

*Status: Point in time view as at 04/07/1996.*

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## SCHEDULES

### SCHEDULE 15

Section 170.

#### MINOR AND CONSEQUENTIAL AMENDMENTS

##### *Criminal Law Act 1826 (c. 64)*

- 1 Section 30 of the Criminal Law Act 1826 (which enables a court to order payment of compensation to relatives of a man killed in endeavouring to make an arrest) shall cease to have effect.

##### *Offences against the Person Act 1861 (c. 100)*

- 2 The Offences against the Person Act 1861 shall be amended as follows.
- 3 There shall be omitted from section 44 (certificates as to cases of assault or battery) the word “such”, in the first place where it occurs, and the words “under either of the last two preceding sections,”.
- 4 In section 45 (bars to further proceedings) for the words “in either of the last three preceding sections mentioned” there shall be substituted the words “is mentioned in section 44 of this Act”.

##### *Bankruptcy Act 1914 (c. 59)*

- 5 Section 28 of the Bankruptcy Act 1914 (effect of order of discharge) shall have effect as if amounts payable under confiscation orders were debts excepted under subsection (1)(a) of that section.

##### *Land Registration Act 1925 (c. 21)*

- 6 In section 49(1)(g) of the Land Registration Act 1925 (protection of certain interests by notice) for the words “or the Drug Trafficking Offences Act 1986” there shall be substituted the words “, the Drug Trafficking Offences Act 1986 or the Criminal Justice Act 1988”.
- 7 In section 112A(1) of that Act (inspection in connection with criminal proceedings), after the word “Prosecutions,” there shall be inserted the words “the Director of the Serious Fraud Office”.

This paragraph shall cease to have effect on the day appointed under section 3(2) of the Land Registration Act 1988 for the coming into force of that Act.

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*Children and Young Persons Act 1933 (c. 12)*

- 8 In Schedule 1 to the Children and Young Persons Act 1933 (offences against children and young persons with respect to which special provisions of the Act apply) after the third paragraph there shall be inserted the following paragraph—
- “Common assault, or battery.”.
- 9 References in that Act to the offences mentioned in Schedule 1 to the Act shall include offences under Part I of the <sup>M1</sup>Child Abduction Act 1984.

**Marginal Citations**

**M1** 1984 c. 37.

*Administration of Justice (Miscellaneous Provisions) Act 1933 (c. 36)*

- 10 The following paragraph shall be substituted for paragraph (iA) of the proviso to subsection (2) of section 2 of the Administration of Justice (Miscellaneous Provisions) Act 1933 (procedures for indictment of offenders)—
- “(iA) in a case to which paragraph (aa) above applies, the bill of indictment may include, either in substitution for or in addition to any count charging an offence specified in the notice of transfer, any counts founded on material that accompanied the copy of that notice which, in pursuance of regulations under section 5(9) of the Criminal Justice Act 1987, was given to the person charged, being counts which may lawfully be joined in the same indictment;”.

*Prison Act 1952 (c. 52)*

- 11 The following paragraph shall be inserted after paragraph (a) of subsection (1) of section 43 of the Prison Act 1952—
- “(aa) young offender institutions, that is to say places for the detention of offenders sentenced to detention in a young offender institution;”.
- 12 In subsection (3) of that section, for the word “or” there shall be substituted the words “and a person aged 17 years or over may be detained in such a centre”.

*Visiting Forces Act 1952 (c. 67)*

- 13 In section 5 of the Visiting Forces Act 1952 (custody of offenders against United Kingdom law)—
- (a) for each of the references in subsections (2) and (4) to section 43 of the Magistrates’ <sup>M2</sup>Courts Act 1980 there shall be substituted references to Part IV of the Police and Criminal <sup>M3</sup>Evidence Act 1984; and
- (b) the following subsection shall be substituted for subsection (3)—
- “(3) In the application of subsection (2) of this section to Scotland,—
- (a) for the first reference to Part IV of the Police and Criminal Evidence Act 1984 there shall be substituted a reference to section 32(3) of the Criminal Procedure (Scotland) Act 1975; and

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- (b) for the words “in accordance with the said Part IV, be released on bail or” there shall be substituted the words “if not liberated under section 294(2) of that Act, be”.

**Marginal Citations**

**M2** 1980 c. 43.

**M3** 1984 c. 60.

- 14 (1) In subsection (1) of section 12 of that Act, in the definition of “visiting force”, after the words “United Kingdom”, in the first place where they occur, there shall be inserted the words “(including United Kingdom territorial waters), or in any place to which subsection (1A) below applies,”.

