximum fine shall be construed as a reference to the level in the first column of the standard scale corresponding to that amount.

(2) In subsection (1) above "relevant subordinate instrument" means any instrument made by virtue of an enactment or instrument after 30th April 1984 and before the commencement of this section.

(3) Subsection (1) above shall not affect so much of any instrument as (in whatever words) makes a person liable on summary conviction to a fine not exceeding a specified amount for each period of a specified length during which a continuing offence is continued after conviction or the occurrence of any other specified event.

(4) Where there is—

(a) under any enactment (however framed or worded) contained in an Act passed before the commencement of this section;

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(b) under any instrument (however framed or worded) made by virtue of such an enactment,

a power to provide by subordinate instrument that a person, as regards any summary offence (whether or not created by the instrument) shall be liable on conviction to a fine, a person may be so made liable to a fine not exceeding a specified level on the standard scale.

(5) Subsection (4) above has effect in relation to exercises of powers before as well as after the commencement of this section.

53 Powers to specify maximum fines for summary offences under subordinate instruments— conversion of references to amounts to references to levels on scale—England and Wales.

(1) Where an instrument which was made under an enactment on or after 11th April 1983 but before this section came into force confers on any authority other than a harbour authority a power by subordinate instrument to make a person liable to a fine on conviction of a summary offence of an amount shown in the second column of the standard scale, as that scale had effect when the instrument was made, a reference to the level in the first column of the standard scale which then corresponded to that amount shall be substituted for the reference in the instrument conferring the power to the amount of the fine.

(2) If an order under section 143 of the [M25]Magistrates' Courts Act 1980 alters the sums specified in section 37(2) of the [M26]Criminal Justice Act 1982, 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.

(3) This section shall not affect so much of any instrument 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.

Marginal Citations

M25 1980 c. 43.

M26 1982 c. 48.

54 Fines on summary conviction for offences under subordinate instruments— conversion to references to levels on scale—Scotland.

In the [M27]Criminal Procedure (Scotland) Act 1975, after section 289GC (which is inserted by section 56 of this Act) there shall be inserted the following section—

"**289GD Fines on summary conviction for offences under subordinate instruments—conversion to references to levels on scale.**

(1) Where an instrument which was made under an enactment on or after 11th April 1983 but before the commencement of section 54 of the Criminal Justice Act 1988 confers on any authority other than a harbour authority a power by subordinate instrument to make a person liable on summary conviction to a fine of an amount shown in the second column of the standard scale, as that

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scale had effect when the instrument was made, a reference to the level in the first column of the standard scale which then corresponded to that amount shall be substituted for the reference in the instrument conferring the power to the amount of the fine.

(2) This section shall not affect so much of any instrument 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".

Marginal Citations
M27 1975 c. 21.

55 Fines under secondary subordinate instruments— England and Wales.

(1) This section applies to any instrument (however framed or worded) which—
(a) was made before 11th April 1983 (the date of the commencement of sections 35 to 50 of the [M28]Criminal Justice Act 1982); and
(b) confers on any authority other than a harbour authority a power by subordinate instrument to make a person, as regards any summary offence (whether or not created by the latter instrument), liable on conviction to a maximum fine of a specified amount not exceeding £1,000,

but does not affect so much of any such instrument as (in whatever words) confers a power by subordinate instrument to make a person liable on conviction to a fine for each period of a specified length during which a continuing offence is continued.

(2) The maximum fine to which a subordinate instrument made by virtue of an instrument to which this section applies may provide that a person shall be liable on conviction of a summary offence is—
(a) if the specified amount is less than £25 , level 1 on the standard scale;
(b) if it is £25 or more but less than £50, level 2;
(c) if it is £50 or more but less than £200, level 3;
(d) if it is £200 or more but less than £400, level 4; and
(e) if it is £400 or more, level 5.

(3) Subject to subsection (5) below, where an instrument 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 in respect of a specified quantity or a specified number of things, that fine shall be treated for the purposes of this section as being the maximum fine to which a person may be made liable by virtue of the instrument.

(4) Where an instrument to which this section applies confers a power to provide for different maximum fines in relation to different circumstances or persons of different descriptions, the amounts specified as those maximum fines are to be treated separately for the purposes of this section.

(5) Where an instrument 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 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, this section shall have effect in relation—

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(a) to the alternative fine; and
(b) to any amount that the instrument 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 in relation to the fine mentioned in subsection (3) above.

(6) Section 36 of the [M29]Criminal Justice Act 1982 (abolition of enhanced penalties under subordinate instruments) shall have effect as if the references in it to an Act included references to an instrument and the reference in subsection (2) to the coming into force of the section were a reference, in relation to an instrument conferring a power such as is mentioned in subsection (1), to the coming into force of this section.

Marginal Citations
M28 1982 c. 48.
M29 1982 c. 48.

56 Fines under secondary subordinate instruments: Scotland.

(1) In the [M30]Criminal Procedure (Scotland) Act 1975, after section 289GB (which was inserted by the [M31]Criminal Justice (Scotland) Act 1987) there shall be inserted the following section—

"**289GC Fines under secondary subordinate instruments— Scotland.**

(1) This section applies to any instrument (however framed or worded) which—
(a) was made before 11th April 1983 (the date of commencement of Part IV of the Criminal Justice Act 1982);
(b) confers on any authority other than a harbour authority a power by subordinate instrument to make a person, as regards any summary offence (whether or not created by the latter instrument), liable on conviction to a maximum fine of a specified amount not exceeding £1,000,

but does not affect so much of any such instrument as (in whatever words) confers a power by subordinate instrument to make a person liable on conviction to a fine for each period of a specified length during which a continuing offence is continued.

(2) The maximum fine to which a subordinate instrument made by virtue of an instrument to which this section applies may provide that a person shall be liable on conviction of a summary offence is—
(a) if the specified amount is less than £25, level 1 on the standard scale;
(b) if it is £25 or more but less than £50, level 2;
(c) if it is £50 or more but less than £200, level 3;
(d) if it is £200 or more but less than £400, level 4; and
(e) if it is £400 or more, level 5.

(3) Subject to subsection (5) below, where an instrument 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 in respect of a specified quantity or a specified number of things, that fine shall be treated

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for the purposes of this section as being the maximum fine to which a person may be made liable by virtue of the instrument.

(4) Where an instrument to which this section applies confers a power to provide for different maximum fines in relation to different circumstances or persons of different descriptions, the amount specified as those maximum fines are to be treated separately for the purposes of this section.

(5) Where an instrument 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 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, this section shall have effect in relation—

(a) to the alternative fine; and

(b) to any amount that the instrument 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 in relation to the fine mentioned in subsection (3) above."

(2) Section 289E of the [M32]Criminal Procedure (Scotland) Act 1975 (penalties for first and subsequent convictions of summary offences to be the same) shall have effect as if the references in it to an Act included references to an instrument and the reference in subsection (5) to the commencement of the section were a reference, in relation to an instrument conferring a power such as is mentioned in subsection (1), to the coming into force of this section.

Marginal Citations

M30 1975 c. 21.

M31 1987 c. 41.

M32 1975 c. 21.

57 Powers of harbour authorities to provide for maximum fines up to level 4 on standard scale.

(1) Where a harbour authority is empowered to provide—

(a) in an instrument made by virtue of an enactment; or

(b) in an instrument made by virtue of an instrument made under an enactment,

that a person, as regards any summary offence (whether or not created by the instrument), shall be liable on conviction to a fine not exceeding an amount less than level 4 on the standard scale, the power shall extend by virtue of this section to making him liable to a fine not exceeding level 4.

(2) Where any enactment or instrument ("the enabling legislation") (however expressed) provides that a person who contravenes any provision of an instrument ("a regulatory instrument") made by a harbour authority—

(a) by virtue of the enabling legislation; or

(b) by virtue of an instrument made under the enabling legislation,

shall be guilty of a summary offence and liable on conviction to a fine not exceeding an amount less than level 4 on the standard scale, the power conferred by the enabling

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legislation shall by virtue of this section enable the harbour authority to provide in a regulatory instrument that a person, as regards any summary offence created by the regulatory instrument, shall be liable on summary conviction to a fine not exceeding level 4.

[F76]58 . . . . . .

Textual Amendments

F76 S. 58 repealed (18.2.1993) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(2), **Sch. 16 Pt. IX**; S.I. 1993/274, **art.2**

Exceptionally high maximum fines

59 Power to alter exceptionally high maximum fines.

(1) The Secretary of State may by order amend an enactment or subordinate instrument specifying a sum to which this subsection applies so as to substitute for that sum such other sum as appears to him—

(a) to be justified by a change in the value of money appearing to him to have taken place since the last occasion on which the sum in question was fixed; or

(b) to be appropriate to take account of an order altering the standard scale which has been made or is proposed to be made.

(2) Subsection (1) above applies to any sum which—

(a) is specified as the maximum fine which may be imposed on conviction of a summary offence; and

(b) is higher than level 5 on the standard scale.

(3) The Secretary of State may by order amend an enactment or subordinate instrument specifying a sum to which this subsection applies so as to substitute for that sum such other sum as appears to him—

(a) to be justified by a change in the value of money appearing to him to have taken place since the last occasion on which the sum in question was fixed; or

(b) to be appropriate to take account of an order made or proposed to be made altering the statutory maximum.

(4) Subsection (3) above applies to any sum which—

(a) is specified as the maximum fine which may be imposed on summary conviction of an offence triable either way; and

(b) is higher than the statutory maximum.

(5) An order under this section—

(a) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and

(b) shall not affect the punishment for an offence committed before it comes into force.

(6) In this section—

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"enactment" includes an enactment contained in an Act passed after this Act; and

"subordinate instrument" includes an instrument made after the passing of this Act.

Default in payment of fines etc.

60 Periods of imprisonment for default.

(1) In the **[**[F77]Table in**]** paragraph 1 of Schedule 4 to the [M33]Magistrates' Courts Act 1980, for the entries relating to amounts not exceeding £10,000 there shall be substituted—

"An amount not exceeding £50	5 days
An amount exceeding £50 but not exceeding £100	7 days
An amount exceeding £100 but not exceeding £400	14 days
An amount exceeding £400 but not exceeding £1,000	30 days
An amount exceeding £1,000 but not exceeding £2,000	45 days
An amount exceeding £2,000 but not exceeding £5,000	3 months
An amount exceeding £5,000 but not exceeding £10,000	6 months".

[F78](2) . . . . . .

Textual Amendments

F77 Words in s. 60(1) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 104**

F78 S. 60(2) repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Marginal Citations

M33 1980 c. 43.

61 Default – procedure.

(1) The [M34]Magistrates' Courts Act 1980 shall be amended as follows.

(2) The following subsections shall be added after section 77(2)—

"(3) A magistrates' court shall have power at any time to do either or both of the following—

(a) to direct that the issue of the warrant of commitment shall be postponed until a time different from that to which it was previously postponed;

(b) to vary any of the conditions on which its issue is postponed,

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but only if it thinks it just to do so having regard to a change of circumstances since the relevant time.

(4) In this section "the relevant time" means—

(a) where neither of the powers conferred by subsection (3) above has been exercised previously, the date when the issue of the warrant was postponed under subsection (2) above; and

(b) in any other case, the date of the exercise or latest exercise of either or both of the powers.

(5) Without prejudice to the generality of subsection (3) above, if on an application by a person in respect of whom issue of a warrant has been postponed it appears to a justice of the peace acting for the petty sessions area in which the warrant has been or would have been issued that since the relevant time there has been a change of circumstances which would make it just for the court to exercise one or other or both of the powers conferred by that subsection, he shall refer the application to the court.

(6) Where such an application is referred to the court, it shall be the duty of the clerk of the court—

(a) to fix a time and place for the application to be heard; and

(b) to give the applicant notice of the time and place which he fixes.

(7) Where such a notice has been given but the applicant does not appear at the time and place specified in the notice, the court may proceed with the consideration of the application in his absence.

(8) If a warrant of commitment in respect of the sum adjudged to be paid has been issued before the hearing of the application, the court shall have power to order that the warrant shall cease to have effect and, if the applicant has been arrested in pursuance of it, to order that he shall be released, but it shall only make an order under this subsection if it is satisfied that the change of circumstances on which the applicant relies was not put before the court when it was determining whether to issue the warrant.".

(3) The following subsection shall be inserted after subsection (4) of section 82 (restriction on power to impose imprisonment for default)—

"(4A) The methods of enforcing payment mentioned in subsection (4)(b)(ii) above are—

(a) a warrant of distress under section 76 above;

(b) an application to the High Court or county court for enforcement under section 87 below;

(c) an order under section 88 below;

(d) an attachment of earnings order; and

(e) if the offender is under the age of 21, an order under section 17 of the Criminal Justice Act 1982 (attendance centre orders).".

(4) The following subsections shall be inserted after subsection (5) of that section—

"(5A) A magistrates' court may not issue a warrant of commitment under subsection (5) above at a hearing at which the offender is not present unless the clerk of the court has first served on the offender a notice in writing stating

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that the court intends to hold a hearing to consider whether to issue such a warrant and giving the reason why the court so intends.

(5B) Where after the occasion of an offender's conviction by a magistrates' court the court holds a hearing for the purpose of considering whether to issue a warrant of commitment for default in paying a sum adjudged to be paid by the conviction, it shall consider such information about the offender's means as is available to it unless it has previously—

(a) inquired into the offender's means; and

(b) postponed the issue of the warrant of commitment under section 77(2) above.

(5C) A notice under subsection (5A) above—

(a) shall state the time and place appointed for the hearing; and

(b) shall inform the offender that, if he considers that there are grounds why the warrant should not be issued, he may make representations to the court in person or in writing,

but the court may exercise its powers in relation to the issue of a warrant whether or not he makes representations.

(5D) Except as mentioned in subsection (5E) below, the time stated in a notice under subsection (5A) above shall not be earlier than 21 days after the issue of the notice.

(5E) Where a magistrates' court exercises in relation to an offender the power conferred by section 77(2) above and at the same hearing issues a notice under subsection (5A) above in relation to him, the time stated in the notice may be a time on any day following the end of the period for which the issue of the warrant of commitment has been postponed.

(5F) A notice under subsection (5A) above to be served on any person shall be deemed to be served on that person if it is sent by registered post or the recorded delivery service addressed to him at his last known address, notwithstanding that the notice is returned as undelivered or is for any other reason not received by that person.".

(5) The following section shall be substituted for section 85—

"**85 Power to remit fine.**

(1) Where a fine has been imposed on conviction of an offender by a magistrates' court, the court may at any time remit the whole or any part of the fine, but only if it thinks it just to do so having regard to a change of circumstances which has occurred—

(a) where the court is considering whether to issue a warrant of commitment after the issue of such a warrant in respect of the fine has been postponed under subsection (2) of section 77 above, since the relevant time as defined in subsection (4) of that section; and

(b) in any other case, since the date of the conviction.

(2) Where the court remits the whole or part of the fine after a term of imprisonment has been fixed, it shall also reduce the term by an amount which bears the same proportion to the whole term as the amount remitted bears to the whole or, as the case may be, shall remit the whole term.

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(3) In calculating the reduction in a term of imprisonment required by subsection (2) above any fraction of a day shall be left out of account.

(4) Notwithstanding the definition of "fine" in section 150(1) below, references in this section to a fine do not include any other sum adjudged to be paid on conviction, whether as a pecuniary penalty, forfeiture, compensation or otherwise.".

(6) In section 121(2) (magistrates' court to consist of at least 2 justices when holding an inquiry into the means of an offender for the purposes of section 82) after the word "above" there shall be inserted the words "or determine under that section at a hearing at which the offender is not present whether to issue a warrant of commitment".

Marginal Citations

M34 1980 c. 43.

62 Fines on companies.

(1) The following section shall be inserted after section 87 of the [M35]Magistrates' Courts Act 1980—

"**87A Fines imposed on companies.**

(1) Where—

(a) a magistrates' court has, or is treated by any enactment as having, adjudged a company by a conviction to pay a sum; and

(b) the court has issued a warrant of distress under section 76(1) above for the purpose of levying the sum; and

(c) it appears on the return to the warrant that the money and goods of the company are insufficient to satisfy the sum with the costs and charges of levying the same,

the clerk of the court may make an application in relation to the company under section 9 or 124 of the Insolvency Act 1986 (administration or winding up).

(2) Any expenses incurred under subsection (1) above by the clerk of a magistrates' court shall be treated for the purposes of Part VI of the Justices of the Peace Act 1979 as expenses of the magistrates' courts committee.".

(2) The words " or by the clerk of a magistrates' court in the exercise of the power conferred by section 87A of the Magistrates' Courts Act 1980 (enforcement of fines imposed on companies) " shall be inserted—

[[F79](a) before the words "or by all" in section 9(1) of the Insolvency Act 1986;**]**

(b) after the word "contributories" in section 124(1) of that Act.

Textual Amendments

F79 S. 62(2)(a) repealed (15.9.2003) by 2002 c. 40, ss. 278, 279, Sch. 26; S.I. 2003/2093, **art. 2(1)**, Sch. 1 (subject to art. 2(2))

Status: *Point in time view as at 13/03/2014. This version of this Act contains provisions that are prospective.*
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Marginal Citations

M35 1980 c. 43.

Fines and other pecuniary penalties—miscellaneous

63 . . . . . [F80]

Textual Amendments

F80 Ss. 37(2), 63, 68 repealed by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), ss. 3, 5, Sch. 1, Sch. 4 paras. 1, **2**

64 Increase of maximum fine under s.32 of the Game Act 1831.

[F81] . . . . . .

Textual Amendments

F81 S. 64 repealed (21.7.2008) by Statute Law (Repeals) Act 2008 (c. 12), s. 1(1), **Sch. 1 Pt. 3**

[F82]**65** . . . . . .

Textual Amendments

F82 S. 65 repealed (8.1.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. V(8)** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/3280, **art. 2(c)(ii)** (with art. 3)

66 Fisheries offences on River Tweed.

(1) Section 38 of the [M36]Fisheries Act 1981 (which applied certain enactments to so much of the River Tweed as is situated outwith Scotland as if it were situated in Scotland) shall be deemed not to have been excluded from the operation of section 38(1) of the [M37]Criminal Justice Act 1982 (general increase of fines for summary offences) by paragraph (c) of that subsection (exclusion of offences where fine or maximum fine altered since 29th July 1977).

(2) Nothing in this section shall affect the punishment for an offence committed before this section comes into force.

Marginal Citations

M36 1981 c. 29.

M37 1982 c. 48.

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67 Fines imposed and recognizances forfeited by coroners.

(1) A fine imposed by a coroner, including a fine so imposed before this section comes into force, shall be treated for the purpose of its collection, enforcement and remission as having been imposed by the magistrates' court for the area in which the coroner's court was held, and the coroner shall as soon as practicable after imposing the fine give particulars of the fine to the **[**[F83]designated officer for**]** that court.

(2) A coroner shall proceed in the like manner under subsection (1) above in relation to a recognizance forfeited at an inquest held before him, including a recognizance so forfeited before this section comes into force, as if he had imposed a fine upon the person forfeiting that recognizance, and subsection (1) above shall apply accordingly.

Textual Amendments

F83 Words in s. 67(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 304**; S.I. 2005/910, **art. 3(y)(bb)**

68 . . . . . [F84]

Textual Amendments

F84 Ss. 37(2), 63, 68 repealed by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), ss. 3, 5, Sch. 1, Sch. 4 paras. 1, **2**

Forfeiture

[F85]69 . . . . . .

Textual Amendments

F85 S. 69 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

70 Forfeiture for drug offences.

In section 27(1) of the [M38]Misuse of Drugs Act 1971 (forfeiture on conviction of an offence under that Act) after the words "under this Act" there shall be inserted the words "or a drug trafficking offence, as defined in section 38(1) of the [M39]Drug Trafficking Offences Act 1986".

Marginal Citations

M38 1971 c. 38.

M39 1986 c. 32.

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PART VI

CONFISCATION OF THE PROCEEDS OF AN OFFENCE

Modifications etc. (not altering text)

C15 Part VI (ss. 71 to 103) modified: (29.12.1991) by S.I. 1991/2873, art. 3(2), **Sch. 2**; and (1.9.1995) by S.I. 1995/1968, **art. 2(1)**

C16 Part VI (ss. 71 to 103) applied (1.11.1995) by 1995 c. 11, **s. 15(3)**; S.I. 1995/2650, **art. 2**

71 Confiscation orders.

F86 . . . . . .

Textual Amendments

F86 S. 71 repealed (24.3.2003) by 2002 (c. 29), ss. 456, 457, 458(1), Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/333, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-14) (as amended by S.I. 2003/531)

72 - Making of confiscation orders.

F87 . . . . . .

Textual Amendments

F87 S. 72 repealed (24.3.2003) by 2002 c. 29, ss. 456, 457, 458(1), Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/333, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-14) (as amended by S.I. 2003/531)

72A Postponed determinations.

F88 . . . . . .

Textual Amendments

F88 S. 72A repealed (24.3.2003) by 2002 c. 29, ss. 456, 457, 458(1), Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/333, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-14) (as amended by S.I. 2003/531)

72AA Confiscation relating to a course of criminal conduct.

F89 . . . . . .

Status: *Point in time view as at 13/03/2014. This version of this Act contains provisions that are prospective.*
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Textual Amendments

F89 S. 72AA repealed (24.3.2003) by 2002 c. 29, ss. 456, 467, 458(1), Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/333, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-14) (as amended by S.I. 2003/531)

73 Statements, etc. relevant to making confiscation orders.

F90 . . . . . .

Textual Amendments

F90 S. 73 repealed (24.3.2003) by 2002 c. 29, ss. 456, 457, 458(1), Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/333, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-14) (as amended by S.I. 2003/531)

73A Provision of information by defendant.

F91 . . . . . .

Textual Amendments

F91 S. 73A repealed (24.3.2003) by 2002 c. 29, ss. 456, 457, 458, Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/333, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-14) (as amended by S.I. 2003/531)

74 Definition of principal terms used.

F92 . . . . . .

Textual Amendments

F92 S. 74 repealed (24.3.2003) by 2002 c. 29, ss. 456, 457, 458(1), Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/333, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-14) (as amended by S.I. 2003/531)

[F93 Review and revision of certain questions and determinations]

Textual Amendments

F93 S. 74A (and the heading immediately preceding it) inserted (1.11.1995) by 1995 c. 11, **s. 5**; S.I. 1995/2650, **art.2**

74A Review of cases where proceeds of crime not assessed.

F94 . . . . . .

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Textual Amendments

F94 S. 74A repealed (24.3.2003) by 2002 c. 29, ss. 456, 457, 458(1), Sch. 11 para. 17(2)(a), Sch. 11; S.I. 2003/333, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-14) (as amended by S.I. 2003/531)

74B Revision of assessment of proceeds of crime.

F95 . . . . . .

Textual Amendments

F95 S. 74B repealed (24.3.2003) by 2002 c. 29, ss. 456, 457, 458(1), Sch. 11 para 17(2)(a), Sch. 12; S.I. 2003/333, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-14) (as amended by S.I. 2003/531)

74C Revision of assessment of amount to be recovered.

F96 . . . . . .

Textual Amendments

F96 S. 74C repealed (24.3.2003) by 2002 c. 29, ss. 456, 457, 458(1), Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/333, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-14) (as amended by S.I. 2003/531)

Enforcement, etc. of confiscation orders

75 Application of procedure for enforcing fines.

F97 . . . . . .

Textual Amendments

F97 S. 75 repealed (24.3.2003) by 2002 c. 29, ss. 456, 457, 458(1), Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/333, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-14) (as amended by S.I. 2003/531)

75A Interest on sums unpaid under confiscation orders.

F98 . . . . . .

Textual Amendments

F98 S. 75A repealed (24.3.2003) by 2002 c. 29, ss. 456, 457, 458(1), Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/333, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-14) (as amended by S.I. 2003/531)

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76 Cases in which restraint orders and charging orders may be made.

F99 . . . . . .

Textual Amendments

F99 S. 76 repealed (24.3.2003) by 2002 c. 29, ss. 456, 457, 458(1), Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/333, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-14) (as amended by S.I. 2003/531)

77 Restraint orders.

F100 . . . . . .

Extent Information

E1 S. 77: for extent of s. 77 see s. 172

Textual Amendments

F100 S. 77 repealed (24.3.2003) by 2002 c. 29, ss. 456, 457, 458(1), Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/333, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-14) (as amended by S.I. 2003/531)

78 Charging orders in respect of land, securities, etc.

F101 . . . . . .

Textual Amendments

F101 S. 78 repealed (24.3.2003) by 2002 c. 29, ss. 456, 457, 458, Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/333, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-14) (as amended by S.I. 2003/531)

79 Charging orders: supplementary provisions.

F102 . . . . . .

Textual Amendments

F102 S. 79 repealed (24.3.2003) by 2002 c. 29, ss. 456, 457, 458, Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/333, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-14) (as amended by S.I. 2003/531)

80 Realisation of property.

F103 . . . . . .

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Textual Amendments

F103 S. 80 repealed (24.3.2003) by 2002 c. 29, ss. 456, 457, 458, Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/333, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-14) (as amended by S.I. 2003/531)

81 Application of proceeds of realisation and other sums.

F104 . . . . . .

Textual Amendments

F104 S. 81 repealed (24.3.2003) by 2002 c. 29, ss. 456, 457, 458, Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/333, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-14) (as amended by S.I. 2003/531)

82 Exercise of powers by High Court or receiver.

F105 . . . . . .

Textual Amendments

F105 S. 82 repealed (24.3.2003) by 2002 c. 29, ss. 456, 457, 458, Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/333, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-14) (as amended by S.I. 2003/531)

83 Variation of confiscation orders.

F106 . . . . . .

Textual Amendments

F106 S. 83 repealed (24.3.2003) by 2002 c. 29, ss. 456, 457, 458, Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/333, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-14) (as amended by S.I. 2003/531)

84 Bankruptcy of defendant etc.

F107 . . . . . .

Textual Amendments

F107 S. 84 repealed (24.3.2003) by 2002 c. 29, ss. 456, 457, 458, Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/333, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-14) (as amended by S.I. 2003/531)

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85 Sequestration in Scotland of defendant etc.

F108 . . . . . .

Textual Amendments

F108 S. 85 repealed (24.3.2003) by 2002 c. 29, ss. 456, 457, 458, Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/333, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-14) (as amended by S.I. 2003/531)

86 Winding up of company holding realisable property.

F109 . . . . . .

Textual Amendments

F109 S. 86 repealed (24.3.2003) by 2002 c. 29, ss. 456, 457, 458, Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/333, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-14) (as amended by S.I. 2003/531)

87 Insolvency officers dealing with property subject to restraint order.

F110 . . . . . .

Textual Amendments

F110 S. 87 repealed (24.3.2003) by 2002 c. 29, ss. 456, 457, 458, Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/333, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-14) (as amended by S.I. 2003/531)

88 Receivers: supplementary provisions.

F111 . . . . . .

Textual Amendments

F111 S. 88 repealed (24.3.2003) by 2002 c. 29, ss. 456, 457, 458, Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/333, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-14) (as amended by S.I. 2003/531)

89 Compensation.

F112 . . . . . .

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Textual Amendments

F112 S. 89 repealed (24.3.2003) by 2002 c. 29, ss. 456, 457, 458, Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/333, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-14) (as amended by S.I. 2003/531)

Enforcement in Scotland

F113 90 . . . . . .

Textual Amendments

F113 S. 90 repealed (31.3.1996) by 1995 c. 20, s. 117, Sch. 6 Pt. II para. 186(5), **Sch.7 Pt. II**; S.I. 1996/517, **art. 3**; s. 90 expressed to be repealed (*prosp.*) by 2002 c. 29, ss. 456, 457, 458, Sch. 11 para. 17(2)(a), **Sch. 12**

F114 91 . . . . . .

Textual Amendments

F114 S. 91 repealed (31.3.1996) by 1995 c. 20, s. 117, Sch. 6 Pt. II para. 186(5), **Sch.7 Pt. II**; S.I. 1996/517, **art.3**; s. 91 expressed to be repealed (*prosp.*) by 2002 c. 29, ss. 456, 457, 458, Sch. 11 para. 17(2)(a), **Sch. 12**

F115 92 . . . . . .

Textual Amendments

F115 S. 92 repealed (31.3.1996) by 1995 c. 20, s. 117, Sch. 6 Pt. II para. 186(5), **Sch.7 Pt. II**; S.I. 1996/517, **art.3**; s. 92 expressed to be repealed (*prosp.*) by 2002 c. 29, ss. 456, 457, 458, Sch. 11 para. 17(2)(a), **Sch. 12**

F116 93 . . . . . .

Textual Amendments

F116 S. 93 repealed (31.3.1996) by 1995 c. 20, s. 117, Sch. 6 Pt. II para. 186(5), **Sch.7 Pt. II**; S.I. 1996/517, **art.3**; s. 93 expressed to be repealed (*prosp.*) by 2002 c. 29, ss. 456, 457, 458, Sch. 11 para. 17(2)(a), **Sch. 12**

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[F117 Money laundering and other offences]

Textual Amendments

F117 S. 93A and cross heading inserted (E.W.S.) (15.2.1994) by 1993 c. 36, **s. 29(1)**; S.I. 1994/71, art. 2, **Sch.**

93A Assisting another to retain the benefit of criminal conduct.

F118 . . . . . .

Textual Amendments

F118 S. 93A repealed (24.2.2003) by 2002 c. 29, ss. 456, 457, 458, Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/120, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-7 (as amended (24.3.2003) by S.I. 2003/333, art. 14 and S.I. 2003/531, art. 3))

93B Acquisition, possession or use of proceeds of criminal conduct.

F119 . . . . . .

Textual Amendments

F119 S. 93B repealed (24.2.2003) by 2002 c. 29, ss. 456, 457, 458, Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/120, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-7 (as amended (24.3.2003) by S.I. 2003/333, art. 14 and S.I. 2003/531, art. 3))

93C Concealing or transferring proceeds of criminal conduct.

F120 . . . . . .

Textual Amendments

F120 S. 93C repealed (24.2.2003) by 2002 c. 29, ss. 456, 457, 458, Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/120, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-7 (as amended (24.3.2003) by S.I. 2003/333, art. 14 and S.I. 2003/531, art. 3))

93D Tipping-off.

F121 . . . . . .

Textual Amendments

F121 S. 93D repealed (24.2.2003) by 2002 c. 29, ss. 456, 457, 458, Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/120, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-7 (as amended (24.3.2003) by S.I. 2003/333, art. 14 and S.I. 2003/531, art. 3))

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93E Application of sections 93A to 93D to Scotland.

F122 . . . . . .

Textual Amendments

F122 S. 93E repealed (24.2.2003) by 2002 c. 29, ss. 456, 457, 458, Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/120, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-7 (as amended (24.3.2003) by S.I. 2003/333, art. 14 and S.I. 2003/531, art. 3))

93F Prosecution by order of the Commissioners of Customs and Excise.

F123 . . . . . .

Textual Amendments

F123 S. 93F repealed (24.2.2003) by 2002 c. 29, ss. 456, 457, 458, Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/120, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-7 (as amended (24.3.2003) by S.I. 2003/333, art. 14 and S.I. 2003/531, art. 3))

93G Extension of certain offences to Crown servants and exemptions for regulators etc.

F124 . . . . . .

Textual Amendments

F124 S. 93G repealed (24.2.2003) by 2002 c. 29, ss. 456, 457, 458, Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/120, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-7 (as amended (24.3.2003) by S.I. 2003/333, art. 14 and S.I. 2003/531, art. 3))

[F125 Investigations into the proceeds of criminal conduct]

Textual Amendments

F125 S. 93H (and the heading immediately preceding it) inserted (1.11.1995) by 1995 c. 11, **s.11**; S.I. 1995/2650, **art.2**

93H Order to make material available.

F126 . . . . . .

Textual Amendments

F126 S. 93H repealed (24.2.2003) by 2002 c. 29, ss. 456, 457, 458, Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/120, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-7 (as amended (24.3.2003) by S.I. 2003/333, art. 14 and S.I. 2003/531, art. 3))

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93I Authority for search.

F127 . . . . . .

Textual Amendments

F127 S. 93I repealed (24.2.2003) by 2002 c. 29, ss. 456, 457, 458, Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/120, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-7 (as amended (24.3.2003) by S.I. 2003/333, art. 14 and S.I. 2003/531, art. 3))

93J Disclosure of information held by government departments.

F128 . . . . . .

Textual Amendments

F128 S. 93J repealed (24.2.2003) by 2002 c. 29, ss. 456, 457, 458, Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/120, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-7 (as amended (24.3.2003) by S.I. 2003/333, art. 14 and S.I. 2003/531, art. 3))

Enforcement of external orders

94 Enforcement of Northern Ireland orders.

F129 . . . . . .

Textual Amendments

F129 S. 94 repealed (24.2.2003) by 2002 c. 29, ss. 456, 457, 458, Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/120, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-7 (as amended (24.3.2003) by S.I. 2003/333, art. 14 and S.I. 2003/531, art. 3))

F130 95 . . . . . .

Textual Amendments

F130 S. 95 repealed (31.3.1996) by 1995 c. 20, s. 117, Sch. 6 Pt. II para. 186(5), **Sch. 7 Pt. II**; S.I. 1996/517, **art. 3**

96 Enforcement of other external orders.

(1) Her Majesty may by Order in Council—

(a) direct in relation to a country or territory outside the United Kingdom designated by the Order ("a designated country") that, subject to such modifications as may be specified, this Part of this Act shall apply to external confiscation orders and to proceedings which have been or are to be instituted

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in the designated country and may result in an external confiscation order being made there;

(b) make—

(i) such provision in connection with the taking of action in the designated country with a view to satisfying a confiscation order;

(ii) such provision as to evidence or proof of any matter for the purposes of this section and section 97 below; and

(iii) such incidental, consequential and transitional provision,

as appears to Her Majesty to be expedient; and

(c) without prejudice to the generality of this subsection, direct that in such circumstances as may be specified proceeds which arise out of action taken in the designated country with a view to satisfying a confiscation order shall be treated as reducing the amount payable under the order to such extent as may be specified.

(2) In this Part of this Act—

"external confiscation order" means an order made by a court in a designated country for the purpose—

(a) of recovering—

(i) property obtained as a result of or in connection with conduct corresponding to an offence to which this Part of this Act applies; or

(ii) the value of property so obtained; or

(b) of depriving a person of a pecuniary advantage so obtained; and

"modifications" includes additions, alterations and omissions.

(3) An Order in Council under this section may make different provision for different cases or classes of case.

(4) The power to make an Order in Council under this section includes power to modify this Part of this Act in such a way as to confer power on a person to exercise a discretion.

[[F131](5) An Order in Council under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.**]**

Textual Amendments

F131 S. 96(5) substituted (1.12.1993) by 1993 c. 36, **s. 21(3)(g)**; S.I. 1993/2734, **art. 2**,Sch.

Modifications etc. (not altering text)

C17 S. 96 modified (29.12.1991) by S.I. 1991/2873, **arts. 4(1)**, 5(1)

97 Registration of external confiscation orders.

(1) On an application made by or on behalf of the government of a designated country, the High Court may register an external confiscation order made there if—

(a) it is satisfied that at the time of registration the order is in force and not subject to appeal;

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(b) it is satisfied, where the person against whom the order is made did not appear in the proceedings, that he received notice of the proceedings in sufficient time to enable him to defend them; and

(c) it is of the opinion that enforcing the order in England and Wales would not be contrary to the interests of justice.

(2) In subsection (1) above "appeal" includes—

(a) any proceedings by way of discharging or setting aside a judgment; and

(b) an application for a new trial or a stay of execution.

(3) The High Court shall cancel the registration of an external confiscation order if it appears to the court that the order has been satisfied by payment of the amount due under it or by the person against whom it was made serving imprisonment in default of payment or by any other means.

Modifications etc. (not altering text)

C18 S. 97 modified (29.12.1991) by S.I. 1991/2873, **arts. 4(1)**, 5(1)

Miscellaneous and supplemental

F132 98 . . . . . .

Textual Amendments

F132 S. 98 repealed (15.2.1994) by 1993 c. 36, s. 79(13)(14), Sch. 5 Pt. I para. 14(1), **Sch. 6 Pt. I**; S.I. 1994/71, art. 2, Sch. Appendix

99 Authorisation of delay in notifying arrest etc.

F133 . . . . . .

Textual Amendments

F133 S. 99 repealed (24.3.2003) by 2002 c. 29, ss. 456, 457, 458(1), Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/333, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-14) (as amended by S.I. 2003/531)

100 Power to inspect Land Register, etc.

F134 . . . . . .

Textual Amendments

F134 S. 100 repealed (24.3.2003) by 2002 c. 29, ss. 456, 457, 458, Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/333, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-14) (as amended by

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S.I. 2003/531) and s. 100 repealed (21.7.2008) by Statute Law (Repeals) Act 2008 (c. 12), s. 1(1), **Sch. 1 Pt. 3**

101 Abolition of power to make criminal bankruptcy order.

F135 . . . . . .

Textual Amendments

F135 S. 101 repealed (24.3.2003) by 2002 c. 29, ss. 456, 457, 458, Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/333, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-14) (as amended by S.I. 2003/531)

102 Part VI— Interpretation.

F136 . . . . . .

Textual Amendments

F136 S. 102 repealed (24.3.2003) by 2002 c. 29, ss. 456, 457, 458, Sch. 11 para. 17(2)(a), Sch. 12; S.I. 2003/333, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-14) (as amended by S.I. 2003/531)

103 Amendments of Drug Trafficking Offences Act 1986 and Criminal Justice (Scotland) Act 1987.

F137 . . . . . .

Textual Amendments

F137 S. 103 repealed (21.7.2008) by Statute Law (Repeals) Act 2008 (c. 12), s. 1(1), **Sch. 1 Pt. 3**

PART VII

COMPENSATION BY COURT AND CRIMINAL INJURIES COMPENSATION BOARD

Powers of court

F138 104 . . . . . .

Textual Amendments

F138 S. 104 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F139 105 . . . . . .