- (2) The following subsection shall be inserted after that subsection—

“(1A) 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 Continental Shelf Act 1964 or any waters within 500 metres of such an installation.”.

- 15 —In paragraphs 1(a) and 2(a) of the Schedule, after the word “rape,” there shall be inserted the word “, torture”.

*Backing of Warrants (Republic of Ireland) Act 1965 (c. 45)*

- 16 In paragraph 4 of the Schedule to the Backing of Warrants (Republic of Ireland) Act 1965 (powers as to costs and legal aid) for the words from “section 1” to “central funds)” there shall be substituted the words “sections 16(1) and 17(1) of the <sup>M4</sup>Prosecution of Offences Act 1985”.

**Marginal Citations**

**M4** 1985 c. 23.

*Criminal Justice Act 1967 (c. 80)*

- 17 The Criminal Justice Act 1967 shall be amended as follows.

- [<sup>F1</sup>18 In section 62—

- (a) in subsection (10) (subsequent release of prisoner whose licence has been revoked) for the words “one year” there shall be substituted the words “the specified period”; and

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

“(10A) In subsection (10) above “the specified period” has the same meaning as in section 60(1) above.”.]

**Textual Amendments**

**F1** Sch. 15 para. 18 repealed (S.) by Prisons (Scotland) Act 1989 (c. 45, SIF 39:1), s. 45(2), Sch. 3

- 19 In subsection (6) of section 67 (computation of sentences) for “(1)” there shall be substituted “(1A)”.

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*Criminal Appeal Act 1968 (c. 19)*

20 The Criminal Appeal Act 1968 shall be amended as follows.

21 Section 9 shall be renumbered so as to become section 9(1); and at the end of the resulting subsection (1) there shall be added the following subsection—

“(2) A person who on conviction on indictment has also been convicted of a summary offence under section 41 of the Criminal Justice Act 1988 (power of Crown Court to deal with summary offence where person committed for either way offence) may appeal to the Court of Appeal against any sentence passed on him for the summary offence (whether on his conviction or in subsequent proceedings) under subsection (7) of that section.”

22 <sup>F2</sup>(1) .....

(2) In subsection (4) of that section, after the word “section” there shall be inserted the words “and section 11 of this Act”.

**Textual Amendments**  
**F2** Sch. 15 para. 22(1) 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](#).

23 (1) In subsection (2) of section 11 (supplementary provisions as to appeal against sentence) after “9” there shall be inserted “(1)”.

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

“(2A) Where following conviction on indictment a person has been convicted under section 41 of the Criminal Justice Act 1988 of a summary offence an appeal or application for leave to appeal against any sentence for the offence triable either way shall be treated also as an appeal or application in respect of any sentence for the summary offence and an appeal or application for leave to appeal against any sentence for the summary offence shall be treated also as an appeal or application in respect of the offence triable either way.

(2B) If the appellant or applicant was convicted on indictment of two or more offences triable either way, the references to the offence triable either way in subsection (2A) above are to be construed, in relation to any summary offence of which he was convicted under section 41 of the Criminal Justice Act 1988 following the conviction on indictment, as references to the offence triable either way specified in the notice relating to that summary offence which was given under subsection (2) of that section.”

24 The following subsection shall be substituted for subsection (4) of that section—

“(4) The power of the Court of Appeal under subsection (3) of this section to pass a sentence which the court below had power to pass for an offence shall, notwithstanding that the court below made no order under section 23(1) of the Powers of Criminal Courts Act 1973 or section 47(4) of the Criminal Law Act 1977 in respect of a suspended or partly suspended sentence previously passed on the appellant for another offence, include power to deal with him in respect of that sentence where the court below made no order in respect of it.”.

25 The following section shall be inserted after section 18—

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### **“18A Appeals in cases of contempt of court.**

- (1) A person who wishes to appeal under section 13 of the Administration of Justice Act 1960 from any order or decision of the Crown Court in the exercise of jurisdiction to punish for contempt of court shall give notice of appeal in such manner as may be directed by rules of court.
- (2) Notice of appeal shall be given within twenty-eight days from the date of the order or decision appealed against.
- (3) The time for giving notice under this section may be extended, either before or after its expiry, by the Court of Appeal.”.

26 In subsection (1) of section 19 (bail)—

- (a) in paragraph (b), the words “or paragraph (a) above” shall be inserted after “1981”; and
- (b) in paragraph (c), the words “either of those paragraphs” shall be substituted for the words “that paragraph”.

27 In section 29(2)(b) (circumstances in which there may not be a direction that time spent in custody is not to be reckoned as part of any sentence) for the words “under section 1 of this Act” there shall be substituted the words “under—

- (i) section 1 or 11(1A) of this Act; or
- (ii) section 81(1B) of the Supreme Court Act 1981”.

28 The following section shall be substituted for section 30—

### **“30 Restitution of property.**

- (1) The operation of an order for the restitution of property to a person made by the Crown Court shall, unless the Court direct to the contrary in any case in which, in their opinion, the title to the property is not in dispute, be suspended until (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of an appeal on which the order could be varied or set aside, and provision may be made by rules of court for the custody of any property in the meantime.
- (2) The Court of Appeal may by order annul or vary any order made by the court of trial for the restitution of property to any person, although the conviction is not quashed; and the order, if annulled, shall not take effect and, if varied, shall take effect as so varied.
- (3) Where the House of Lords restores a conviction, it may make any order for the restitution of property which the court of trial could have made.”

29 The following shall be substituted for the words in section 31 from the beginning of subsection (1) to “powers” in subsection (2)—

- “(1) There may be exercised by a single judge in the same manner as by the Court of Appeal and subject to the same provisions—
- (a) the powers of the Court of Appeal under this Part of this Act specified in subsection (2) below;
  - (b) the power to give directions under section 4(4) of the Sexual Offences (Amendment) Act 1976; and

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(c) the powers to make orders for the payment of costs under sections 16 to 18 of the Prosecution of Offences Act 1985 in proceedings under this Part of this Act.

(2) The powers mentioned in subsection (1) (a) above”.

30 The following subsection shall be inserted after subsection (2A) of that section—

“(2B) The power of the Court of Appeal to grant leave to appeal under section 159 of the Criminal Justice Act 1988 may be exercised by a single judge in the same manner as it may be exercised by the Court”.

31 The following shall be substituted in the first subsection of section 44 for the words from the beginning to “judge”, in the first place where it occurs—

“(1) There may be exercised by a single judge—

- (a) the powers of the Court of Appeal under this Part of this Act—
  - (i) to extend the time for making an application for leave to appeal;
  - (ii) to make an order for or in relation to bail; and
  - (iii) to give leave for a person to be present at the hearing of any proceedings preliminary or incidental to an appeal; and
- (b) their powers to make orders for the payment of costs under sections 16 and 17 of the Prosecution of Offences Act 1985 in proceedings under this Part of this Act.”.

32 The following paragraph shall be inserted after paragraph 1 of Schedule 2 (orders for retrial)—

“1A Subject to paragraph 1 above, evidence given orally at the original trial must be given orally at the retrial.”.

*Theft Act 1968 (c. 60)*

33 In subsection (5) of section 28 of the Theft Act 1968 (orders for restitution) for the words from “sections” to the end there shall be substituted the words “section 30 of the <sup>M5</sup>Criminal Appeal Act 1968 (which relates to the effect on such orders of appeals)”.

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| <p><b>Marginal Citations</b></p> <p>M5 1968 c. 19.</p> |
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**Textual Amendments**

**F3** Sch. 15 paras. 34, 54, 55, 57, 81, 83–88 repealed by Extradition Act 1989 (c. 33, SIF 48), s. 37, Sch. 2

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

- 35 In subsection (1) of section 20A of the Children and Young Persons Act 1969 (power of court to add condition as to charge and control of offender in care), at the end of the first paragraph (b) there shall be inserted the words “or  
(c) by virtue of section 15(1) of this Act in a case where—  
(i) the supervision order for which the care order was substituted was made under section 7(7) of this Act; and  
(ii) the offence in respect of which the supervision order was made was punishable with imprisonment in the case of a person over 21,”.
- 36 In section 29 of that Act (recognisance on release of arrested child or young person) the words “he or” shall cease to have effect.

*Tribunals and Inquiries Act 1971 (c. 62)*

<sup>F4</sup>37 .....

**Textual Amendments**

**F4** Sch. 15 para. 37 repealed (1.10.1992) by Tribunals and Inquiries Act 1992 (c. 53), ss. 18(2), 19(2), Sch. 4 Pt.I.

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

- 38 The Powers of Criminal Courts Act 1973 shall be amended as follows.
- 39 In subsection (1) of section 34A (power of Crown Court to order search of persons before it)—  
(a) in paragraph (c), the words “other than an order under section 35 of this Act;” shall cease to have effect; and  
(b) the following paragraph shall be inserted after that paragraph—  
“(cc) the Crown Court makes an order against a person under section 35 of this Act;”.
- 40 The following subsection shall be substituted for section 35(4)—  
“(4) In determining whether to make a compensation order against any person, and in determining the amount to be paid by any person under such an order, it shall be the duty of the court—  
(a) to have regard to his means so far as they appear or are known to the court; and

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- (b) in a case where it is proposed to make against him both a compensation order and a confiscation order under Part VI of the Criminal Justice Act 1988, also to have regard to its duty under section 72(7) of that Act (duty where the court considers that the offender's means are insufficient to satisfy both orders in full to order the payment out of sums recovered under the confiscation order of sums due under the compensation order)".