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Textual Amendments

F139 S. 105 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

106 Discretion of Crown Court to specify extended period of imprisonment in default of payment of compensation.

The following subsections shall be substituted for section 41(8) of the [M40]Administration of Justice Act 1970—

"(8) Subject to subsection (8A) below, where in thecase specified in paragraph 10 of Schedule 9 to this Act the Crown Court thinks that the period for which the person subject to the order is liable apart from this subsection to be committed to prison for default under the order is insufficient, it may specify a longer period for that purpose; and then, in the case of default—

(a) the specified period shall be substituted as the maximum for which the person may be imprisoned under section 76 of the Magistrates' Courts Act 1980; and

(b) paragraph 2 of Schedule 4 to that Act shall apply, with any necessary modifications, for the reduction of the specified period where, at the time of the person's imprisonment, he has made part payment under the order.

(8A) The Crown Court may not specify under subsection (8) above a period of imprisonment longer than that which it could order a person to undergo on imposing on him a fine equal in amount to the sum required to be paid by the order.".

Marginal Citations

M40 1970 c. 31.

Compensation for victim out of forfeited property

[F140]107 . . . . . .

Textual Amendments

F140 S. 107 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

PROSPECTIVE

The Criminal Injuries Compensation Scheme

[F141]108 . . . . . .

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Textual Amendments

F141 Ss. 108-117 repealed (8.11.1995) by 1995 c. 53, **s. 12(1)(7)**,Sch.

[F142]109 . . . . . .

Textual Amendments

F142 Ss. 108-117 repealed (8.11.1995) by 1995 c. 53, **s. 12(1)(7)**,Sch.

[F143]110 . . . . . .

Textual Amendments

F143 Ss. 108-117 repealed (8.11.1995) by 1995 c. 53, **s. 12(1)(7)**,Sch.

[F144]111 . . . . . .

Textual Amendments

F144 Ss. 108-117 repealed (8.11.1995) by 1995 c. 53, **s. 12(1)(7)**,Sch.

[F145]112 . . . . . .

Textual Amendments

F145 Ss. 108-117 repealed (8.11.1995) by 1995 c. 53, **s. 12(1)(7)**,Sch.

[F146]113 . . . . . .

Textual Amendments

F146 Ss. 108-117 repealed (8.11.1995) by 1995 c. 53, **s. 12(1)(7)**,Sch.

[F147]114 . . . . . .

Textual Amendments

F147 Ss. 108-117 repealed (8.11.1995) by 1995 c. 53, **s. 12(1)(7)**,Sch.

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F148 115 . . . . . .

Textual Amendments
F148 Ss. 108-117 repealed (8.11.1995) by 1995 c. 53, **s. 12(1)(7)**,Sch.

F149 116 . . . . . .

Textual Amendments
F149 Ss. 108-117 repealed (8.11.1995) by 1995 c. 53, **s. 12(1)(7)**,Sch.

F150 117 . . . . . .

Textual Amendments
F150 Ss. 108-117 repealed (8.11.1995) by 1995 c. 53, **s. 12(1)(7)**,Sch.

PART VIII

AMENDMENTS OF LAW RELATING TO JURIES

118 Abolition of peremptory challenge.

(1) The right to challenge jurors without cause in proceedings for the trial of a person on indictment is abolished.

(2) In addition and without prejudice to any powers which the Crown Court may possess to order the exclusion of the public from any proceedings a judge of the Crown Court may order that the hearing of a challenge for cause shall be in camera or in chambers.

119 Persons aged between 65 and 70 to be eligible as jurors.

F151 . . . . . .

Textual Amendments
F151 S. 119 repealed (5.4.2004) by Criminal Justice Act 2003 (c. 44), ss. 332, 336, **Sch. 37 Pt. 10**; S.I. 2004/829, **art. 2(2)(l)(iv)** (subject to art. 2(3)-(6))

120 Discretionary deferral of jury service.

The following section shall be inserted after section 9 of the Juries Act 1974—

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"**9A Discretionary deferral.**

(1) If any person summoned under this Act shows to the satisfaction of the appropriate officer that there is good reason why his attendance in pursuance of the summons should be deferred, the appropriate officer may defer his attendance, and, if he does so, he shall vary the days on which that person is summoned to attend and the summons shall have effect accordingly.

(2) If an application under subsection (1) above has been granted or refused, the powers conferred by that subsection may not be exercised subsequently in relation to the same summons.

(3) Crown Court Rules shall provide a right of appeal to the court (or one of the courts) before which the person is summoned to attend against any refusal of the appropriate officer to defer his attendance under subsection (1) above.

(4) Without prejudice to the preceding provisions of this section, the court (or any of the courts) before which a person is summoned to attend under this Act may defer his attendance.".

121 Continuation of trials for murder on death or discharge of juror.

In section 16(2) of the [M41]Juries Act 1974 (cases where trial not to proceed on death or discharge of juror without assent of prosecution and accused) the words "for murder or shall cease to have effect.

Marginal Citations
M41 1974 c. 23.

122 Autrefois acquit and autrefois convict.

Where an accused pleads autrefois acquit or autrefois convict it shall be for the judge, without the presence of a jury, to decide the issue.

PART IX

YOUNG OFFENDERS

123 Custodial sentences for young offenders.

(1) [F152]. . . . . .

[F153](2) . . . . . .

[F153](3) . . . . . .

[F154](4) . . . . . .

(5) [F152]. . . . . .

(6) The amendments and transitional provisions in Schedule 8 to this Act shall have effect.

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Textual Amendments

F152 S. 123(1)(5) repealed (21.7.2008) by Statute Law (Repeals) Act 2008 (c. 12), s. 1(1), **Sch. 1 Pt. 3**

F153 S. 123(2)(3) repealed (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 101(2), **Sch. 13**; S.I. 1992/333, art. 2(2), **Sch. 2**

F154 S. 123(4) repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

124 Detention of young offenders in Scotland.

(1) In each of sections 207 and 415 of the [M42]Criminal Procedure (Scotland) Act 1975 for subsections (5) to (10) there shall be substituted the following subsection—

"(5) A sentence of detention imposed under this section shall be a sentence of detention in a young offenders institution.".

(2) Subject to subsection (3) below, in any enactment—

(a) for a reference to a detention centre there shall be substituted a reference to a young offenders institution; and

(b) for a reference (however expressed) to a detention centre order there shall be substituted a reference to a sentence of detention in a young offenders institution.

(3) Nothing in subsection (2) above applies—

(a) to section 21 of the [M43]Firearms Act 1968;

(b) to Part I of Schedule I to the [M44]Law Reform (Miscellaneous Provisions) (Scotland) Act 1980;

(c) to section 41(2) of the [M45]Criminal Justice (Scotland) Act 1980.

(4) The amendments and transitional provisions in Schedule 9 to this Act shall have effect.

Marginal Citations

M42 1975 c. 21.

M43 1968 c. 27.

M44 1980 c. 55.

M45 1980 c. 62.

125 Abolition of power of court to commit juvenile to remand centre instead of local authority care. 1969 c. 54.

[F155] . . . . . .

Textual Amendments

F155 S. 125 repealed (21.7.2008) by Statute Law (Repeals) Act 2008 (c. 12), s. 1(1), **Sch. 1 Pt. 3**

[F156]126 . . . . . .

Status: *Point in time view as at 13/03/2014. This version of this Act contains provisions that are prospective.*
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Textual Amendments

F156 S. 126 repealed (9.1.1995) by 1994 c. 33, s. 168(3), **Sch.11**; S.I. 1994/3192, **art. 2**,Sch.

[F157]127 . . . . . .

Textual Amendments

F157 S. 127 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

[F158]128 . . . . . .

Textual Amendments

F158 S. 128 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

[F159]129 . . . . . .

Textual Amendments

F159 S. 129 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

130 Computation of sentence—time passed in care of local authority in accommodation provided for restricting liberty. 1967 c. 80.

(1) At the end of section 67(1A) of the Criminal Justice Act 1967 there shall be added the words "or—

(c) any period during which, in connection with the offence for which the sentence was passed, he was in the care of a local authority by virtue of an order under section 23 of the Children and Young Persons Act 1969 and in accommodation provided for the purpose of restricting liberty.".

(2) This section shall not have effect in relation to any sentence imposed before it comes into force.

PART X

PROBATION AND THE PROBATION SERVICE, ETC.

131 Bail: hostel conditions.

(1) In section 3 of the [M46]Bail Act 1976 (grant of bail) the following subsection shall be inserted after subsection (6)—

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"(6ZA) Where he is required under subsection (6) above to reside in a bail hostel or probation hostel, he may also be required to comply with the rules of the hostel.".

[F160](2) . . . . . .

Textual Amendments

F160 S. 131(2) repealed (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 101(2), **Sch.13**; S.I. 1992/333, art. 2(2), **Sch. 2**.

Marginal Citations

M46 1976 c. 63.

[F161]**132 . . . . . .**

Textual Amendments

F161 S. 132 repealed (5.2.1994) by 1993 c. 47, ss. 32, 33(3), **Sch.4**

PART XI

MISCELLANEOUS

Miscarriages of justice

133 Compensation for miscarriages of justice. E+W+N.I.

(1) Subject to subsection (2) below, when a person has been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows beyond reasonable doubt that there has been a miscarriage of justice, the Secretary of State shall pay compensation for the miscarriage of justice to the person who has suffered punishment as a result of such conviction or, if he is dead, to his personal representatives, unless the non-disclosure of the unknown fact was wholly or partly attributable to the person convicted.

[[F162](1ZA) For the purposes of subsection (1), there has been a miscarriage of justice in relation to a person convicted of a criminal offence in England and Wales or, in a case where subsection (6H) applies, Northern Ireland, if and only if the new or newly discovered fact shows beyond reasonable doubt that the person did not commit the offence (and references in the rest of this Part to a miscarriage of justice are to be construed accordingly).**]**

(2) No payment of compensation under this section shall be made unless an application for such compensation has been made to the Secretary of State

[[F163]before the end of the period of 2 years beginning with the date on which the conviction of the person concerned is reversed or he is pardoned.

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(2A) But the Secretary of State may direct that an application for compensation made after the end of that period is to be treated as if it had been made within that period if the Secretary of State considers that there are exceptional circumstances which justify doing so.**]**

(3) The question whether there is a right to compensation under this section shall be determined by the Secretary of State.

(4) If the Secretary of State determines that there is a right to such compensation, the amount of the compensation shall be assessed by an assessor appointed by the Secretary of State.

[[F164](4A) Section 133A applies in relation to the assessment of the amount of the compensation.**]**

(5) In this section "reversed" shall be construed as referring to a conviction having been quashed—

(a) on an appeal out of time; or

(b) on a reference—

[F165]**[**(i) under the Criminal Appeal Act 1995; or**]**

[[F166](ii) under section 194B of the Criminal Procedure (Scotland) Act 1995 (c. 46);**]**

[F167](iii) . . . . . **[**[F168]or

(c) on an appeal under section 7 of the Terrorism Act 2000**][**[F169] or

[F170](d)**]** . . . . . .

[[F171]; or

(f) on an appeal under Schedule 3 to the Terrorism Prevention and Investigation Measures Act 2011.**]**

[[F172](5A) But in a case where—

(a) a person's conviction for an offence is quashed on an appeal out of time, and

(b) the person is to be subject to a retrial,

the conviction is not to be treated for the purposes of this section as " reversed " unless and until the person is acquitted of all offences at the retrial or the prosecution indicates that it has decided not to proceed with the retrial.

(5B) In subsection (5A) above any reference to a retrial includes a reference to proceedings held following the remission of a matter to a magistrates' court by the Crown Court under section 48(2)(b) of the **[**[F173]Senior Courts Act 1981**].]**

(6) For the purposes of this section **[**[F174]and section 133A**]** a person suffers punishment as a result of a conviction when sentence is passed on him for the offence of which he was convicted.

[[F175](6A) Subject to what follows, in the application of this section in relation to a person ("P") convicted in Northern Ireland of a criminal offence, in subsections (1) to (4) any reference to the Secretary of State is to be read as a reference to the Department of Justice in Northern Ireland.

(6B) If P is pardoned, subsection (6A) applies only if the pardon is a devolved pardon.

(6C) Subsections (6D) to (6H) apply if—

(a) P's conviction is reversed or P is given a devolved pardon,

(b) an application for compensation is made in relation to P's conviction,

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(c) the application is made before the end of the period mentioned in subsection (2) or, if it is made after the end of that period, the Department of Justice gives a direction under subsection (2A), and

(d) the Department of Justice has reason to believe that protected information may be relevant to the application (for example, because the court which quashed P's conviction did not make public (in whole or in part) its reasons for quashing P's conviction).

(6D) The Department of Justice must refer the application to the Secretary of State who must then take a view as to whether or not any protected information is relevant to the application.

(6E) If the Secretary of State takes the view that no protected information is relevant to the application, the Secretary of State must refer the application back to the Department of Justice to be dealt with by the Department accordingly.

(6F) If the Secretary of State takes the view that protected information is relevant to the application, the Secretary of State must refer the application back to the Department of Justice to be dealt with by the Department accordingly unless the Secretary of State is also of the view that, on the grounds of national security, it is not feasible for the Department (including any assessor appointed by the Department) to be provided with either—

(a) the protected information, or

(b) a summary of the protected information that is sufficiently detailed to enable the Department (including any assessor) to deal properly with the application.

(6G) If the Secretary of State refers the application back to the Department of Justice under subsection (6F), the Secretary of State must provide the Department with either—

(a) the protected information, or

(b) a summary of the protected information that appears to the Secretary of State to be sufficiently detailed to enable the Department (including any assessor) to deal properly with the application.

(6H) If the Secretary of State is not required to refer the application back to the Department of Justice—

(a) subsections (3) and (4) apply to the application ignoring subsection (6A), and

(b) any compensation payable on the application is payable by the Secretary of State.

(6I) In this section "protected information" means information the disclosure of which may be against the interests of national security.

(6J) In this section "devolved pardon" means—

(a) a pardon given after the coming into force of the Northern Ireland Act 1998 (Amendment of Schedule 3) Order 2010 in the exercise of powers under section 23(2) of the Northern Ireland Act 1998;

(b) a pardon given before the coming into force of that Order which, had it been given after the coming into force of that Order, would have had to have been given in the exercise of powers under section 23(2) of the 1998 Act (ignoring article 25(2) of the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010).

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(6K) The pardons covered by subsection (6J)(a) include pardons given in reliance on article 25(2) of the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010.**]**

(7) Schedule 12 shall have effect.

Extent Information

E2 This version of this provision extends to England, Wales and Northern Ireland only; a separate version has been created for Scotland

Textual Amendments

F162 S. 133(1ZA) inserted (13.3.2014) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), **ss. 175(1)**, 185(1), (2)(a) (with ss. 21, 33, 42, 58, 75, 93, 175(2))

F163 S. 133: s. 133(2A) and preceding words in 133(2) inserted (E.W.N.I) (1.12.2008) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 61(3)** , 153 (with Sch. 27 para. 22); S.I. 2008/2993, **art. 2(1)(a)**

F164 S. 133(4A) substituted (E.W.N.I) (1.12.2008) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 61(4)** , 153 (with Sch. 27 para. 22); S.I. 2008/2993, **art. 2(1)(a)**

F165 S. 133(5)(b)(i) substituted (31.3.1997) by 1995 c. 35, s. 29(1), **Sch. 2 para. 16(4)**; S.I. 1997/402, **art. 3(e)**

F166 S. 133(5)(b)(ii) substituted (S.) (23.4.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007, (asp 6), ss. 80, 84, {Sch. 5 para. 6(1)}; S.S.I. 2007/250, **art. 3(h)(i)**

F167 S. 133(5)(b)(iii) and the word immediately preceeding it repealed (1.1.1996) by 1995 c. 35, s. 29(2), **Sch. 3**; S.I. 1995/3061, **art. 3(i)(vii)** (and s. 133(5)(b)(iii) expressed to be repealed (31.3.1997) by 1995 c. 35, s. 29(1), **Sch. 2 para. 16(4)**; S.I. 1997/402, **art. 3(e)**)

F168 S. 133(5)(c) and word or immediately preceding it inserted (19.2.2001) by 2000 c. 11, **s. 7(8)**; S.I. 2001/421, **art. 2**

F169 S. 133(5)(d) and word inserted (11.3.2005) by Prevention of Terrorism Act 2005 (c. 2), **ss. 12(8)**, 16

F170 S. 133(5)(d) omitted (15.12.2011) by virtue of Terrorism Prevention and Investigation Measures Act 2011 (c. 23), s. 31(2), **Sch. 7 para. 3(a)** (with Sch. 8)

F171 S. 133(5)(f) and word inserted (15.12.2011) by Terrorism Prevention and Investigation Measures Act 2011 (c. 23), s. 31(2), **Sch. 7 para. 3(b)** (with Sch. 8)

F172 S. 133(5A)(5B) inserted (E.W.N.I) (1.12.2008) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 61(5)** , 153 (with Sch. 27 para. 22); S.I. 2008/2993, **art. 2(1)(a)**

F173 Words in s. 133(5B) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59, 148, **Sch. 11 para. 1**; S.I. 2009/1604, **art. 2(d)**

F174 Words in s. 133(6) inserted (E.W.N.I) (1.12.2008) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 61(6)** , 153 (with Sch. 27 para. 22); S.I. 2008/2993, **art. 2(1)(a)**

F175 S. 133(6A)-(6K) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 6 para. 2(1)** (with arts. 28-31, Sch. 6 para. 2(2))

133 Compensation for miscarriages of justice. S

(1) Subject to subsection (2) below, when a person has been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows beyond reasonable doubt that there has been a miscarriage of justice, the Secretary of State shall pay compensation for the miscarriage of justice to the person who has suffered punishment as a result of such conviction or, if he is dead, to his personal representatives, unless

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the non-disclosure of the unknown fact was wholly or partly attributable to the person convicted.

[[F254](1A) The Scottish Ministers may by order provide for—

(a) further circumstances in respect of which a person (or, if dead, the person's representatives) may be paid compensation for a miscarriage of justice,

(b) circumstances in respect of which a person (or, if dead, the person's representatives) may be paid compensation for wrongful detention prior to acquittal or a decision by the prosecutor to take no proceedings (or to discontinue proceedings).**]**

(2) No payment of compensation under this section shall be made unless an application for such compensation has been made to the Secretary of State.

[[F255](2AA) Such an application requires to be made within the period of 3 years starting with—

(a) in the case of compensation under subsection (1), the date on which the conviction is reversed or (as the case may be) the person is pardoned,

(b) in the case of compensation under subsection (1A), whichever is relevant of—

(i) that date, or

(ii) the date on which the person is acquitted or the relevant decision is made known to the person.

(2AB) The Scottish Ministers may accept such an application outwith that time limit if they think it is appropriate in exceptional circumstances to do so.**]**

(3) The question whether there is a right to compensation under this section shall be determined by the Secretary of State.

(4) If the Secretary of State determines that there is a right to such compensation, the amount of the compensation shall be assessed by an assessor appointed by the Secretary of State.