- 41 In subsection (4)(b) of section 43 (power to deprive offender of property) for the words from "or" to the end there shall be substituted the words "or, where an order is made under subsection (1)(a) above, that he did not know, and had no reason to suspect, that the property was likely to be used for the purpose mentioned in that paragraph".

F<sup>5</sup>42 .....

#### Textual Amendments

F5 Sch. 15 para. 42 repealed (5.2.1994) by 1993 c. 47, ss. 32, 33(3), Sch.4

#### *Legal Aid Act 1974 (c. 4)*

- 43 In section 28(7A) of the Legal Aid Act 1974 for the words "the person charged" there shall be substituted "a person to whom the notice relates".

#### *Juries Act 1974 (c. 23)*

- 44 In subsection (1) of section 3 of the Juries Act 1974 (electoral register as basis of jury selection) for "sixty five" there shall be substituted "seventy".
- 45 In section 6(1) of that Act (summoning of jury in exceptional circumstances) for the word "refusals" there shall be substituted the word "excusals".
- 46 In section 20(4) of that Act (offences) after the word "excusal" there shall be inserted the words "or deferral".

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

- 47 In section 1(2)(a) of the Rehabilitation of Offenders Act 1974 (failure to pay fines etc. not to prevent a person from becoming rehabilitated) the reference to a fine or other sum adjudged to be paid by or imposed on a conviction does not include a reference to an amount payable under a confiscation order.

#### *Criminal Procedure (Scotland) Act 1975 (c. 21)*

- 48 In each of sections 171 and 368 of the Criminal Procedure (Scotland) Act 1975 (which make provision as to the presumption and determination of the ages of children) in subsection (3) for the words "and (d)" there shall be substituted the words "(d) and (e)".
- 49 In section 289G of that Act (which creates the standard scale and amends certain enactments accordingly) in subsection (13) (inserted by section 66 of the<sup>M6</sup>Criminal Justice (Scotland) Act 1987)—

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- (a) after the word “is” there shall be inserted “(a)”;
- (b) for the words from “1987” there shall be substituted—
  - “(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.”.

**Marginal Citations**

**M6** 1987 c. 41.

50 In Schedule 1 to that Act (which lists offences against children under the age of 17 years to which special provisions apply) after paragraph (a) there shall be inserted the following paragraph—

“(aa) any offence under section 80(7) of the Criminal Justice (Scotland) Act 1980 (commission of a homosexual act in certain circumstances).”

51 In the said Schedule 1 after paragraph (d) there shall be inserted the following paragraph—

“(e) any offence involving the use of lewd, indecent or libidinous practice or behaviour towards a child under the age of 17 years.”

*Bail Act 1976 (c. 63)*

52 In section 2(2) the following definitions shall be inserted before the definition of “child”—

““bail hostel” and “probation hostel” have the same meanings as in the Powers of Criminal Courts Act 1973.”.

*Sexual Offences (Amendment) Act 1976 (c. 82)*

53 (1) The Sexual Offences (Amendment) Act 1976 shall have effect subject to the following amendments (which relate to Northern Ireland).

(2) In section 5(1)(b), for the word “both” there shall be substituted the word “all”.

(3) In section 7(6), for the words from “(including” to “6(4)(b))” there shall be substituted the words “and to such a publication or broadcast or inclusion in a cable programme in Northern Ireland as is mentioned in section 4(1) as adapted by section 5(1)(b)”.

54, 55. .... F6

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**Textual Amendments**

**F6** Sch. 15 paras. 34, 54, 55, 57, 81, 83–88 repealed by [Extradition Act 1989 \(c. 33, SIF 48\)](#), s. 37, [Sch. 2](#)

*Judicature (Northern Ireland) Act 1978 (c. 23)*

56 In section 49(6) of the Judicature (Northern Ireland) Act 1978 (variation of sentences) after the word “appeal)” there shall be inserted the words “and for the purposes of paragraph 1 of Schedule 3 to the Criminal Justice Act 1988 (time limit for notice of an application for leave to refer a case under section 36 of that Act.)”.

57 ..... **F7**

**Textual Amendments**

**F7** Sch. 15 paras. 34, 54, 55, 57, 81, 83–88 repealed by [Extradition Act 1989 \(c. 33, SIF 48\)](#), s. 37, [Sch. 2](#)

*Interpretation Act 1978 (c. 30)*

58 In Schedule 1 to the Interpretation Act 1978—

(a) after the definition of “Sheriff” there shall be inserted—

““The standard scale”, with reference to a fine or penalty for an offence triable only summarily,—

- (a) in relation to England and Wales, has the meaning given by section 37 of the Criminal Justice Act 1982;
- (b) in relation to Scotland, has the meaning given by section 289G of the Criminal Procedure (Scotland) Act 1975;
- (c) in relation to Northern Ireland, has the meaning given by Article 5 of the Fines and Penalties (Northern Ireland) Order 1984.”;

(b) after the definition of “Statutory declaration” there shall be inserted—

““Statutory maximum”, with reference to a fine or penalty on summary conviction for an offence,—

- (a) in relation to England and Wales, means the prescribed sum within the meaning of section 32 of the Magistrates’ Courts Act 1980;
- (b) in relation to Scotland, means the prescribed sum within the meaning of section 289B(6) of the Criminal Procedure (Scotland) Act 1975; and
- (c) in relation to Northern Ireland, means the prescribed sum within the meaning of Article 4 of the Fines and Penalties (Northern Ireland) Order 1984.”.

59 In the definition of “offence triable either way” in that Schedule, after the word “offence”, in the second place where it occurs, there shall be inserted the words “,

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other than an offence triable on indictment only by virtue of Part V of the Criminal Justice Act 1988".

*Protection of Children Act 1978 (c. 37)*

- 60 The Protection of Children Act 1978 shall be amended as follows.
- 61 (1) In subsection (1) of section 4 (entry, search and seizure) for the words from "are" to the end there shall be substituted the words "is an indecent photograph of a child".
- (2) In subsection (2) of that section the words from "taken" to the end shall cease to have effect.
- 62 (1) In subsection (2) of section 5 (forfeiture) the words from "taken" to "distributed or shown," shall cease to have effect.
- (2) In subsection (6) of that section, after "1(1)" there shall be inserted "or section 160 of the Criminal Justice Act 1988".

*Justices of the Peace Act 1979 (c. 55)*

- 63 At the end of subsection (1)(b) of section 61 of the Justices of the Peace Act 1979 (application of fines and fees) there shall be added the words "and sums paid into court in pursuance of orders under section 35 of the <sup>M7</sup>Powers of Criminal Courts Act 1973 (compensation orders)".

**Marginal Citations**

M7 1973 c. 62.

*Child Care Act 1980 (c. 5)*

- 64 In section 73(1)(b) of the Child Care Act 1980 (places of safety etc.) for the words "section 38(7)" there shall be substituted the words "section 38(6)".

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

- 65 The Magistrates' Courts Act 1980 shall be amended as follows.
- 66 In section 6(5) (display of notice of committal or discharge) for the words from "section" to the end there shall be substituted the words "section 4 of the <sup>M8</sup>Sexual Offences (Amendment) Act 1976 (anonymity of complainant in rape etc. cases)".

**Marginal Citations**

M8 1976 c. 82.

- 67 In subsection (1) of section 37 (committal to Crown Court for sentence), for the words "nor more than 16" there shall be substituted the words "but under 17".

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- [<sup>F8</sup>68 At the end of subsection (8) of section 102 (written statement before examining justices) there shall be added the words “and section 40 of the Criminal Justice Act 1988 (power to join in indictment count for common assault etc.) shall be given a corresponding construction”.]

#### Textual Amendments

- F8** Sch. 15, para. 68 repealed (4.7.1996 with effect as mentioned in the note at the end of Sch. 5 para. 10 of the repealing Act) by 1996 c. 25, ss. 47, 80, Sch. 1, Sch. 5 para.10 (with s. 78(1)); S.I. 1997/683, art. 1(2).

- 69 (1) In subsection (3A) of section 128 (remand in custody without accused being brought before court)—
- (a) after the word “custody” there shall be inserted the words “and the remand was not a remand under section 128A below for a period exceeding 8 clear days,”; and
  - (b) after the word “him” there shall be inserted the words “(otherwise than in the exercise of the power conferred by that section)”.
- (2) In subsection (6) of that section (which lists the cases in which a magistrates’ court may remand a person for a period exceeding 8 clear days) for the word “section”, in the first place where it occurs, there shall be substituted the words “sections 128A and”.