[F256**[**(4A) In assessing so much of any compensation payable under this section to or in respect of a person as is attributable to suffering, harm to reputation or similar damage, the assessor shall have regard in particular to—

(a) the seriousness of the offence of which the person was convicted and the severity of the punishment resulting from the conviction;

[F257**[**(aa) the seriousness of the offence with which the person was charged or detained (but in respect of which offence the person was not convicted);**]**

(b) the conduct of the investigation and prosecution of the offence; and

(c) any other convictions of the person and any punishment resulting from them.**]**

[[F258](4B) The assessor must also have particular regard to any guidance issued by the Scottish Ministers for the purposes of this section.**]**

(5) In this section "reversed" shall be construed as referring to a conviction having been quashed **[**[F259](or set aside)**]**—

(a) on an appeal out of time; [F260]...

(b) on a reference—

[F165]**[**(i) under the Criminal Appeal Act 1995; [F260] ... **]**

[[F166](ii) under section 194B of the Criminal Procedure (Scotland) Act 1995 (c. 46);**]**

[F167](iii) . . . . . **[**[F168]or

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(c) on an appeal under section 7 of the Terrorism Act 2000 **]**[F260]**[**[F169] ... [F170](d)**]** . . . . . .

[[F261]; or

(e) under section 188(1)(b) of the Criminal Procedure (Scotland) Act 1995.**]**

[[F171]; or

(f) on an appeal under Schedule 3 to the Terrorism Prevention and Investigation Measures Act 2011.**]**

(6) For the purposes of this section a person suffers punishment as a result of a conviction when sentence is passed on him for the offence of which he was convicted.

[[F262](6A) For the purposes of this section, a person suffers punishment as a result of conviction also where (in relation to the conviction) the court imposes some other disposal including by way of—

(a) making a probation order, or

(b) discharging the person absolutely.**]**

(7) Schedule 12 shall have effect.

[[F263](8) The power to make an order under subsection (1A) is exercisable by statutory instrument.

(9) A statutory instrument containing such an order is subject to annulment in pursuance of a resolution of the Scottish Parliament.**]**

Extent Information

E7 This version of this provision extends to Scotland only; a separate version has been created for England, Wales and Northern Ireland only

Textual Amendments

F165 S. 133(5)(b)(i) substituted (31.3.1997) by 1995 c. 35, s. 29(1), **Sch. 2 para. 16(4)**; S.I. 1997/402, **art. 3(e)**

F166 S. 133(5)(b)(ii) substituted (S.) (23.4.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007, (asp 6), ss. 80, 84, {Sch. 5 para. 6(1)}; S.S.I. 2007/250, **art. 3(h)(i)**

F167 S. 133(5)(b)(iii) and the word immediately preceeding it repealed (1.1.1996) by 1995 c. 35, s. 29(2), **Sch. 3**; S.I. 1995/3061, **art. 3(i)(vii)** (and s. 133(5)(b)(iii) expressed to be repealed (31.3.1997) by 1995 c. 35, s. 29(1), **Sch. 2 para. 16(4)**; S.I. 1997/402, **art. 3(e)**)

F168 S. 133(5)(c) and word or immediately preceding it inserted (19.2.2001) by 2000 c. 11, **s. 7(8)**; S.I. 2001/421, **art. 2**

F169 S. 133(5)(d) and word inserted (11.3.2005) by Prevention of Terrorism Act 2005 (c. 2), **ss. 12(8)**, 16

F170 S. 133(5)(d) omitted (15.12.2011) by virtue of Terrorism Prevention and Investigation Measures Act 2011 (c. 23), s. 31(2), **Sch. 7 para. 3(a)** (with Sch. 8)

F171 S. 133(5)(f) and word inserted (15.12.2011) by Terrorism Prevention and Investigation Measures Act 2011 (c. 23), s. 31(2), **Sch. 7 para. 3(b)** (with Sch. 8)

F254 S. 133(1A) inserted (S.) (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 113(1)(a)**, 206(1); S.S.I. 2010/413, art. 2, Sch. (with art. 7)

F255 S. 133(2AA)(2AB) inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 113(1)(b)**, 206(1); S.S.I. 2010/413, art. 2, Sch. (with art. 7)

F256 S. 133(4A) inserted (1.1.1996) by 1995 c. 35, **s. 28**; S.I. 1995/3061, **art. 3(c)**

F257 S. 133(4A)(aa) inserted (S.) (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 113(1)(c)**, 206(1); S.S.I. 2010/413, art. 2, Sch. (with art. 7)

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F258 S. 133(4B) inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 113(1)(d)**, 206(1); S.S.I. 2010/413, art. 2, Sch. (with art. 7)

F259 Words in s. 133(5) inserted (S.) (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 113(1)(e)(i)**, 206(1); S.S.I. 2010/413, art. 2, Sch. (with art. 7)

F260 Word in s. 133(5)(a)(b)(c) repealed (S.) (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 113(1)(e)(ii)**, 206(1); S.S.I. 2010/413, art. 2, Sch. (with art. 7)

F261 S. 133(5)(e) and word added (S.) (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 113(1)(e)(iii)**, 206(1); S.S.I. 2010/413, art. 2, Sch. (with art. 7)

F262 S. 133(6A) inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 113(1)(f)**, 206(1); S.S.I. 2010/413, art. 2, Sch. (with art. 7)

F263 S. 133(8)(9) inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 113(1)(g)**, 206(1); S.S.I. 2010/413, art. 2, Sch. (with art. 7)

[F176 133A Miscarriages of justice: amount of compensation

(1) This section applies where an assessor is required to assess the amount of compensation payable to or in respect of a person under section 133 for a miscarriage of justice.

(2) In assessing so much of any compensation payable under section 133 as is attributable to suffering, harm to reputation or similar damage, the assessor must have regard in particular to—
   (a) the seriousness of the offence of which the person was convicted and the severity of the punishment suffered as a result of the conviction, and
   (b) the conduct of the investigation and prosecution of the offence.

(3) The assessor may make from the total amount of compensation that the assessor would otherwise have assessed as payable under section 133 any deduction or deductions that the assessor considers appropriate by reason of either or both of the following—
   (a) any conduct of the person appearing to the assessor to have directly or indirectly caused, or contributed to, the conviction concerned; and
   (b) any other convictions of the person and any punishment suffered as a result of them.

(4) If, having had regard to any matters falling within subsection (3)(a) or (b), the assessor considers that there are exceptional circumstances which justify doing so, the assessor may determine that the amount of compensation payable under section 133 is to be a nominal amount only.

(5) The total amount of compensation payable to or in respect of a person under section 133 for a particular miscarriage of justice must not exceed the overall compensation limit. That limit is—
   (a) £1 million in a case to which section 133B applies, and
   (b) £500,000 in any other case.

(6) The total amount of compensation payable under section 133 for a person's loss of earnings or earnings capacity in respect of any one year must not exceed the earnings compensation limit.

   That limit is an amount equal to 1.5 times the median annual gross earnings according to the latest figures published by the Office of National Statistics at the time of the assessment.

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(7) The Secretary of State may by order made by statutory instrument amend subsection (5) or (6) so as to alter any amount for the time being specified as the overall compensation limit or the earnings compensation limit.

(8) No order may be made under subsection (7) unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.

F177 **[** (9) In relation to compensation payable by the Department of Justice in Northern Ireland, the power in subsection (7) is exercisable by the Department (and not by the Secretary of State).

(10) The power of the Department of Justice to make an order under subsection (7) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (and not by statutory instrument).

(11) No order may be made by the Department of Justice under subsection (7) unless a draft of the order has been laid before, and approved by a resolution of, the Northern Ireland Assembly (and subsection (8) does not apply).

(12) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (11) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.**]**

Textual Amendments

F176 Ss. 133A, 133B inserted (E.W.N.I) (1.12.2008) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 61(7)** , 153 (with Sch. 27 para. 22); S.I. 2008/2993, **art. 2(1)(a)**

F177 S. 133A(9)-(12) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 6 para. 3** (with arts. 28-31)

133B Cases where person has been detained for at least 10 years

(1) For the purposes of section 133A(5) this section applies to any case where the person concerned ("P") has been in qualifying detention for a period (or total period) of at least 10 years by the time when—

(a) the conviction is reversed, or

(b) the pardon is given,

as mentioned in section 133(1).

(2) P was "in qualifying detention" at any time when P was detained in a prison, a hospital or at any other place, if P was so detained—

(a) by virtue of a sentence passed in respect of the relevant offence,

(b) under mental health legislation by reason of P's conviction of that offence (disregarding any conditions other than the fact of the conviction that had to be fulfilled in order for P to be so detained), or

(c) as a result of P's having been remanded in custody in connection with the relevant offence or with any other offence the charge for which was founded on the same facts or evidence as that for the relevant offence.

(3) In calculating the period (or total period) during which P has been in qualifying detention as mentioned in subsection (1), no account is to be taken of any period of time during which P was both—

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(a) in qualifying detention, and
(b) in excluded concurrent detention.

(4) P was "in excluded concurrent detention" at any time when P was detained in a prison, a hospital or at any other place, if P was so detained—
(a) during the term of a sentence passed in respect of an offence other than the relevant offence,
(b) under mental health legislation by reason of P's conviction of any such other offence (disregarding any conditions other than the fact of the conviction that had to be fulfilled in order for P to be so detained), or
(c) as a result of P's having been remanded in custody in connection with an offence for which P was subsequently convicted other than—
(i) the relevant offence, or
(ii) any other offence the charge for which was founded on the same facts or evidence as that for the relevant offence.

(5) But P was not "in excluded concurrent detention" at any time by virtue of subsection (4)(a), (b) or (c) if P's conviction of the other offence mentioned in that provision was quashed on appeal, or a pardon was given in respect of it.

(6) In this section—
" mental health legislation " means—
(a) Part 3 of the Mental Health Act 1983,
(b) Part 3 of the Mental Health (Northern Ireland) Order 1986, or
(c) the provisions of any earlier enactment corresponding to Part 3 of that Act or Part 3 of that Order;
" the relevant offence " means the offence in respect of which the conviction is quashed or the pardon is given (but see subsection (7));
" remanded in custody " is to be read in accordance with subsections (8) and (9);
" reversed " has the same meaning as in section 133 of this Act.

(7) If, as a result of the miscarriage of justice—
(a) two or more convictions are reversed, or
(b) a pardon is given in respect of two or more offences,

" the relevant offence " means any of the offences concerned.

(8) In relation to England and Wales, " remanded in custody " has the meaning given by section 242(2) of the Criminal Justice Act 2003, but that subsection applies for the purposes of this section as if any reference there to a provision of the Mental Health Act 1983 included a reference to any corresponding provision of any earlier enactment.

(9) In relation to Northern Ireland, " remanded in custody " means—
(a) remanded in or committed to custody by an order of a court, or
(b) remanded, admitted or removed to hospital under Article 42, 43, 45 or 54 of the Mental Health (Northern Ireland) Order 1986 or under any corresponding provision of any earlier enactment.**]**

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Textual Amendments

F176 Ss. 133A, 133B inserted (E.W.N.I) (1.12.2008) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 61(7)** , 153 (with Sch. 27 para. 22); S.I. 2008/2993, **art. 2(1)(a)**

Torture

134 Torture.

(1) A public official or person acting in an official capacity, whatever his nationality, commits the offence of torture if in theUnited Kingdom or elsewhere he intentionally inflicts severe pain or suffering on another in the performance or purported performance of his official duties.

(2) A person not falling within subsection (1) above commits the offence of torture, whatever his nationality, if—

(a) in the United Kingdom or elsewhere he intentionally inflicts severe pain or suffering on another at the instigation or with the consent or acquiescence—

(i) of a public official; or

(ii) of a person acting in an official capacity; and

(b) the official or other person is performing or purporting to perform his official duties when he instigates the commission of the offence or consents to or acquiesces in it.

(3) It is immaterial whether the pain or suffering is physical or mental and whether it is caused by an act or an omission.

(4) It shall be a defence for a person charged with an offence under this section in respect of any conduct of his to prove that he had lawful authority, justification or excuse for that conduct.

(5) For the purposes of this section "lawful authority, justification or excuse" means—

(a) in relation to pain or suffering inflicted in the United Kingdom, lawful authority, justification or excuse under the law of the part of the United Kingdom where it was inflicted;

(b) in relation to pain or suffering inflicted outside the United Kingdom—

(i) if it was inflicted by a United Kingdom official acting under the law of the United Kingdom or by a person acting in an official capacity under that law, lawful authority, justification or excuse under that law;

(ii) if it was inflicted by a United Kingdom official acting under the law of any part of the United Kingdom or by a person acting in an official capacity under such law, lawful authority, justification or excuse under the law of the part of the United Kingdom under whose law he was acting; and

(iii) in any other case, lawful authority, justification or excuse under the law of the place where it was inflicted.

(6) A person who commits the offence of torture shall be liable on conviction on indictment to imprisonment for life.

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135 Requirement of Attorney General's consent for prosecutions.

Proceedings for an offence under section 134 above shall not be begun—

(a) in England and Wales, except by, or with the consent of, the Attorney General; or

(b) in Northern Ireland, except by, or with the consent of, the **[**[F178]Advocate General for Northern Ireland**]**.

Textual Amendments

F178 Words in s. 135 substituted (12.4.2010) by Justice (Northern Ireland) Act 2002 (c. 26), s. 87(1), **Sch. 7 para. 31**; S.R. 2010/113, art. 2, Sch. para. 19(e)

136, 137. . . . . [F179]

Textual Amendments

F179 Ss. 136, 137, 138(2)(3) repealed by Extradition Act 1989 (c. 33, SIF 48), s. 37, **Sch. 2**

138 Application to Channel Islands, Isle of Man and colonies.

(1) Her Majesty may by Order in Council make provision for extending sections 134 and 135 above, with such modifications and exceptions as may be specified in the Order, to any of the Channel Islands, the Isle of Man or any colony.

(2) . . . . . [F180]

Textual Amendments

F180 Ss. 136, 137, 138(2)(3) repealed by Extradition Act 1989 (c. 33, SIF 48), s. 37, **Sch. 2**

Articles with blades or points and offensive weapons

139 Offence of having article with blade or point in public place. E+W

(1) Subject to subsections (4) and (5) below, any person who has an article to which this section applies with him in a public place shall be guilty of an offence.

(2) Subject to subsection (3) below, this section applies to any article which has a blade or is sharply pointed except a folding pocketknife.

(3) This section applies to a folding pocketknife if the cutting edge of its blade exceeds 3 inches.

(4) It shall be a defence for a person charged with an offence under this section to prove that he had good reason or lawful authority for having the article with him in a public place.

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(5) Without prejudice to the generality of subsection (4) above, it shall be a defence for a person charged with an offence under this section to prove that he had the article with him—

(a) for use at work;

(b) for religious reasons; or

(c) as part of any national costume.

(6) A person guilty of an offence under subsection (1) above shall be liable-

F181[(a) on summary conviction, to imprisonment for a term not exceeding six months, or a fine not exceeding the statutory maximum, or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding [F182four] years, or a fine, or both.]

(7) In this section "public place" includes any place to which at the material time the public have or are permitted access, whether on payment or otherwise.

(8) This section shall not have effect in relation to anything done before it comes into force.

Extent Information

E3 This version of this provision extends to England and Wales only; a separate version has been created for Northern Ireland only

Textual Amendments

F181 S. 139(6)(a)(b) substituted (4.7.1996) for words by 1996 c. 26, **s.3(1)** (with s. 3(2))

F182 Word in s.139(6)(b) substituted (E.W.) (12.2.2007) by Violent Crime Reduction Act 2006 (c.38), **ss. 42(1)(a)**, 66(2); S.I. 2007/74, **art. 2(a)**

139 Offence of having article with blade or point in public place. N.I.

(1) Subject to subsections (4) and (5) below, any person who has an article to which this section applies with him in a public place shall be guilty of an offence.

(2) Subject to subsection (3) below, this section applies to any article which has a blade or is sharply pointed except a folding pocketknife.

(3) This section applies to a folding pocketknife if the cutting edge of its blade exceeds 3 inches.

(4) It shall be a defence for a person charged with an offence under this section to prove that he had good reason or lawful authority for having the article with him in a public place.

(5) Without prejudice to the generality of subsection (4) above, it shall be a defence for a person charged with an offence under this section to prove that he had the article with him—

(a) for use at work;

(b) for religious reasons; or

(c) as part of any national costume.

[F264(6) A person guilty of an offence under subsection (1) shall be liable—

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(a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 4 years, or to a fine, or to both.**]**

(7) In this section "public place" includes any place to which at the material time the public have or are permitted access, whether on payment or otherwise.

(8) This section shall not have effect in relation to anything done before it comes into force.

Extent Information

E8 This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales only

Textual Amendments

F264 S. 139(6) substituted (N.I.) (16.7.2008) by The Criminal Justice (Northern Ireland) Order S.I. 2008/1216 (N.I. 1), arts. 1, **90(3)**; S.R. 2008/293, **art. 2**, Sch. para. 14.

[139A [F183] Offence of having article with blade or point (or offensive weapon) on school premises. E+W

(1) Any person who has an article to which section 139 of this Act applies with him on school premises shall be guilty of an offence.

(2) Any person who has an offensive weapon within the meaning of section 1 of the [M47] Prevention of Crime Act 1953 with him on school premises shall be guilty of an offence.

(3) It shall be a defence for a person charged with an offence under subsection (1) or (2) above to prove that he had good reason or lawful authority for having the article or weapon with him on the premises in question.

(4) Without prejudice to the generality of subsection (3) above, it shall be a defence for a person charged with an offence under subsection (1) or (2) above to prove that he had the article or weapon in question with him—

(a) for use at work,

(b) for educational purposes,

(c) for religious reasons, or

(d) as part of any national costume.

(5) A person guilty of an offence—

(a) under subsection (1) above shall be liable—

(i) on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding the statutory maximum, or both;

(ii) on conviction on indictment, to imprisonment for a term not exceeding **[**[F184]four**]** years, or a fine, or both;

(b) under subsection (2) above shall be liable—

(i) on summary conviction, to imprisonment for a term not exceeding six months, or a fine not exceeding the statutory maximum, or both;

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Changes to legislation: *Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(ii) on conviction on indictment, to imprisonment for a term not exceeding four years, or a fine, or both.

(6) In this section and section 139B, "school premises" means land used for the purposes of a school excluding any land occupied solely as a dwelling by a person employed at the school; and "school" has the meaning given by **[**[F185]section 4 of the Education Act 1996**]**.

(7) In the application of this section to Northern Ireland—

(a) the reference in subsection (2) above to section 1 of the [M48]Prevention of Crime Act 1953 is to be construed as a reference to Article 22 of the [M49]Public Order (Northern Ireland) Order 1987; and

(b) the reference in subsection (6) above to **[**[F185]section 4 of the Education Act 1996**]** is to be construed as a reference to Article 2(2) of the [M50]Education and Libraries (Northern Ireland) Order 1986.