- 70 The following subsection shall be inserted after subsection (2) of section 133 (limit on length of imprisonment or youth custody where consecutive terms are imposed)

“(2A) In relation to the imposition of terms of detention in a young offender institution subsection (2) above shall have effect as if the reference to an offence triable either way were a reference to such an offence or an offence triable only on indictment.”.

#### *Criminal Appeal (Northern Ireland) Act 1980 (c. 47)*

- 71 The Criminal Appeal (Northern Ireland) Act 1980 shall be amended as follows.
- 72 The following subsection shall be substituted for subsection (4) of section 10 (supplementary provisions as to appeals against sentence)—

“(4) The power of the Court under section 4(2) of this Act or subsection (3) above to pass a sentence which the Crown Court has power to pass for an offence shall, notwithstanding that the Crown Court made no order under section 19(1) of the Treatment of Offenders Act (Northern Ireland) 1968 in respect of a suspended sentence or order for detention previously passed or made on or in relation to the appellant for another offence, include power to deal with the appellant in respect of that sentence or order for detention where the Crown Court made no order in respect of it.”.

- 73 The following section shall be inserted after section 16—

#### “16A Appeals in cases of contempt of court.

- (1) Subject to subsection (2) below, a person who wishes to appeal under section 44 of the 1978 c. 23. Judicature (Northern Ireland) Act 1978 from any order or decision of the Crown Court in the exercise of jurisdiction to punish

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for contempt of court shall give notice of appeal in the prescribed manner within twenty-eight days from the date of the order or decision appealed against.

(2) The time for giving notice under this section may be extended either before or after its expiry by the Court.”.

74 The following section shall be substituted for section 17—

**“17 Bail.**

(1) The Court of Appeal may, if it thinks fit—

- (a) grant an appellant bail pending the determination of his appeal; or
- (b) vary the conditions of bail granted to an appellant in the exercise of the power conferred by paragraph (a) above; or
- (c) revoke bail granted to an appellant under paragraph (a) above.

(2) The powers conferred by subsection (1) above may be exercised—

- (a) on the application of the appellant; or
- (b) if it appears to the Master that any of them ought to be exercised, on a reference to the court by him.”.

75 The following section shall be substituted for section 18—

**“18 Groundless appeals or applications for leave to appeal.**

If it appears to the Master that a notice of appeal or of application for leave to appeal under this Part of this Act does not show any substantial ground of appeal, he may refer the appeal or application for leave to the Court of Appeal for summary determination; and the Court may then, if it considers that the appeal or application for leave is frivolous or vexatious, and can be determined without adjourning the proceedings for a full hearing, dismiss the appeal or application for leave summarily without calling on any one to attend the hearing or to appear for the Crown thereon.”.

76 (1) In section 44(1) (constitution of Court of Appeal on appeals or references), after the word “Act” there shall be inserted the words “or section 36 of the Criminal Justice Act 1988”.

(2) In section 44(4)(b) (judge of the Court of Appeal not to hear or determine applications relating to reference under section 14 or 15 where he was the trial judge), after the word “Act” there shall be inserted the words “or section 36 of the Criminal Justice Act 1988”.

77 The following paragraph shall be substituted for section 45(2)(d)—

“(d) to exercise the powers conferred by section 17 of this Act;”.

78 The following subsection shall be inserted after section 45(3)—

“(3A) The power of the Court of Appeal to grant leave to appeal under section 159 of the Criminal Justice Act 1988 may be exercised by a single judge in the same manner as it may be exercised by the Court.”.

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*Supreme Court Act 1981 (c. 54)*

79 In the proviso to section 47(5) of the Supreme Court Act 1981 (variation of sentences) after the word “appeal)” there shall be inserted the words “and for the purposes of paragraph 1 of Schedule 3 to the Criminal Justice Act 1988 (time limit for notice of an application for leave to refer a case under section 36 of that Act)”.

80 The following paragraph shall be inserted after subsection (4)(a) of section 55 of that Act (constitution of criminal division of Court of Appeal)—  
“(aa) reviewing sentencing under Part IV of the Criminal Justice Act 1988;”.

81 ..... F9

**Textual Amendments**  
F9 Sch. 15 paras. 34, 54, 55, 57, 81, 83–88 repealed by Extradition Act 1989 (c. 33, SIF 48), s. 37, Sch. 2

*Civil Jurisdiction and Judgments Act 1982 (c. 27)*

82 In section 18(4A) of the Civil Jurisdiction and Judgments Act 1982 (exception from provisions regulating the enforcement of UK judgments in other parts of the United Kingdom in respect of the enforcement in Scotland of High Court orders made under the <sup>M9</sup>Drug Trafficking Offences Act 1986), after “1986” there shall be inserted the words “or Part VI of the Criminal Justice Act 1988 (confiscation of the proceeds of offences)”.

**Marginal Citations**  
M9 1986 c. 32.

83, 84. .... F10

**Textual Amendments**  
F10 Sch. 15 paras. 34, 54, 55, 57, 81, 83–88 repealed by Extradition Act 1989 (c. 33, SIF 48), s. 37, Sch. 2

85—88. .... F11

**Textual Amendments**  
F11 Sch. 15 paras. 34, 54, 55, 57, 81, 83–88 repealed by Extradition Act 1989 (c. 33, SIF 48), s. 37, Sch. 2

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*Civic Government (Scotland) Act 1982 (c. 45)*

- 89 In subsection (7) of section 52 of the Civic Government (Scotland) Act 1982 after the word “thereof” there shall be inserted the words “and in Part III of the Social Work (Scotland) Act 1968 (children in need of compulsory measures of care)”.

*Criminal Justice Act 1982 (c. 48)*

- 90 At the end of section 15(11) of the Criminal Justice Act 1982 (offence of failing to comply with supervision requirements) there shall be added (but not as part of paragraph (b)) the words “but not liable to be dealt with in any other way”.

- 91 At the end of part II of Schedule 1 to that Act there shall be added—

“CRIMINAL JUSTICE ACT 1988 (c. 33)

30 Section 134 (torture).”

- 92—94. . . . . F12

**Textual Amendments**

**F12** Sch. 15 paras. 92–94 repealed by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), ss. 3, 5, Sch. 1, Sch. 4 paras. 1, 2

- 95, 96. . . . . F13

**Textual Amendments**

**F13** Sch. 1, Sch. 15 paras. 95, 96 repealed by Extradition Act 1989 (c. 33, SIF 48), s. 37, Sch. 2

*Police and Criminal Evidence Act 1984 (c. 60)*

- 97 The Police and Criminal Evidence Act 1984 shall be amended as follows.

- 98 At the end of subsection (3)(b) of section 24 (arrest) there shall be added the words “other than an offence under section 12(1) of the Theft Act 1968”.

- 99 In section 55(1) (intimate searches) for the words “such a search” there shall be substituted the words “an intimate search”.

- 100 In section 65, in the definition of “intimate samples”, for the word “orifice” there shall be substituted the word “orifices”.

- 101 In section 120 (extent) the second of the two subsections numbered as subsection (9) shall be re-numbered as subsection (9A).

- 102 At the end of Schedule 5 to that Act there shall be added—

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### **Criminal Justice Act 1988 (c. 33)**

“9 Section 134 (Torture).”

#### *Prosecution of Offences Act 1985 (c. 23)*

103 The following paragraph shall be inserted after subsection (4)(a) of section 16 of the Prosecution of Offences Act 1985 (defence costs)—

“(aa) directs under section 8(1B) of the Criminal Appeal Act 1968 the entry of a judgment and verdict of acquittal;”.

104 In subsection (11) of section 22 of that Act (power of Secretary of State to set time limits in relation to preliminary steps of criminal proceedings), at the end of paragraph (b) of the definition of “custody of the Crown Court” there shall be added “or

(c) section 5(3)(a) of the Criminal Justice Act 1987 (custody after transfer order in fraud case);”

#### *Local Government Act 1985 (c. 51)*

F14 105 .....

#### **Textual Amendments**

F14 Sch. 15 para. 105 repealed (5.2.1994) by 1993 c. 47, ss. 32, 33(3), Sch.4

#### *Bankruptcy (Scotland) Act 1985 (c. 66)*

106 The Bankruptcy (Scotland) Act 1985 shall be amended as follows.

107 In section 5(4) (interpretation) after “1987” there shall be added the words “, by section 71(9)(a) of the Criminal Justice Act 1988”.

108 In section 7(1) (constitution of apparent insolvency)—

(a) after the words “Drug Trafficking Offences Act 1986” there shall be inserted the words “or by section 78(2) of the Criminal Justice Act 1988”;

(b) after the words “(Scotland) Act 1987” there shall be inserted the words “, by section 71(9)(a) of the said Act of 1988”; and

(c) after the words “Act of 1987” there shall be inserted the words “, by section 77(1) of the said Act of 1988”.

109 Section 55(2) (discharge of debtor not to release him from liabilities in respect of fines etc.) shall have effect as if the reference to a fine included a reference to a confiscation order.

#### *Insolvency Act 1986 (c. 45)*

110 Section 281(4) of the Insolvency Act 1986 (discharge of debtor not to release him from liabilities in respect of fines etc.) shall have effect as if the reference to a fine included a reference to a confiscation order.