Extent Information

E4 This version of this provision extends to England and Wales only; a separate version has been created for Northern Ireland only

Textual Amendments

F183 S. 139A inserted (1.9.1996) by 1996 c. 26, **s. 4(1)(4)**; S.I. 1996/2071, **art. 2**

F184 Word in s. 139A(5)(a)(ii) substituted (E.W.) (12.2.2007) by Violent Crime Reduction Act 2006 (c. 38), ss. {42(1)(b)}, 66(2); S.I. 2007/74, **art. 2(a)**

F185 Words in s. 139A(6)(7) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para.69** (with ss. 1(4), 582(3), Sch. 39)

Marginal Citations

M47 1953 c. 14.

M48 1953 c. 14.

M49 S.I. 1987/463 (N.I. 7).

M50 S.I. 1986/594 (N.I. 3).

[139A [F183] Offence of having article with blade or point (or offensive weapon) on school premises. N.I.

(1) Any person who has an article to which section 139 of this Act applies with him on school premises shall be guilty of an offence.

(2) Any person who has an offensive weapon within the meaning of section 1 of the [M47] Prevention of Crime Act 1953 with him on school premises shall be guilty of an offence.

(3) It shall be a defence for a person charged with an offence under subsection (1) or (2) above to prove that he had good reason or lawful authority for having the article or weapon with him on the premises in question.

(4) Without prejudice to the generality of subsection (3) above, it shall be a defence for a person charged with an offence under subsection (1) or (2) above to prove that he had the article or weapon in question with him—

(a) for use at work,

(b) for educational purposes,

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(c) for religious reasons, or

(d) as part of any national costume.

[[F187](5) A person guilty of an offence under subsection (1) or (2) shall be liable—

(a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 4 years, or to a fine, or to both.**]**

[[F187](6) In this section and section 139B " school premises " means land used for the purposes of a school, excluding any land occupied solely as a dwelling by a person employed at the school; and " school " has the meaning given by Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986. **]**

(7) In the application of this section to Northern Ireland—

(a) the reference in subsection (2) above to section 1 of the [M48] Prevention of Crime Act 1953 is to be construed as a reference to Article 22 of the [M49] Public Order (Northern Ireland) Order 1987; and

(b) **[**[F188]the reference in subsection (6) above to **[**[F189]section 4 of the Education Act 1996**]]** is to be construed as a reference to Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986.**]**

Extent Information

E5 This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales only

Textual Amendments

F183 S. 139A inserted (1.9.1996) by 1996 c. 26, **s. 4(1)(4)**; S.I. 1996/2071, **art. 2**

F187 S. 139A(5)(6) substituted (5.5.2011) by Justice Act (Northern Ireland) 2011 (c. 24), **ss. 52**, 111(1) (with Sch. 6 para. 4(2))

F188 S. 139A(7)(b) repealed (N.I.) (5.5.2011) by Justice Act (Northern Ireland) 2011 (c. 24), s. 111(1), **Sch. 8 Pt. 5**

F189 Words in s. 139A(6)(7) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para.69** (with ss. 1(4), 582(3), Sch. 39)

Marginal Citations

M47 1953 c. 14.

M48 1953 c. 14.

M49 S.I. 1987/463 (N.I. 7).

[[F186]139A Offence of threatening with article with blade or point or offensive weapon

(1) A person is guilty of an offence if that person—

(a) has an article to which this section applies with him or her in a public place or on school premises,

(b) unlawfully and intentionally threatens another person with the article, and

(c) does so in such a way that there is an immediate risk of serious physical harm to that other person.

(2) In relation to a public place this section applies to an article to which section 139 applies.

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(3) In relation to school premises this section applies to each of these—

(a) an article to which section 139 applies;

(b) an offensive weapon within the meaning of section 1 of the Prevention of Crime Act 1953.

(4) For the purposes of this section physical harm is serious if it amounts to grievous bodily harm for the purposes of the Offences against the Person Act 1861.

(5) In this section—

"public place" has the same meaning as in section 139;

"school premises" has the same meaning as in section 139A.

(6) A person guilty of an offence under this section is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 4 years or to a fine, or to both.

(7) Where a person aged 16 or over is convicted of an offence under this section, the court must impose an appropriate custodial sentence (with or without a fine) unless the court is of the opinion that there are particular circumstances which—

(a) relate to the offence or to the offender, and

(b) would make it unjust to do so in all the circumstances.

(8) In this section "appropriate custodial sentence" means—

(a) in the case of a person who is aged 18 or over when convicted, a sentence of imprisonment for a term of at least 6 months;

(b) in the case of a person who is aged at least 16 but under 18 when convicted, a detention and training order of at least 4 months.

(9) In considering whether it is of the opinion mentioned in subsection (7) in the case of a person aged under 18, the court must have regard to its duty under section 44 of the Children and Young Persons Act 1933.

(10) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003, the reference in subsection (6)(a) to 12 months is to be read as a reference to 6 months.

(11) In relation to times before the coming into force of paragraph 180 of Schedule 7 to the Criminal Justice and Court Services Act 2000, the reference in subsection (8)(a) to a sentence of imprisonment, in relation to an offender aged under 21 at the time of conviction, is to be read as a reference to a sentence of detention in a young offender institution.

(12) If on a person's trial for an offence under this section (whether on indictment or not) the person is found not guilty of that offence but it is proved that the person committed an offence under section 139 or 139A, the person may be convicted of the offence under that section.**]**

Textual Amendments

F186 S. 139AA inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 142(2)**, 151(1); S.I. 2012/2770, art. 2(a)

Status: *Point in time view as at 13/03/2014. This version of this Act contains provisions that are prospective.*
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[139A [F183] Offence of having article with blade or point (or offensive weapon) on school premises. N.I.

(1) Any person who has an article to which section 139 of this Act applies with him on school premises shall be guilty of an offence.

(2) Any person who has an offensive weapon within the meaning of section 1 of the [M47] Prevention of Crime Act 1953 with him on school premises shall be guilty of an offence.

(3) It shall be a defence for a person charged with an offence under subsection (1) or (2) above to prove that he had good reason or lawful authority for having the article or weapon with him on the premises in question.

(4) Without prejudice to the generality of subsection (3) above, it shall be a defence for a person charged with an offence under subsection (1) or (2) above to prove that he had the article or weapon in question with him—

(a) for use at work,

(b) for educational purposes,

(c) for religious reasons, or

(d) as part of any national costume.

[[F187](5) A person guilty of an offence under subsection (1) or (2) shall be liable—

(a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 4 years, or to a fine, or to both.

[[F187](6) In this section and section 139B " school premises " means land used for the purposes of a school, excluding any land occupied solely as a dwelling by a person employed at the school; and " school " has the meaning given by Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986.

(7) In the application of this section to Northern Ireland—

(a) the reference in subsection (2) above to section 1 of the [M48] Prevention of Crime Act 1953 is to be construed as a reference to Article 22 of the [M49] Public Order (Northern Ireland) Order 1987; and

(b) [[F188]the reference in subsection (6) above to [[F189]section 4 of the Education Act 1996 is to be construed as a reference to Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986.

Extent Information

E5 This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales only

Textual Amendments

F183 S. 139A inserted (1.9.1996) by 1996 c. 26, **s. 4(1)(4)**; S.I. 1996/2071, **art. 2**

F187 S. 139A(5)(6) substituted (5.5.2011) by Justice Act (Northern Ireland) 2011 (c. 24), **ss. 52**, 111(1) (with Sch. 6 para. 4(2))

F188 S. 139A(7)(b) repealed (N.I.) (5.5.2011) by Justice Act (Northern Ireland) 2011 (c. 24), s. 111(1), **Sch. 8 Pt. 5**

Status: *Point in time view as at 13/03/2014. This version of this Act contains provisions that are prospective.*
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F189 Words in s. 139A(6)(7) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para.69** (with ss. 1(4), 582(3), Sch. 39)

Marginal Citations

M47 1953 c. 14.
M48 1953 c. 14.
M49 S.I. 1987/463 (N.I. 7).

[F186 139AA Offence of threatening with article with blade or point or offensive weapon

(1) A person is guilty of an offence if that person—
- (a) has an article to which this section applies with him or her in a public place or on school premises,
- (b) unlawfully and intentionally threatens another person with the article, and
- (c) does so in such a way that there is an immediate risk of serious physical harm to that other person.

(2) In relation to a public place this section applies to an article to which section 139 applies.

(3) In relation to school premises this section applies to each of these—
- (a) an article to which section 139 applies;
- (b) an offensive weapon within the meaning of section 1 of the Prevention of Crime Act 1953.

(4) For the purposes of this section physical harm is serious if it amounts to grievous bodily harm for the purposes of the Offences against the Person Act 1861.

(5) In this section—

"public place" has the same meaning as in section 139;

"school premises" has the same meaning as in section 139A.

(6) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 4 years or to a fine, or to both.

(7) Where a person aged 16 or over is convicted of an offence under this section, the court must impose an appropriate custodial sentence (with or without a fine) unless the court is of the opinion that there are particular circumstances which—
- (a) relate to the offence or to the offender, and
- (b) would make it unjust to do so in all the circumstances.

(8) In this section "appropriate custodial sentence" means—
- (a) in the case of a person who is aged 18 or over when convicted, a sentence of imprisonment for a term of at least 6 months;
- (b) in the case of a person who is aged at least 16 but under 18 when convicted, a detention and training order of at least 4 months.

(9) In considering whether it is of the opinion mentioned in subsection (7) in the case of a person aged under 18, the court must have regard to its duty under section 44 of the Children and Young Persons Act 1933.

Status: *Point in time view as at 13/03/2014. This version of this Act contains provisions that are prospective.*
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(10) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003, the reference in subsection (6)(a) to 12 months is to be read as a reference to 6 months.

(11) In relation to times before the coming into force of paragraph 180 of Schedule 7 to the Criminal Justice and Court Services Act 2000, the reference in subsection (8)(a) to a sentence of imprisonment, in relation to an offender aged under 21 at the time of conviction, is to be read as a reference to a sentence of detention in a young offender institution.

(12) If on a person's trial for an offence under this section (whether on indictment or not) the person is found not guilty of that offence but it is proved that the person committed an offence under section 139 or 139A, the person may be convicted of the offence under that section.**]**

Textual Amendments

F186 S. 139AA inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 142(2)**, 151(1); S.I. 2012/2770, art. 2(a)

F187 S. 139A(5)(6) substituted (5.5.2011) by Justice Act (Northern Ireland) 2011 (c. 24), **ss. 52**, 111(1) (with Sch. 6 para. 4(2))

F188 S. 139A(7)(b) repealed (N.I.) (5.5.2011) by Justice Act (Northern Ireland) 2011 (c. 24), s. 111(1), **Sch. 8 Pt. 5**

F189 Words in s. 139A(6)(7) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para.69** (with ss. 1(4), 582(3), Sch. 39)

139B [F190]Power of entry to search for articles with a blade or point and offensive weapons.

(1) A constable may enter school premises and search those premises and any person on those premises for—

(a) any article to which section 139 of this Act applies, or

(b) any offensive weapon within the meaning of section 1 of the Prevention of Crime Act 1953,

if he has reasonable grounds for **[**[F191]suspecting**]** that an offence under section 139A **[**[F192]or 139AA**]** of this Act is being, or has been, committed.

(2) If in the course of a search under this section a constable discovers an article or weapon which he has reasonable grounds for suspecting to be an article or weapon of a kind described in subsection (1) above, he may seize and retain it.

(3) The constable may use reasonable force, if necessary, in the exercise of the power of entry conferred by this section.

(4) In the application of this section to Northern Ireland**[**[F193]—

(a) the reference in subsection (1)(b) above to section 1 of the Prevention of Crime Act 1953 is to be construed as a reference to Article 22 of the Public Order (Northern Ireland) Order 1987.**][**[F194], and

(b) the reference in subsection (1) to section 139AA is omitted.**]**

Status: *Point in time view as at 13/03/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F187 S. 139A(5)(6) substituted (5.5.2011) by Justice Act (Northern Ireland) 2011 (c. 24), **ss. 52**, 111(1) (with Sch. 6 para. 4(2))

F188 S. 139A(7)(b) repealed (N.I.) (5.5.2011) by Justice Act (Northern Ireland) 2011 (c. 24), s. 111(1), **Sch. 8 Pt. 5**

F189 Words in s. 139A(6)(7) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para.69** (with ss. 1(4), 582(3), Sch. 39)

F190 S. 139B inserted (1.9.1996) by 1996 c. 26, **s. 4(1)(4)**; S.I. 1996/2071, **art.2**

F191 Word in s. 139B(1) substituted (31.5.2007) by Violent Crime Reduction Act 2006 (c. 38), **ss. 48**, 51, 66(2), **Sch. 2 para. 13**; S.I. 2007/858, **art. 3(c)-(e)**

F192 Words in s. 139B(1) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 26 para. 6(2)**; S.I. 2012/2770, art. 2(f)

F193 Words in s. 139B(4) renumbered as s. 139B(4)(a) (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 26 para. 6(3)(a)**; S.I. 2012/2770, art. 2(f)

F194 S. 139B(4)(b) and word inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 26 para. 6(3)(b)**; S.I. 2012/2770, art. 2(f)

140 Extension of constable's power to stop and search.

(1) In section 1 of the [M51]Police and Criminal Evidence Act 1984 (powers of constable to stop and search)—

(a) [F195]. . . . . .

(b) [F195]. . . . . .

(c) the following subsection shall be inserted after subsection (8)—

"(8A) This subsection applies to any article in relation to which a person has committed, or is committing or is going to commit an offence under section 139 of the Criminal Justice Act 1988.".

(2) In section 5(2)(a)(ii) of that Act (annual reports to contain total numbers of searches for offensive weapons) after the word "weapons" there shall be inserted the words "or articles to which section 1(8A) above applies".

Textual Amendments

F195 S. 140(1)(a)(b) repealed (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 174, 178, **Sch. 17 Pt. 2**; S.I. 2005/1521, **art. 3(1)(cc)(ee)(i)** (subject to art. 3(4)(5))

Marginal Citations

M51 1984 c. 60.

141 Offensive weapons.

(1) Any person who manufactures, sells or hires or offers for sale or hire, exposes or has in his possession for the purpose of sale or hire, or lends or gives to any other person, a weapon to which this section applies shall be guilty of an offence and liable **[**[F196]on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or both**]**

Status: *Point in time view as at 13/03/2014. This version of this Act contains provisions that are prospective.*
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[[F196](a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum, or to both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 4 years, or to a fine, or to both.

.

(2) The Secretary of State may by order made by statutory instrument direct that this section shall apply to any description of weapon specified in the order except—

(a) any weapon subject to the [M52]Firearms Act 1968; and

(b) crossbows.

[F197](3) . . . . . .

(4) The importation of a weapon to which this section applies is hereby prohibited.

(5) It shall be a defence for any person charged in respect of any conduct of his relating to a weapon to which this section applies—

(a) with an offence under subsection (1) above; or

(b) with an offence under section 50(2) or (3) of the [M53]Customs and Excise Management Act 1979 (improper importation),

to **[**[F198]show**]** that his conduct was only for the purposes of functions carried out on behalf of the Crown or of a visiting force.

(6) In this section the reference to the Crown includes the Crown in right of Her Majesty's Government in Northern Ireland; and

"visiting force" means any body, contingent or detachment of the forces of a country—

(a) mentioned in subsection (1)(a) of section 1 of the [M54]Visiting Forces Act 1952; or

(b) designated for the purposes of any provision of that Act by Order in Council under subsection (2) of that section,

which is present in the United Kingdom (including United Kingdom territorial waters) or in any place to which subsection (7) below applies on the invitation of Her Majesty's Government in the United Kingdom.

(7) This subsection applies to any place on, under or above an installation in a designated area within the meaning of section 1(7) of the [M55]Continental Shelf Act 1964 or any waters within 500 metres of such an installation.

(8) It shall be a defence for any person charged in respect of any conduct of his relating to a weapon to which this section applies—

(a) with an offence under subsection (1) above; or

(b) with an offence under section 50(2) or (3) of the Customs and Excise Management Act 1979,

to **[**[F198]show**]** that the conduct in question was only for the purposes of making the weapon available to a museum or gallery to which this subsection applies.

(9) If a person acting on behalf of a museum or gallery to which subsection (8) above applies is charged with hiring or lending a weapon to which this section applies, it shall be a defence for him to **[**[F198]show**]** that he had reasonable grounds for believing that the person to whom he lent or hired it would use it only for cultural, artistic or educational purposes.

Status: *Point in time view as at 13/03/2014. This version of this Act contains provisions that are prospective.*
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(10) Subsection (8) above applies to a museum or gallery only if it does not distribute profits.

(11) In this section "museum or gallery" includes any institution which has as its purpose, or one of its purposes, the preservation, display and interpretation of material of historical, artistic or scientific interest and gives the public access to it.

[[F199](11A) Subject to subsection (11C), where a person is charged with an offence under subsection (1) above in respect of conduct of his relating to a weapon to which this section applies, it shall be a defence to show that his conduct was for the purpose only of making the weapon in question available for one or more of the purposes specified in subsection (11B).

(11B) Those purposes are—

(a) the purposes of theatrical performances and of rehearsals for such performances;

(b) the production of films (as defined in section 5B of the Copyright, Designs and Patents Act 1988 (c. 48));

(c) the production of television programmes (as defined in section 405(1) of the Communications Act 2003 (c. 21)).

(11C) Where—

(a) a person is charged with an offence under subsection (1) above in respect of conduct of his relating to a weapon to which this section applies (a "relevant weapon"), and

(b) the relevant weapon is one the importation of which is prohibited,

subsection (11A) does not apply unless the condition in subsection (11D) is satisfied.

(11D) The condition is that there is in force as respects Scotland provision to the effect that it is a defence for a person ("A") charged with a relevant offence in respect of A's conduct relating to a relevant weapon to show that A's conduct was for the purpose only of making the weapon in question available for one or more of the purposes specified in subsection (11B).

(11E) In subsection (11D), "relevant offence" means an offence under section 50(2) or (3) of the Customs and Excise Management Act 1979 (c. 2) (penalty for improper importation of goods).

(11F) For the purposes of this section, a person shall be taken to have shown a matter specified in subsection (5), (8), (9) or (11A) above if—

(a) sufficient evidence of the matter is adduced to raise an issue with respect to it; and

(b) the contrary is not proved beyond a reasonable doubt.

(11G) The Scottish Ministers may by order made by statutory instrument modify the application of this section in relation to any description of weapon specified in the order.

(11H) An order under subsection (11G) may make different provision for different purposes.

(11J) A statutory instrument containing an order under this section shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the Scottish Parliament.**]**

Status: *Point in time view as at 13/03/2014. This version of this Act contains provisions that are prospective.*
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[[F200](11A) It shall be a defence for a person charged in respect of conduct of his relating to a weapon to which this section applies—

(a) with an offence under subsection (1) above, or

(b) with an offence under section 50(2) or (3) of the Customs and Excise Management Act 1979,

to show that his conduct was for the purpose only of making the weapon in question available for one or more of the purposes specified in subsection (11B).

(11B) Those purposes are—

(a) the purposes of theatrical performances and of rehearsals for such performances;

(b) the production of films (within the meaning of Part 1 of the Copyright, Designs and Patents Act 1988 – see section 5B of that Act);

(c) the production of television programmes (within the meaning of the Communications Act 2003 – see section 405(1) of that Act).