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*Criminal Justice Act 1987 (c. 38)*

*Criminal Justice (Scotland) Act 1987 (c. 41)*

111 The following paragraph shall be substituted for subsection (6)(j) of section 3 of the Criminal Justice Act 1987 and subsection (5)(k) of section 54 of the Criminal Justice (Scotland) Act 1987 (each of which sections relates to disclosure of information)—

“(0) a person appointed by the Bank of England under section 41 of the Banking Act 1987 to carry out an investigation and make a report;”.

*Criminal Justice Act 1987 (c. 38)*

112 The Criminal Justice Act 1987 shall be amended as follows.

113 (1) In subsection (2) of section 2 (Director’s investigation powers), for the words from “attend” to the end there shall be substituted the words “answer questions or otherwise furnish information with respect to any matter relevant to the investigation at a specified place and either at a specified time or forthwith”.

(2) In subsection (3) of that section—

(a) for the words “a specified time and place” there shall be substituted the words “such place as may be specified in the notice and either forthwith or at such time as may be so specified;” and

(b) for the word “class” there shall be substituted the word “description”.

[<sup>F15</sup>114(1) In subsection (1) of section 11, for the words from “a report” to “containing” there shall be inserted the words “a report of proceedings to which this section applies which contains”.

(2) The following subsection shall be inserted after that subsection—

“(1A) This section applies—

(a) to an application under section 6(1) above; and

(b) to a preparatory hearing and any appeal or application for leave to appeal relating to such a hearing.”

(3) The following subsection shall be substituted for subsection (2)—

“(2) An order that subsection (1) above shall not apply to reports—

(a) of an application under section 6(1) above;

(b) of a preparatory hearing;

(c) of an appeal to the Court of Appeal under section 9(11) above; or

(d) of an application for leave to appeal under that subsection,

may be made—

(i) in a case falling within paragraph (a), (b) or (d) above, by the judge dealing with the matter; and

(ii) in a case falling within paragraph (c) above, by the Court of Appeal.”.

(4) The following subsection shall be inserted after subsection (9)—

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“(9A) In subsection (9) above “engaged” means engaged under a contract of service or a contract for services.”

(5) In subsection (15) the following definition shall be added after the definition of “publish”—

““relevant time” means a time when events giving rise to the charges to which the proceedings relate occurred.”.]

#### Textual Amendments

**F15** Sch. 15, para. 114 repealed (E.W.N.I)(4.7.1996 with effect as mentioned in the note at the end of Sch. 5 para. 12 of the repealing Act) by 1996 c. 25, ss. 72, 80, Sch. 3, Sch. 5 para.12 (with s. 78(1)); S.I. 1997/1019, art.2.

115 In section 13(1), for the words “operates only so as to make for Northern Ireland provision corresponding to” there shall be substituted the words “is made only for purposes corresponding to those of”.

116 In paragraph 6(1) of Schedule 1, for “(4)” there shall be substituted “(5)”.

#### *Criminal Justice (Scotland) Act 1987 (c. 41)*

117 (1) Section 52 of the Criminal Justice (Scotland) Act 1987 (Powers of investigation in relation to serious or complex fraud) shall be amended as follows.

(2) In subsection (1) for the words from “attend” to the end there shall be substituted the words “answer questions or otherwise furnish information with respect to any matter relevant to the investigation at a specified place and either at a specified time or forthwith.”:

(3) In subsection (2)—

(a) for the words “a specified time and place” there shall be substituted the words “such place as may be specified in the notice and either forthwith or at such time as may be so specified.”; and

(b) for the word “class” there shall be substituted the word “description”.

(4) In subsection (5) after the word “him” there shall be inserted “(a)” and at the end of the subsection there shall be added the words “; or

(b) in a prosecution for some other offence where in giving evidence he makes a statement inconsistent with it.”.

#### *The Public Order (Northern Ireland) Order 1987 S.I. 1987 No. 463 (N.I.7)*

118 (1) In Article 24(2) of the Public Order (Northern Ireland) Order 1987, for the words “or Part IV” there shall be substituted the words “Part IV or section 139 of the Criminal Justice Act 1988”.

(2) In Article 26(1) of that Order, for the words “or 22(1)” there shall be substituted the words “22(1) or section 139 of the Criminal Justice Act 1988”.

(3) In Article 26(2) (c) of that Order, after the words “Article 22(1)” there shall be inserted the words “or section 139 of the Criminal Justice Act 1988”, and after the word “weapon” there shall be inserted the words “or article, as the case may be,”.

**Status:**

Point in time view as at 04/07/1996.

**Changes to legislation:**

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