(11C) For the purposes of this section a person shall be taken to have shown a matter specified in subsection (5), (8), (9) or (11A) if—

(a) sufficient evidence of that matter is adduced to raise an issue with respect to it; and

(b) the contrary is not proved beyond a reasonable doubt.

(11D) The Secretary of State may by order made by statutory instrument—

(a) provide for exceptions and exemptions from the offence under subsection (1) above or from the prohibition in subsection (4) above; and

(b) provide for it to be a defence in proceedings for such an offence, or for an offence under section 50(2) or (3) of the Customs and Excise Management Act 1979, to show the matters specified or described in the order.

(11E) A statutory instrument containing an order under this section shall not be made unless a draft of the instrument has been laid before Parliament and approved by a resolution of each House.**]**

(12) This section shall not have effect in relation to anything done before it comes into force.

(13) In the application of this section to Northern Ireland **[**[F201]in subsection (2) above the reference to the Secretary of State shall be construed as a reference to the Department of Justice in Northern Ireland and the reference**]** to the [M56]Firearms Act 1968 shall be construed as a reference to the [M57]Firearms (Northern Ireland) Order **[**[F202]2004**]** .

[[F203](14) In the application of this section to Northern Ireland, the power under subsection (11D) above to provide by order—

(a) for exceptions and exemptions from the offence under subsection (1) above; and

(b) for it to be a defence in proceedings for such an offence to show the matters specified or described in the order,

is exercisable by the Department of Justice in Northern Ireland (and not by the Secretary of State).

Status: *Point in time view as at 13/03/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(15) Any power of the Department of Justice in Northern Ireland to make an order under this section shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (and not by statutory instrument).

(16) No order shall be made by the Department of Justice under this section unless a draft of the order has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(17) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (16) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.**]]**

Textual Amendments

F196 Words in s. 141(1) substituted (N.I.) (16.7.2008) by The Criminal Justice (Northern Ireland) Order S.I. 2008/1216 (N.I. 1), arts. 1, **90(5)**; S.R. 2008/293, **art. 2**, Sch.

F197 S. 141(3) repealed (S.) (1.11.2007) by Custodial Sentences and Weapons (Scotland) Act 2007 (asp 17), ss. 66(2), 67, **Sch. 5**; S.S.I. 2007/431, **art. 3** Sch. and s. 141(3) repealed (E.W.N.I.) (1.4.2008) by Violent Crime Reduction Act 2006 (c. 38), ss. 65, 66(2), **Sch. 5**; S.I. 2008/791, arts. 2(e)

F198 Word in s. 141(5)(8)(9) substituted (S.) (1.11.2007) by Custodial Sentences and Weapons (Scotland) Act 2007 (asp 17), **s. 60(1)(a)**; S.S.I. 2007/431, **art. 3**, Sch. and the same word in s. 141(5)(8)(9) substituted (E.W.N.I.) (6.4.2008) by Violent Crime Reduction Act 2006 (c. 38), ss. 43(3), 51, 66(2), Sch. 2 para. 11(2); S.I. 2008/791, **art. 3(a)(c)**

F199 S. 141(11A)-(11J) inserted (S.) (1.11.2007 for purpose of inserting subsections (11F) to (11J) and otherwise prosp. for inserting (11A) to (11E)) by Custodial Sentences and Weapons (Scotland) Act 2007 (asp 17), **ss. 60(2)**, 67; S.S.I. 2007/431, **art. 3**, Sch.

F200 S. 141(11A)-(11E) inserted (E.W.N.I.) (1.4.2008 for purpose of inserting (11D) and (11E) and 6.4.2008 in so far as not already in force) by Violent Crime Reduction Act 2006 (c. 38), ss. 43(4), 51, 66(2), **Sch. 2 para. 11(3)**; S.I. 2008/791, arts. 2(c), **3(c)**

F201 Words in s. 141(13) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 14 para. 31(2)** (with arts. 28-31)

F202 Word in s. 141(13) substituted (1.2.2005) by The Firearms (Northern Ireland) Order 2004 (S.I. 2004/702 (N.I. 3)), arts. 81, 82, **Sch. 7 para. 11**; S.R. 2005/4, **art. 3** (with transitional provisions in arts. 4-7)

F203 S. 141(14)-(17) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 14 para. 31(3)** (with arts. 28-31)

Modifications etc. (not altering text)

C19 S. 141 applied (S.) (29.9.2005) by The Criminal Justice Act 1988 (Offensive Weapons) (Scotland) Order 2005 (S.S.I. 2005/483), art. 2, **Sch.**

Marginal Citations

M52 1968 c. 27.

M53 1979 c. 2.

M54 1952 c. 67.

M55 1964 c. 29.

M56 1968 c. 27.

M57 S.I. 1981/155 (N.I. 2).

Status: *Point in time view as at 13/03/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F204 141ZA Application of section 141 to swords: further provision

(1) This section applies where the Scottish Ministers make an order under subsection (2) of section 141 directing that the section shall apply to swords.

(2) The Scottish Ministers may include in the order provision for or in connection with modifying section 141 in its application to swords.

(3) The Scottish Ministers may in particular—

(a) provide for defences (including in particular defences relating to religious, cultural or sporting purposes) to offences;

(b) increase the penalties specified in subsection (1) of section 141 (or that subsection as modified) so as to make a person liable—

(i) on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine or both;

(ii) on summary conviction to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum or both;

(c) create an offence (punishable on summary conviction only and subject to a penalty which is no greater than that mentioned in subsection (6)) relating to the provision, without reasonable excuse, of false information by a person acquiring a sword in circumstances specified in the order.

(4) In making provision under subsection (3)(a) the Scottish Ministers may make provision for or in connection with—

(a) the granting, and revocation, by them of authorisations in relation to the acquisition of swords;

(b) enabling them to specify conditions in such authorisations;

(c) requiring persons to whom authorisations are granted to comply with such conditions;

(d) making it an offence (punishable on summary conviction only and subject to a penalty which is no greater than that mentioned in subsection (6)) to fail to comply with any such conditions.

(5) Defences specified under subsection (3)(a) may relate to swords in general or to a class, or classes, of sword specified in the order.

(6) The penalty is—

(a) imprisonment for a term not exceeding 12 months; or

(b) a fine not exceeding level 5 on the standard scale,

or both.

(7) The power conferred by subsection (2) is without prejudice to the generality of the power conferred by section 141(11G).]

Textual Amendments

F204 S. 141ZA inserted (S.) (1.11.2007) by Custodial Sentences and Weapons (Scotland) Act 2007 (asp 17), **ss. 61(2)**, 67; S.S.I. 2007/431, **art. 3**, Sch.

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Changes to legislation: *Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PROSPECTIVE

[F205 141ZB Importation of offensive weapons: prohibition

(1) The importation of an offensive weapon is prohibited, subject to section 141ZC.

(2) In this section " offensive weapon " means a weapon of a description specified in an order made by the Secretary of State for the purposes of this subsection.

(3) The Secretary of State may not specify any of the following under subsection (2)—
  (a) a weapon subject to the Firearms Act 1968;
  (b) a crossbow.

(4) Orders under this section are to be made by statutory instrument.

(5) A statutory instrument containing an order under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

(6) In the application of this section to Northern Ireland the reference in subsection (3) to the Firearms Act 1968 is to be construed as a reference to the Firearms (Northern Ireland) Order 2004.

Textual Amendments

F187 S. 139A(5)(6) substituted (5.5.2011) by Justice Act (Northern Ireland) 2011 (c. 24), **ss. 52**, 111(1) (with Sch. 6 para. 4(2))

F188 S. 139A(7)(b) repealed (N.I.) (5.5.2011) by Justice Act (Northern Ireland) 2011 (c. 24), s. 111(1), **Sch. 8 Pt. 5**

F189 Words in s. 139A(6)(7) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para.69** (with ss. 1(4), 582(3), Sch. 39)

F205 Ss. 141ZB-141ZD inserted (prosp.) by Policing and Crime Act 2009 (c. 26), **ss. 102**, 116

PROSPECTIVE

141ZC Prohibition on importation of offensive weapons: exceptions

(1) The importation of a weapon is not prohibited by section 141ZB if one of the following exceptions applies.

(2) Exception 1 is that the weapon is imported for the purposes only of functions carried out on behalf of—
  (a) the Crown, or
  (b) a visiting force.

(3) Exception 2 is that the weapon is imported for the purposes only of making it available to a museum or gallery which does not distribute profits.

(4) Exception 3 is that the weapon is imported for the purposes only of making it available for one or more of the following—
  (a) theatrical performances;

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(b) rehearsals of theatrical performances;

(c) the production of films;

(d) the production of television programmes.

(5) In subsection (4)—

" films " has the meaning given by section 5B of the Copyright, Designs and Patents Act 1988;

" television programmes " has the meaning given by section 405 of the Communications Act 2003.

(6) The Secretary of State may by order provide for further exceptions from the prohibition on importation of weapons under section 141ZB.

(7) Orders under this section are to be made by statutory instrument.

(8) A statutory instrument containing an order under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

(9) Expressions used in this section and in section 141 have the same meaning in this section as in that section.

Textual Amendments

F187 S. 139A(5)(6) substituted (5.5.2011) by Justice Act (Northern Ireland) 2011 (c. 24), **ss. 52**, 111(1) (with Sch. 6 para. 4(2))

F188 S. 139A(7)(b) repealed (N.I.) (5.5.2011) by Justice Act (Northern Ireland) 2011 (c. 24), s. 111(1), **Sch. 8 Pt. 5**

F189 Words in s. 139A(6)(7) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para.69** (with ss. 1(4), 582(3), Sch. 39)

F205 Ss. 141ZB-141ZD inserted (prosp.) by Policing and Crime Act 2009 (c. 26), **ss. 102**, 116

PROSPECTIVE

141ZD Prohibition on importation of offensive weapons: burdens of proof

(1) This section applies for the purposes of proceedings for an offence under the Customs and Excise Management Act 1979 relating to a weapon the importation of which is prohibited by section 141ZB above.

(2) An exception conferred by or under section 141ZC is to be taken not to apply unless sufficient evidence is adduced to raise an issue with respect to the exception.

(3) Where sufficient evidence is adduced to raise an issue with respect to an exception, it is to be taken to apply unless the contrary is proved beyond a reasonable doubt.**]]]]]]**

Textual Amendments

F187 S. 139A(5)(6) substituted (5.5.2011) by Justice Act (Northern Ireland) 2011 (c. 24), **ss. 52**, 111(1) (with Sch. 6 para. 4(2))

Status: *Point in time view as at 13/03/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F188 S. 139A(7)(b) repealed (N.I.) (5.5.2011) by Justice Act (Northern Ireland) 2011 (c. 24), s. 111(1), **Sch. 8 Pt. 5**

F189 Words in s. 139A(6)(7) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para.69** (with ss. 1(4), 582(3), Sch. 39)

F205 Ss. 141ZB-141ZD inserted (prosp.) by Policing and Crime Act 2009 (c. 26), **ss. 102**, 116

[141A [F206] Sale of knives and certain articles with blade or point to persons under sixteen. E+W

(1) Any person who sells to a person under the age of **[**[F207]eighteen**]** years an article to which this section applies shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding level 5 on the standard scale, or both.

(2) Subject to subsection (3) below, this section applies to—

(a) any knife, knife blade or razor blade,

(b) any axe, and

(c) any other article which has a blade or which is sharply pointed and which is made or adapted for use for causing injury to the person.

(3) This section does not apply to any article described in—

(a) section 1 of the [M58] Restriction of Offensive Weapons Act 1959,

(b) an order made under section 141(2) of this Act, or

(c) an order made by the Secretary of State under this section.

(4) It shall be a defence for a person charged with an offence under subsection (1) above to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(5) The power to make an order under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.**]**

Extent Information

E6 This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

Textual Amendments

F206 S. 141A inserted (1.1.1997) by 1996 c. 26, **s. 6(1)(3)**; S.I. 1996/3063, **art.2**

F207 Word in s. 141A(1) substituted (E.W.) (1.10.2007) by Violent Crime Reduction Act 2006 (c. 38), **ss. 43(2)**, 66(2); S.I. 2007/2180, **art. 3(j)**

Modifications etc. (not altering text)

C20 S. 141A(1) excluded (1.1.1997) by S.I. 1996/3064, **art.2**

Marginal Citations

M58 1959 c. 37.

Status: *Point in time view as at 13/03/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[141A [F206][F265]Sale of knives and certain articles with blade or point to persons under eighteen] S

(1) [F266]Subject to subsection (3A) below]Any person who sells[F267]or lets on hire] to a person under the age of [F268]eighteen] years an article to which this section applies shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding level 5 on the standard scale, or both.

(2) Subject to subsection (3) below, this section applies to—

(a) any knife, knife blade or razor blade,

(b) any axe, [F269] . . .

[F270](ba) [any sword; and]]

(c) any other article which has a blade or which is sharply pointed and which is made or adapted for use for causing injury to the person.

(3) This section does not apply to any article described in—

(a) section 1 of the [M58]Restriction of Offensive Weapons Act 1959,

(b) an order made under section 141(2) of this Act, or

(c) an order made by the Secretary of State under this section.

[F271](3A) It is not an offence under subsection (1) to sell [F272]or let on hire]a knife or knife blade to a person if—

(a) the person is aged 16 or over; and

(b) the knife or blade is designed for domestic use.]

[F273](4) It is a defence for a person charged with an offence under subsection (1) (referred to in this section as " the accused ") to show that—

(a) the accused believed the person to whom the article was sold or let on hire (referred to in this section as " the purchaser or hirer ") to be of or above the relevant age, and

(b) either—

(i) the accused had taken reasonable steps to establish the purchaser or hirer's age, or

(ii) no reasonable person could have suspected from the purchaser or hirer's appearance that the purchaser or hirer was aged under the relevant age.

(4A) For the purposes of subsection (4)(b)(i), the accused is to be treated as having taken reasonable steps to establish the purchaser or hirer's age if and only if—

(a) the accused was shown any of the documents mentioned in subsection (4B), and

(b) the document would have convinced a reasonable person.

(4B) Those documents are any document bearing to be—

(a) a passport,

(b) a European Union photocard driving licence, or

(c) such other document, or a document of such other description, as the Scottish Ministers may by order prescribe.

(4C) In subsection (4), "the relevant age" is—

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(a) in the case where the article is a knife or knife blade designed for domestic use, 16 years, and

(b) in any other case, 18 years.**]**

(5) The power to make an order under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Extent Information

E9 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

Textual Amendments

F206 S. 141A inserted (1.1.1997) by 1996 c. 26, **s. 6(1)(3)**; S.I. 1996/3063, **art.2**

F265 S. 141A sidenote substituted (S.) (1.9.2006) by virtue of Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), **ss. 75(5)**, 104; S.S.I. 2006/432, **art. 2(d)**

F266 Words in s. 141A(1) inserted (S.) (1.9.2006) by Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), **ss. 75(2)(a)**, 104; S.S.I. 2006/432, **art. 2(d)**

F267 Words in s. 141A(1) inserted (S.) (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 36(2)**, 206(1); S.S.I. 2011/178, art. 2, Sch.

F268 Word in s. 141A(1) substituted (S.) (1.9.2006) by Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), **ss. 75(2)(b)**, 104; S.S.I. 2006/432, **art. 2(d)**

F269 Word in s. 141A(2) repealed (S.) (1.9.2006) by Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), **ss. 75(3)(a)**, 104; S.S.I. 2006/432, **art. 2(d)**

F270 S. 141A(2)(ba) inserted (S.) (1.9.2006) by Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), **ss. 75(3)(b)**, 104; S.S.I. 2006/432, **art. 2(d)**

F271 S. 141A(3A) inserted (S.) (1.9.2006) by Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), **ss. 75(4)**, 104; S.S.I. 2006/432, **art. 2(d)**

F272 Words in s. 141A(3A) inserted (S.) (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 36(3)**, 206(1); S.S.I. 2011/178, art. 2, Sch.

F273 S. 141A(4)-(4C) substituted (S.) (28.3.2011) for s. 141A(4) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 36(4)**, 206(1); S.S.I. 2011/178, art. 2, Sch.

Modifications etc. (not altering text)

C20 S. 141A(1) excluded (1.1.1997) by S.I. 1996/3064, **art.2**

Marginal Citations

M58 1959 c. 37.

142 Power of justice of the peace to authorise entry and search of premises for offensive weapons.

(1) If on an application made by a constable a justice of the peace (including, in Scotland, the sheriff) is satisfied that there are reasonable grounds for believing—

(a) that there are on premises specified in the application—

(i) knives such as are mentioned in section 1(1) of the [M59]Restriction of Offensive Weapons Act 1959; or

(ii) weapons to which section 141 above applies; and

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(b) that an offence under section 1 of the Restriction of Offensive Weapons Act 1959 or section 141 above has been or is being committed in relation to them; and

(c) that any of the conditions specified in subsection (3) below applies,

he may issue a warrant authorising a constable to enter and search the premises.

(2) A constable may seize and retain anything for which a search has been authorised under subsection (1) above.

(3) The conditions mentioned in **[**[F208]subsection (1)(c)**]** above are—

(a) that it is not practicable to communicate with any person entitled to grant entry to the premises;

(b) that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the knives or weapons to which the application relates;

(c) that entry to the premises will not be granted unless a warrant is produced;

(d) that the purpose of a search may be frustrated or seriously prejudiced unless a constable arriving at the premises can secure immediate entry to them.

(4) Subsection (1)(a)(i) shall be omitted in the application of this section to Northern Ireland.

Textual Amendments

F208 Words in s. 142(3) substituted (S.) (1.9.2006) by Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), ss. 101, 104, **Sch. 6 para. 2**; S.S.I. 2006/432, **art. 2(g)(h)** and said words substituted (E.W.N.I.) (1.4.2007) by Police and Justice Act 2006 (c. 48), ss. 52, 53, **Sch. 14 para. 14**; S.I. 2007/709, **art. 3(o)** (subject to arts. 6 and 7)

Marginal Citations

M59 1959 c. 37.

Serious fraud

143 Assistance to Isle of Man and Channel Islands.

In subsection (1) of section 2 of the [M60]Criminal Justice Act 1987 (investigation powers of Director of Serious Fraud Office) after the word “above," there shall be inserted the words “or, on a request made by the Attorney General of the Isle of Man, Jersey or Guernsey, under legislation corresponding to that section and having effect in the Island whose Attorney General makes the request,".

Marginal Citations

M60 1987 c. 38.

[F209]144 Transferred charges.

. . . . . .

Status: *Point in time view as at 13/03/2014. This version of this Act contains provisions that are prospective.*
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Textual Amendments

F209 S. 144 repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(d)

145 Power to petition for winding-up etc. on information obtained on investigation by Director of Serious Fraud Office.

The words "or section 2 of the Criminal Justice Act 1987" shall be inserted—

[[F210](a) in section 440 of the [M61]Companies Act 1985, after the words "that Act";]

(b) in section 8(1) of the [M62]Company Directors Disqualification Act 1986, after the words "the Financial Services Act 1986", in the second place where they occur; and

[F211](c) . . . . . .

Textual Amendments

F210 S. 145(a) repealed (*prosp.*) by Companies Act 1989 (c. 40, SIF 27), ss. 212, 215, **Sch. 24**

F211 S. 145(c) repealed (1. 10. 1991) by S.I. 1990/1504 (N.I. 10), art. 113, **Sch. 6**; S.R. 1991/438, **art. 5(d)**.

Marginal Citations

M61 1985 c. 6.

M62 1986 c. 46.

Evidence before Service courts

146 Evidence before [[F212]certain service courts].

Schedule 13 to this Act shall have effect in relation to evidence before [[F213]certain service courts].

Textual Amendments

F212 S. 146: words in sidenote substituted (28.3.2009 for certain purposes and 31.10.2009 insofar as not yet in force) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para 113(a)**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**

F213 Words in s. 146 substituted (28.3.2009 for certain purposes and 31.10.2009 insofar as not yet in force) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 113(b)**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**

Status: *Point in time view as at 13/03/2014. This version of this Act contains provisions that are prospective.*
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Amendments of Police and Criminal Evidence Act 1984 etc.

147 Searches of detained persons.

In section 54 of the [M63]Police and Criminal Evidence Act l984 (searches of detained persons)—

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

"(b) arrested at the station or detained there under section 47(5) above."; and

(b) the following subsections shall be inserted after subsection (6)—

"(6A) A person who is in custody at a police station or is in police detention otherwise than at a police station may at any time be searched in order to ascertain whether he has with him anything which he could use for any of the purposes specified in subsection (4)(a) above.

(6B) Subject to subsection (6C) below, a constable may seize and retain, or cause to be seized and retained, anything found on such a search.

(6C) A constable may only seize clothes and personal effects in the circumstances specified in subsection (4) above.".

Marginal Citations

M63 1984 c. 60.

[F214]148 Computer data about fingerprints.

. . . . . .

Textual Amendments

F214 S. 148 repealed (31.10.2013) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 10 Pt. 1** (with s. 97); S.I. 2013/2104, art. 3(d)

149 . . . . . [F215]

Textual Amendments

F215 S. 149 repealed by S.I. 1989/1341 (N.I. 12), art. 90(2), **Sch. 7**

Status: *Point in time view as at 13/03/2014. This version of this Act contains provisions that are prospective.*
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Provisions relating to Customs and Excise

PROSPECTIVE

150 Bail for persons in customs detention.

At the end of section 114(2)(b) of the [M64]Police and Criminal Evidence Act 1984 there shall be added the words "and

(c) that in relation to customs detention (as defined in any order made under this subsection) the Bail Act 1976 shall have effect as if references in it to a constable were references to an officer of Customs and Excise of such grade as may be specified in the order.".

Marginal Citations

M64 1984 c. 60.

151 Customs and Excise power of arrest.

(1) If—

(a) a person—

(i) has been released on bail in criminal proceedings for an offence falling within subsection (4) below; and

(ii) is under a duty to surrender into customs detention; and

(b) an officer of Customs and Excise has reasonable grounds for believing that that person is not likely to surrender to custody,

he may be arrested without warrant by an officer of Customs and Excise.

(2) A person arrested in pursuance of subsection (1) above shall be brought as soon as practicable and in any event within 24 hours after his arrest before a justice of the peace [F216]. . . .

(3) In reckoning for the purposes of subsection (2) above any period of 24 hours, no account shall be taken of Christmas Day, Good Friday or any Sunday.

(4) The offences that fall within this subsection are—

(a) an offence against section 5(2) of the [M65]Misuse of Drugs Act 1971 (possession of controlled drugs);[F217]. . .

(b) a drug trafficking offence.

[[F218](c) a money laundering offence;**]**

(5) In this section and section 152 below "drug trafficking offence" means **[**[F219]any offence which is specified in—

(a) paragraph 1 of Schedule 2 to the Proceeds of Crime Act 2002 (drug trafficking offences), or

(b) so far as it relates to that paragraph, paragraph 10 of that Schedule.**]**

[[F220](6) In this section "money laundering offence" means any offence which by virtue of section 415 of the Proceeds of Crime Act 2002 is a money laundering offence for the purposes of Part 8 of that Act.**]**

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Textual Amendments

F216 Words in s. 151(2) omitted (1.4.2005) by virtue of The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 45**

F217 Word in s. 151(4) repealed (24.2.2003) by 2002 c. 29, ss. 456, 457, 458, Sch. 11 para. 17(3), Sch. 12; S.I. 2003/120, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-7 (as amended (24.3.2003) by S.I. 2003/333, art. 14 and S.I. 2003/531, art. 3))

F218 S. 151(4)(c) inserted (24.2.2003) by 2002 c. 29, ss. 456, 458, Sch. 11 para. 17(3); S.I. 2003/120, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-7 (as amended (24.3.2003) by S.I. 2003/333, art. 14 and S.I. 2003/531, art. 3))

F219 S. 151(5)(a)(b) substituted (24.3.2003) for words by 2002 c. 29, ss. 456, 458, Sch. 11 para. 17(4); S.I. 2003/333, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-14 (as amended by S.I. 2003/531, art. 3))

F220 S. 151(6) inserted (24.2.2003) by 2002 c. 29, ss. 456, 458, Sch. 11 para. 17(5); S.I. 2003/120, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-7 (as amended (24.3.2003) by S.I. 2003/333, art. 14 and S.I. 2003/531, art. 3))

Commencement Information

I2 S. 151 partly in force; s. 151 not in force at Royal Assent, see s. 171; s. 151(5) in force at 3.4.1989 by S.I. 1989/264, art. 2, **Sch. Pt. II**

Marginal Citations

M65 1971 c. 38.

152 Remands of suspected drug offenders to [F221]. . . detention.

(1) Subject—

(a) to subsection (2) below; and

(b) to section 4 of the Bail Act 1976,

where—

(i) a person is brought before a magistrates' court on a charge of an offence against section 5(2) of the Misuse of Drugs Act 1971 or a drug trafficking offence; and

(ii) the court has power to remand him,

it shall have power, if it considers it appropriate to do so, to remand him to customs detention, that is to say, commit him to the custody of a customs officer for a period not exceeding 192 hours.

[[F222](1A) In subsection (1) the power of a magistrates' court to remand a person to customs detention for a period not exceeding 192 hours includes power to commit the person to the custody of a constable to be detained for such a period.**]**

(2) This section does not apply where a charge is brought against a person under the age of 17.

(3) In the application of this section to Northern Ireland, for the words from the beginning of subsection (1) above to "1976" there shall be substituted the words "Subject to subsection (2) below,".

[[F223](4) In the application of this section to Northern Ireland, "drug trafficking offence" means**][**[F224]any offence which is specified in—

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(a) paragraph 1 of Schedule 5 to the Proceeds of Crime Act 2002 (drug trafficking offences), or

(b) so far as it relates to that paragraph, paragraph 10 of that Schedule.**]**

Textual Amendments

F221 S. 152: word in title left out (1.1.2006) by Drugs Act 2005 (c. 17), **ss. 8(a)**, 24; S.I. 2005/3053, **art. 3(d)**

F222 S. 152(1A) inserted (1.1.2006) by Drugs Act 2005 (c. 17) {ss. 8(b)}, 24; S.I. 2005/3053, **art. 3(d)**

F223 S. 152(4) substituted (25.8.1996) by S.I. 1996/1299 (N.I.9), art. 57(1), **Sch. 3 para. 7**

F224 S. 152(4)(a)(b) substituted (24.3.2003) for words by 2002 c. 29, ss. 456, 458, Sch. 11 para. 17(6); S.I. 2003/333, **art. 2(1)**, Sch. (subject to transitional provisions and savings in arts. 3-14) (as amended by S.I. 2003/531)

Bail and custody

153 Court to give reasons for granting bail to a person accused of serious offence.

The following paragraph shall be inserted after paragraph 9 (decisions as to grant or refusal of bail) of Part I of Schedule 1 to the [M66]Bail Act 1976—

"9A (1) If—

(a) the defendant is charged with an offence to which this paragraph applies; and

(b) representations are made as to any of the matters mentioned in paragraph 2 of this Part of this Schedule; and

(c) the court decides to grant him bail,

the court shall state the reasons for its decision and shall cause those reasons to be included in the record of the proceedings.

(2) The offences to which this paragraph applies are—

(a) murder;

(b) manslaughter;

(c) rape;

(d) attempted murder; and

(e) attempted rape.".

Marginal Citations

M66 1976 c. 63.

154 Decisions where bail refused on previous hearing.

The following new Part shall be inserted after Part II of Schedule 1 to the Bail Act 1976—

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"PART IIA

DECISIONS WHERE BAIL REFUSED ON PREVIOUS HEARING

1 If the court decides not to grant the defendant bail, it is the court's duty to consider, at each subsequent hearing while the defendant is a person to whom section 4 above applies and remains in custody, whether he ought to be granted bail.

2 At the first hearing after that at which the court decided not to grant the defendant bail he may support an application for bail with any argument as to fact or law that he desires (whether or not he has advanced that argument previously).

3 At subsequent hearings the court need not hear arguments as to fact or law which it has heard previously.".

155 Remands in custody for more than eight days.

(1) The following section shall be inserted after section 128 of the [M67]Magistrates' Courts Act 1980—

"**128A Remands in custody for more than eight days.**

(1) The Secretary of State may by order made by statutory instrument provide that this section shall have effect—
(a) in an area specified in the order; or
(b) in proceedings of a description so specified,
in relation to any accused person ("the accused") who has attained the age of 17.

(2) A magistrates' court may remand the accused in custody for a period exceeding 8 clear days if—
(a) it has previously remanded him in custody for the same offence; and
(b) he is before the court,
but only if, after affording the parties an opportunity to make representations, it has set a date on which it expects that it will be possible for the next stage in the proceedings, other than a hearing relating to a further remand in custody or on bail, to take place, and only—
(i) for a period ending not later than that date; or
(ii) for a period of 28 clear days,
whichever is the less.

(3) Nothing in this section affects the right of the accused to apply for bail during the period of the remand.

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(4) A statutory instrument containing an order under this section shall not be made unless a draft of the instrument has been laid before Parliament and been approved by a resolution of each House.”.

(2) After paragraph 9A of Schedule 1 to the [M68]Bail Act 1976 there shall be inserted—

Cases under section 128A of Magistrates’ Courts Act 1980

“9B Where the court is considering exercising the power conferred by section 128A of the Magistrates’ Courts Act 1980 (power to remand in custody for more than 8 clear days), it shall have regard to the total length of time which the accused would spend in custody if it were to exercise the power.”.

Marginal Citations
M67 1980 c. 43.
M68 1976 c. 63.

Appeals

156 Appeals to Crown Court.

In paragraph (a) of section 48(2) of the [M69]**[**[F225]Senior Courts Act 1981**]** (which sets out the powers of the Crown Court on the termination of the hearing of an appeal) for the words “the decision appealed against" there shall be substituted the words “any part of the decision appealed against, including a determination not to impose a separate penalty in respect of an offence".

Textual Amendments
F225 Words in s. 156 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59, 148, **Sch. 11 para. 1**; S.I. 2009/1604, **art. 2(d)**

Marginal Citations
M69 1981 c. 54.

157 Groundless appeals and applications for leave to appeal.

The following section shall be substituted for section 20 of the [M70]Criminal Appeal Act 1968—

“**20 Disposal of groundless appeal or application for leave to appeal.**

If it appears to the registrar that a notice of appeal or application for leave to appeal does not show any substantial ground of appeal, he may refer the appeal or application for leave to the Court for summary determination; and where the case is so referred the Court may, if they consider that the appeal or application for leave is frivolous or vexatious, and can be determined without adjourning it

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for a full hearing, dismiss the appeal or application for leave summarily, without calling on anyone to attend the hearing or to appear for the Crown thereon.”.

Marginal Citations
M70 1968 c. 19.

Reports of criminal proceedings

158 Anonymity in rape etc. cases.

(1) The [M71]Sexual Offences (Amendment) Act 1976 shall be amended as follows.

(2) The following subsections shall be substituted for subsection (1) of section 4 (anonymity of complainants in rape etc. cases)—

“(1) Except as authorised by a direction given in pursuance of this section—

(a) after an allegation that a woman has been the victim of a rape offence has been made by the woman or by any other person, neither the woman’s name nor her address nor a still or moving picture of her shall during her lifetime—

(i) be published in England and Wales in a written publication available to the public; or

(ii) be broadcast or included in a cable programme in England and Wales,

if that is likely to lead members of the public to identify her as an alleged victim of such an offence; and

(b) after a person is accused of a rape offence, no matter likely to lead members of the public to identify a woman as the complainant in relation to that accusation shall during her lifetime—

(i) be published in England and Wales in a written publication available to the public; or

(ii) be broadcast or included in a cable programme in England and Wales;

but nothing in this subsection prohibits the publication or broadcasting or inclusion in a cable programme of matter consisting only of a report of criminal proceedings other than proceedings at, or intended to lead to, or on an appeal arising out of, a trial at which the accused is charged with the offence.

(1A) In subsection (1) above “picture” includes a likeness however produced.”.

(3) The following subsections shall be inserted after subsection (5) of that section—

“(5A) Where a person is charged with an offence under subsection (5) of this section in respect of the publication or broadcast of any matter or the inclusion of any matter in a cable programme, it shall be a defence, subject to subsection (5B) below, to prove that the publication, broadcast or cable programme in which the matter appeared was one in respect of which the woman had given written consent to the appearance of matter of that description.

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(5B) Written consent is not a defence if it is proved that any person interfered unreasonably with the woman's peace or comfort with intent to obtain the consent.".

(4) In subsection (3) of that section—

(a) the words "before the Crown Court at which a person is charged with a rape offence" and "relating to the complainant" shall cease to have effect; and

(b) for the words "an acquittal of a defendant at" there shall be substituted the words "the outcome of".

(5) Section 6 (anonymity of defendants in rape etc. cases) shall cease to have effect.

(6) In section 7(2), in the definition of a "rape offence" , for the words "and incitement to rape" there shall be substituted the words, "incitement to rape, conspiracy to rape and burglary with intent to rape".

Marginal Citations

M71 1976 c. 82.

159 Crown Court proceedings— orders restricting or preventing reports or restricting public access.

(1) A person aggrieved may appeal to the Court of Appeal, if that court grants leave, against—

(a) an order under section 4 or 11 of the [M72]Contempt of Court Act 1981 made in relation to a trial on indictment;

[[F226](aa) an order made by the Crown Court under section 58(7) or (8) of the [M73]Criminal Procedure and Investigations Act 1996 in a case where the Court has convicted a person on a trial on indictment;**]**

(b) any order restricting the access of the public to the whole or any part of a trial on indictment or to any proceedings ancillary to such a trial; and

(c) any order restricting the publication of any report of the whole or any part of a trial on indictment or any such ancillary proceedings;

and the decision of the Court of Appeal shall be final.

(2) Subject to Rules of Court, the jurisdiction of the Court of Appeal under this section shall be exercised by the criminal division of the Court, and references to the Court of Appeal in this section shall be construed as references to that division.

(3) On an application for leave to appeal under this section a judge shall have power to give such directions as appear to him to be appropriate and, without prejudice to the generality of this subsection, power—

(a) to order the production in court of any transcript or note of proceedings or other document;

(b) to give directions as to persons who are to be parties to the appeal or who may be parties to it if they wish and as to service of documents on any person;

and the Court of Appeal shall have the same powers as the single judge.

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(4) Subject to Rules of Court made by virtue of subsection (6) below, any party to an appeal under this section may give evidence before the Court of Appeal orally or in writing.

(5) On the hearing of an appeal under this section the Court of Appeal shall have power—
- (a) to stay any proceedings in any other court until after the appeal is disposed of;
- (b) to confirm, reverse or vary the order complained of; and
- (c) to make such order as to costs as it thinks fit.

(6) [F227]. . . Rules of Court may make in relation to trials satisfying specified conditions special provision as to the practice and procedure to be followed in relation to hearings in camera and appeals from orders for such hearings and may in particular, but without prejudice to the generality of this subsection, provide that subsection (4) above shall not have effect.

(7) In the application of this section to Northern Ireland—
- (a) subsection (2) shall be omitted; and
- **[**[F228](b) in subsection (6), before "Rules of Court" there shall be inserted Without prejudice to the generality of sections 52 and 55 of the Judicature (Northern Ireland) Act 1978.**]**

Textual Amendments

F226 S. 159(1)(aa) inserted (1.4.1997) by 1996 c. 25, **s. 61(6)** (with s. 78(1)); SI. 1997/682, art. 2(1)(b)

F227 Words in s. 159(6) omitted (1.9.2004) by virtue of The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 27(2)** (with art. 2(2))

F228 S. 159(7)(b) substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 27(3)** (with art. 2(2))

Modifications etc. (not altering text)

C21 S. 159(4) excluded by S.R.&O. 1968/218, rule 22B(9) (as inserted by S.R. 1989/295, **rule 4**)

Marginal Citations

M72 1981 c. 49.

M73 1996 c. 25.

Possession of indecent photograph of child

160 [F229Possession of indecent photograph of child]

(1) **[**[F230]Subject to section 160A,**]** it is an offence for a person to have any indecent photograph **[**[F231]or pseudo-photograph**]**of a child [F232]. . . in his possession.

(2) Where a person is charged with an offence under subsection (1) above, it shall be a defence for him to prove—
- (a) that he had a legitimate reason for having the photograph **[**[F233]or pseudo-photograph**]** in his possession; or
- (b) that he had not himself seen the photograph **[**[F233]or pseudo-photograph**]** and did not know, nor had any cause to suspect, it to be indecent; or

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(c) that the photograph **[**[F233]or pseudo-photograph**]** was sent to him without any prior request made by him or on his behalf and that he did not keep it for an unreasonable time.

[[F234](2A) A person shall be liable on conviction on indictment of an offence under this section to imprisonment for a term not exceeding five years or a fine, or both.**]**

(3) A person shall be liable on summary conviction of an offence under this section to **[**[F235]imprisonment for a term not exceeding six months or**]** a fine not exceeding level 5 on the standard scale **[**[F235], or both**]**.

(4) Sections 1(3), 2(3), 3 and 7 of the [M74]Protection of Children Act 1978 shall have effect as if any reference in them to that Act included a reference to this section.

[F236](5) . . . . . .

Textual Amendments

F229 Sidenote to s. 160 substituted (11.1.2001) by 2000 c. 43, **s. 41(3)(b)**; S.I. 2000/3302, **art. 2**

F230 Words in s. 160(1) substituted (8.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 148, 153(2)(b), **Sch. 26 para. 24**

F231 Words in s. 160(1) inserted (3.2.1995) by 1994 c. 33, **s. 84(4)(a)**; S.I. 1995/127, art. 2(1), **Sch. 1**

F232 Words in s. 160(1) omitted (3.2.1995) by virtue of 1994 c. 33, **s. 84(4)(a)**; S.I. 1995/127, art. 2(1), **Sch. 1** (and expressed to be repealed (4.9.1995) by 1994 c. 33, s. 168(3), **Sch. 11**; S.I. 1995/1957, **art. 6**)

F233 Words in s. 160(2)(a)-(c) inserted (3.2.1995) by 1994 c. 33, **s. 84(4)(b)**; S.I. 1995/127, art. 2(1), **Sch. 1**

F234 S. 160(2A) inserted (11.1.2001) by 2000 c. 43, **s. 41(3)(a)**; S.I. 2000/3302, **art. 2**

F235 Words in s. 160(3) inserted (3.2.1995) by 1994 c. 33, **s. 86(1)**; S.I. 1995/127, art. 2(1), **Sch. 1**

F236 S. 160(5) repealed (4.9.1995) by 1994 c. 33, s. 168(3), **Sch. 11**; S.I. 1995/1957, **art. 6**

Marginal Citations

M74 1978 c. 37.

[[F237]160A Marriage and other relationships

(1) This section applies where, in proceedings for an offence under section 160 relating to an indecent photograph **[**[F238]or pseudo-photograph**]** of a child, the defendant proves that the photograph was of the child aged 16 or over, and that at the time of the offence charged the child and he—

(a) were married **[**[F239]or civil partners of each other**]** , or

(b) lived together as partners in an enduring family relationship.

(2) This section also applies where, in proceedings for an offence under section 160 relating to an indecent photograph **[**[F238]or pseudo-photograph**]** of a child, the defendant proves that the photograph was of the child aged 16 or over, and that at the time when he obtained it the child and he—

(a) were married **[**[F239]or civil partners of each other**]** , or

(b) lived together as partners in an enduring family relationship.

(3) This section applies whether the photograph **[**[F238]or pseudo-photograph**]** showed the child alone or with the defendant, but not if it showed any other person.

(4) If sufficient evidence is adduced to raise an issue as to whether the child consented to the photograph **[**[F238]or pseudo-photograph**]** being in the defendant's possession, or as

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to whether the defendant reasonably believed that the child so consented, the defendant is not guilty of the offence unless it is proved that the child did not so consent and that the defendant did not reasonably believe that the child so consented.**]**

Textual Amendments

F237 S. 160A inserted (1.5.2004) by Sexual Offences Act 2003 (c. 42), **ss. 45(4)**, 141; S.I. 2004/874, **art. 2**

F238 Words in s. 160A inserted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), **ss. 69(2)**, 182(5) (with s. 180, Sch. 22); S.I. 2010/816, art. 2, Sch. para. 2

F239 Words in s. 160A(1)(a)(2)(a) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1), 263, **Sch. 27 para. 127**; S.I. 2005/3175, **art. 2(1)(2)**, Sch. 1 (subject to art. 2(3)-(5))

161 Possession of indecent photographs of children: Scotland.

(1) The following section shall be inserted after section 52 of the [M75]Civic Government (Scotland) Act 1982—

"52A Possession of indecent photographs of children.

(1) It is an offence for a person to have any indecent photograph of a child (meaning in this section a person under the age of 16) in his possession.

(2) Where a person is charged with an offence under subsection (1), it shall be a defence for him to prove—

(a) that he had a legitimate reason for having the photograph in his possession; or

(b) that he had not himself seen the photograph and did not know, nor had any cause to suspect, it to be indecent; or

(c) that the photograph was sent to him without any prior request made by him or on his behalf and that he did not keep it for an unreasonable time.

(3) A person shall be liable on summary conviction of an offence under this section to a fine not exceeding level 5 on the standard scale.

(4) Subsections (2) and (8) of section 52 of this Act shall have effect for the purposes of this section as they have for the purposes of that section.".

(2) Section 52A of that Act shall not have effect in relation to anything done before it comes into force.

Marginal Citations

M75 1982 c. 45.

Video recordings

162 Enforcement of Video Recordings Act 1984.

The following section shall be inserted after section 16 of the [M76]Video Recordings Act 1984—

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"**16A Enforcement.**

(1) The functions of a local weights and measures authority include the enforcement in their area of this Act.

(2) The following provisions of the Trade Descriptions Act 1968 apply in relation to the enforcement of this Act by such an authority as in relation to the enforcement of that Act—

section 27 (power to make test purchases),

section 28 (power to enter premises and inspect and seize goods and documents),

section 29 (obstruction of authorised officers), and

section 33 (compensation for loss, &c. of goods seized under s. 28).

(3) Nothing in this section shall be taken as authorising a local weights and measures authority in Scotland to initiate proceedings for an offence.

(4) Subsection (1) above does not apply in relation to the enforcement of this Act in Northern Ireland, but the functions of the Department of Economic Development include the enforcement of this Act in Northern Ireland.

For that purpose the provisions of the Trade Descriptions Act 1968 specified in subsection (2) apply as if for the references to a local weights and measures authority and any officer of such an authority there were substituted references to that Department and any of its officers.

(5) Any enactment which authorises the disclosure of information for the purpose of facilitating the enforcement of the Trade Descriptions Act 1968 shall apply as if the provisions of this Act were contained in that Act and as if the functions of any person in relation to the enforcement of this Act were functions under that Act.".

Marginal Citations
M76 1984 c. 39.

Restitution orders

[F240]163 . . . . . .

Textual Amendments
F240 S. 163 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Magistrates' courts areas and officers

[F241]164 . . . . . .

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Textual Amendments

F241 S. 164 repealed (19.6.1997) by 1997 c. 25, ss. 73(3), 74(1), **Sch. 6 Pt.I**

[F242]165 . . . . . .

Textual Amendments

F242 S. 165 repealed (1.4.1995) by 1994 c. 29, s. 93, **Sch. 9 Pt.II**; S.I. 1995/685, **arts. 4(n)**, 8(r)

Costs and expenses

166 Costs and expenses of prosecution witnesses and other persons.

(1) Section 14 of the [M77]Prosecution of Offences Act 1985 (control of certain fees and expenses etc. paid by Crown Prosecution Service) shall be amended as follows—

(a) at the end of paragraph (b) of subsection (1) there shall be added the words "and, subject to subsection (1A) below, of any other person who in the opinion of the Service necessarily attends for the purpose of the case otherwise than to give evidence";

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

"(1A) The power conferred on the Attorney General by subsection (1)(b) above only relates to the costs and expenses of an interpreter if the interpreter is required because of the lack of English of a person attending to give evidence at the instance of the Service.

(1B) In subsection (1)(b) above "attending" means attending at the court or elsewhere."; and

(c) the following subsection shall be inserted after subsection (2)—

"(3) Regulations made under subsection (1)(b) above may provide that scales or rates of costs and expenses shall be determined by the Attorney General with the consent of the Treasury.".

(2) In paragraph (a) of section 19(3) of that Act (regulations as to payment out of central funds) after the word "proceedings" there shall be inserted the words ", and any other person who in the opinion of the court necessarily attends for the purpose of the proceedings otherwise than to give evidence,".

(3) The following subsection shall be inserted after that subsection—

"(3A) In subsection (3)(a) above "attendance" means attendance at the core elsewhere.".

(4) The amendments made by subsections (2) and (3) above shall be deemed to have come into force on 1st October 1986.

(5) In Schedule 1 to the [M78]Criminal Justice Act 1987 (control of certain fees and expenses etc. paid by Serious Fraud Office)—

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(a) in sub-paragraph (1)(b) of paragraph 8, for the word "to" in the third place it occurs there shall be substituted the word "of"; and

(b) the following sub-paragraph shall be inserted after sub-paragraph (4) of that paragraph—

"(5) In sub-paragraph (1)(b) above "attends" means attends at the court or elsewhere."

Marginal Citations

M77 1985 c. 23.

M78 1987 c. 38.

Acquisition of easements etc.

167 Acquisition of easements etc. under Prison Act 1952.

The power to purchase land conferred on the Secretary of State by section 36 of the [M79]Prison Act 1952 (acquisition of land for prisons) shall include and be deemed always to have included power to purchase easements and other rights over land, including easements and other rights not previously in existence.

Marginal Citations

M79 1952 c. 52.

PART XII

GENERAL AND SUPPLEMENTARY

168 Northern Ireland.

(1) An Order in Council under paragraph 1(1)(b) of Schedule 1 to the [M80]Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which contains a statement that it is made only for purposes corresponding to those of any provision of this Act to which this section applies—

(a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament); but

(b) shall be subject to annulment in pursuance of a resolution of either House.

(2) The provisions of this Act to which this section applies are—

sections 23 to 27;
section 28;
sections 29 to 34;
section 44(3) and (4);
section 47;
section 144;
section 160.

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Marginal Citations

M80 1974 c. 28.

169 Financial provision.

There shall be paid out of money provided by Parliament—

(a) any expenses incurred under this Act by a Minister of the Crown; and

(b) any increase attributable to the provisions of this Act in the sums payable out of such money under any other Act.

170 Minor and consequential amendments and repeals.

(1) The enactments mentioned in Schedule 15 to this Act shall have effect with the amendments there specified (being minor amendments and amendments consequential on the foregoing provisions of this Act).

(2) The enactments mentioned 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 but subject to the Notes at the end of the Schedule.

Commencement Information

I3 S. 170 partly in force; s. 170 in force at Royal Assent so far as relating to specified provisions of Sch. 15 and specified repeals in Sch. 16 see s. 171(5); s. 170 in force so far as relating to further specified provisions of Sch. 15 and further specified repeals in Sch. 16 at 29.9.1988 see s. 171(6); s. 170 in force so far as relating to further specified provisions of Sch. 15 and further specified repeals in Sch. 16: at 1.10.1988 by S.I. 1988/1408; at 12.10.1988 by S.I. 1988/1676; at 1.11.1988 by S.I. 1988/1817; at 5.1.1989 by S.I. 1988/2073; at 23.1.1989 by S.I. 1989/50; at 1.2.1989 by S.I. 1989/1; at 3.4.1989 by S.I. 1989/264; at 31.7.1989 by S.I. 1989/1085; at 1.1.2000 by S.I. 1999/3425.

171 Commencement.

(1) Subject to the following provisions of this section, this Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint and different days may be appointed in pursuance of this subsection for different provisions or different purposes of the same provision.

(2) An order under this section may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with any provision thereby brought into force [F243]. . ..

[[F244F244](3) . . ..]

[[F244](4) . . ..]

(5) The following provisions shall come into force on the day this Act is passed—

section 66;

section 67;

section 103(1), so far as it relates—

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(a) to the addition of two subsections at the end of section 8 of the [M81]Drug Trafficking Offences Act 1986;
(b) to the insertion of a new subsection in section 24 of that Act; and
(c) to the substitution of two new sections for section 26 of that Act;

section 129;
section 132, so far as it relates to the [M82]Local Government Finance Act 1982;
section 141;
section 142;
section 143;
section 144;
section 149;
section 166;
section 167;
section 168;
section 169;
subsection (1) of section 170, so far as relating to the following—
section 112A(1) of the [M83]Land Registration Act 1925;
the extension of references in the [M84]Children and Young Persons Act 1933 to the offences mentioned in Schedule 1 to that Act so as to include offences under Part I of the [M85]Child Abduction Act 1984;
the [M86]Visiting Forces Act 1952;
section 67(6) of the [M87]Criminal Justice Act 1967;
section 29 of the [M88]Children and Young Persons Act 1969;
section 6(1) of the [M89]Juries Act 1974;
sections 171 and 368 of and Schedule 1 to the [M90]Criminal Procedure (Scotland) Act 1975;
the [M91]Child Care Act 1980;
sections 37 and 133 of the [M92]Magistrates' Courts Act 1980;
section 52(7) of the [M93]Civic Government (Scotland) Act 1982;
the [M94]Criminal Justice Act 1982;
the [M95]Police and Criminal Evidence Act 1984;
the [M96]Prosecution of Offences Act 1985;
the [M97]Criminal Justice Act 1987;
the [M98]Criminal Justice (Scotland) Act 1987;
subsection (2) of that section, so far as relating to the following—
section 49 of the [M99]Criminal Justice Act 1967;
section 29 of the [M100]Children and Young Persons Act 1969;
the Criminal Justice Act 1987;
this section;
sections 172 and 173.

(6) The following provisions—
section 44;
section 45;
section 46;
section 47;

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section 48;
section 58;
section 64;
section 68;
section 69;
section 134;
section 135;
section 136;
section 137;
section 138;
section 139;
section 140;
section 158;
sections 160 and 161;
subsection (1) of section 170, so far as relating to the [M101]Sexual Offences (Amendment) Act [M102]1976, the Protection of Children Act 1978 and section 6(5) of the Magistrates' Courts Act 1980;
subsection (2) of that section, so far as relating to the following—
the [M103]Prevention of Corruption Act 1916;
Schedule 3 to the [M104]Criminal Justice Act 1967;
section 28(3) of the [M105]Criminal Justice Act 1972;
the [M106]Sexual Offences (Amendment) Act 1976;
the [M107]Protection of Children Act 1978;
the [M108]Cable and Broadcasting Act 1984;
section 24(2)(e) of the [M109]Police and Criminal Evidence Act 1984,

shall come into force at the end of the period of two months beginning with the day this Act is passed.

(7) Section 162 above shall come into force—
(a) on the day appointed under section 23(2) of the [M110]Video Recordings Act 1984 for the coming into force of the provisions of that Act not in force at the passing of this Act; or
(b) on the passing of this Act,
whichever is the later.

Subordinate Legislation Made

P1 Power of appointment conferred by section 171(1) partly exercised: S.I. 1988/1408, 1676, 1817, 2073; 1989/1, 50, 264, 1085, 1595; 1990/220, 1145, 2084; 1999/3425; 1.9.2004 appointed for specified provisions by {S.I. 2004/2167}, art. 2 (subject to art. 3)

Textual Amendments

F243 Words in s. 171(2) repealed (E.W.S.)(8.11.1995) by 1995 c. 53, **s. 12(7)**,Sch.
F244 S. 171(3)(4) repealed (E.W.S.)(8.11.1995) by 1995 c. 53, **s. 12(7)**,Sch.

Marginal Citations

M81 1986 c. 32.
M82 1982 c. 32.

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M83 1925 c. 21.
M84 1933 c. 12.
M85 1984 c. 37.
M86 1952 c. 67.
M87 1967 c. 80.
M88 1969 c. 54.
M89 1974 c. 23.
M90 1975 c. 21.
M91 1980 c. 5.
M92 1980 c. 43.
M93 1982 c. 45.
M94 1982 c. 48.
M95 1984 c. 60.
M96 1985 c. 23.
M97 1987 c. 38.
M98 1987 c. 41.
M99 1967 c. 86.
M100 1969 c. 54.
M101 1976 c. 82.
M102 1978 c. 37.
M103 1916 c. 64.
M104 1967 c. 80.
M105 1972 c. 71.
M106 1976 c. 82.
M107 1978 c. 37.
M108 1984 c. 46.
M109 1984 c. 60.
M110 1984 c. 39.

172 Extent.

(1) Subject to the following provisions of this section, and to sections 19, 20 and 21 above, this Act extends to England and Wales only.

(2) The following provisions extend also to Scotland—

Part I;
sections 44 to 48;
section 50;
section 57;
section 63;
section 68;
section 76(3);
section 77(10) and (11);
section 82;
sections 84 to 88;
[[F245]sections 93A to 93D;**]**
[[F245] sections 93F and 93G**]**;
section 94;
section 102, so far as relating to other provisions of this Act extending to Scotland;

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[[F246]sections 108 to 115 and 117;**]**
section 133;
section 134;
section 136;
section 137;
sections 141 **[**[F247]141A and 142**]**;
section 143;
section 145(a) and (b);
section 162;
section 170;
section 171;
this section; and
section 173.

(3) The following provisions extend also to Northern Ireland—
Part I;
Part IV;
section 50;
section 133;
[[F248]sections 133 to 133B**]**[[F249], with the exception of paragraph 5(ba) of Schedule 12 which extends to England and Wales and Scotland only**]**
section 135;
section 136;
section 137;
[[F250]section 139;
section 139A;
section 139B;**]**
section 141;
section 142;
section 143;
section 152;
section 159;
section 162;
section 166(5);
section 170;
section 171;
this section; and
section 173;

(4) The following provisions—
section 56;
sections 90 to 93;
[[F251]section 93E**]**
section 103(2);
[[F246]section 116;**]**
section 124;

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[[F252]section 141ZA;**]**
section 161;

extend to Scotland only.

(5) Section 95 above extends only to Scotland and Northern Ireland.

(6) Sections 145(c), 149 and 168 above extend to Northern Ireland only.

[[F253](7) Nothing in subsection (1) above affects the extent of section 146 or Schedule 13.**]**

(10) Section 158 above extends—

(a) to Scotland, so far as it relates to courts-martial; and

(b) to Northern Ireland, so far as it relates to courts-martial and to such a publication or broadcast or inclusion in a cable programme in Northern Ireland as is mentioned in section 4(1) of the [M111] Sexual Offences (Amendment) Act 1976 as adapted by section 5(1)(b) of that Act.

(11) The extent of any amendment of an enactment in Schedule 15 to this Act is the same as that of the enactment amended, except that the amendments of the Offences against the [M112] Person Act 1861 do not extend to Northern Ireland.

(12) The extent of any repeal of an enactment in Schedule 16 to this Act is the same as that of the enactment repealed, subject to the Notes at the end of the Schedule.

Textual Amendments

F245 Words in s. 172(2) inserted (15.2.1994 so far as it relates to E.W.S.) by 1993 c. 36, ss. 78(3), 79(13), **Sch. 5**, Pt. I para. 14(2)(a); S.I. 1994/71, art. 2, **Sch.**

F246 Words in s. 172(2)(4) repealed (E.W.S.) (8.11.1995) by 1995 c. 53, s. 12(7), **Sch.**

F247 Words in s. 172(2) substituted (1.1.1997) by 1996 c. 26, **s. 6(2)(3)**; S.I. 1996/3063, **art. 2**

F248 S. 172(3): words substituted (1.12.2008) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 61(8)** , 153 (with Sch. 27 para. 22); S.I. 2008/2993, **art. 2(1)(a)**

F249 Words in s. 172(3) inserted (1.10.2012) by The Tribunals, Courts and Enforcement Act 2007 (Consequential Amendments) Order 2012 (S.I. 2012/2404), art. 1, **Sch. 2 para. 24(2)** (with art. 5)

F250 Words in s. 172(3) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 26 para. 7**; S.I. 2012/2770, art. 2(f)

F251 Words in s. 172(4) inserted (15.2.1994 so far as it relates to Scotland) by 1993 c. 36, ss. 78(3), 79(13), **Sch. 5 Pt. I para. 14(2)(b)**; S.I. 1994/71, art. 2, **Sch.**

F252 Words in s. 172(4) inserted (S.) (1.11.2007) by Custodial Sentences and Weapons (Scotland) Act 2007 (asp 17), **ss. 61(3)**, 67; S.S.I. 2007/431, **art. 3**, Sch.

F253 S. 172(7) substituted for s. 172(7)-(9) (28.3.2009 for certain purposes and 31.10.2009 insofar as not already in force) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 114**; S.I. 2009/812, **art. 3(a)(b)** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**

Marginal Citations

M111 1976 c. 82.

M112 1861 c. 100.

173 Citation.

This Act may be cited as the Criminal Justice Act 1988.

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