

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

SCHEDULES

SCHEDULE 1

. . . F1

Textual Amendments

F1 Sch. 1, Sch. 15 paras. 95, 96 repealed by Extradition Act 1989 (c. 33, SIF 48), s. 37, Sch. 2

SCHEDULE 2

Section 28.

DOCUMENTARY EVIDENCE—SUPPLEMENTARY

- 1 Where a statement is admitted as evidence in criminal proceedings by virtue of Part II of this Act—
 - (a) any evidence which, if the person making the statement had been called as a witness, would have been admissible as relevant to his credibility as a witness shall be admissible for that purpose in those proceedings;
 - (b) evidence may, with the leave of the court, be given of any matter which, if that person had been called as a witness, could have been put to him in cross-examination as relevant to his credibility as a witness but of which evidence could not have been adduced by the cross-examining party; and
 - (c) evidence tending to prove that that person, whether before or after making the statement, made (whether orally or not) some other statement which is inconsistent with it shall be admissible for the purpose of showing that he has contradicted himself.
- 2 A statement which is given in evidence by virtue of Part II of this Act shall not be capable of corroborating evidence given by the person making it.
- 3 In estimating the weight, if any, to be attached to such a statement regard shall be had to all the circumstances from which any inference can reasonably be drawn as to its accuracy or otherwise.
- 4 Without prejudice to the generality of any enactment conferring power to make them—
 - (a) Crown Court Rules;
 - (b) Criminal Appeal Rules; and

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

(c) rules under section 144 of the ^{M1}Magistrates' Courts Act 1980, may make such provision as appears to the authority making any of them to be necessary or expedient for the purposes of Part II of this Act.

Marginal Citations

M1 1980 c. 43.

5 Expressions used in Part II of this Act and in Part I of the ^{M2}Civil Evidence Act 1968 are to be construed in Part II of this Act in accordance with section 10 of that Act.

Marginal Citations

M2 1968 c. 64.

6 In Part II of this Act “confession has the meaning assigned to it by section 82 of the ^{M3}Police and Criminal Evidence Act 1984.

Marginal Citations

M3 1984 c. 60.

SCHEDULE 3

Section 36.

REVIEWS OF SENTENCING—SUPPLEMENTARY

1 Notice of an application for leave to refer a case to the Court of Appeal under section 36 above shall be given within 28 days from the day on which the sentence, or the last of the sentences, in the case was passed.

Modifications etc. (not altering text)

C1 Sch. 3 para. 1 modified (25.8.2000) by 2000 c. 6, ss. 155(6)(b)(8), 168(1), Sch. 10 paras. 11, 19
 Sch. 3 para. 1 modified (E.W.) (24.3.2003) by 2002 c. 29, ss. 15(5)(b), 458(1)
 Sch. 3 para. 1 modified (N.I.) (24.3.2003) by 2002 c. 29, ss. 165(5)(b), 458(1)

2 If the registrar of criminal appeals is given notice of a reference or application to the Court of Appeal under section 36 above, he shall—

- (a) take all necessary steps for obtaining a hearing of the reference or application; and
- (b) obtain and lay before the Court in proper form all documents, exhibits and other things which appear necessary for the proper determination of the reference or application.

3 Rules of court may enable a person to whose sentencing such a reference or application relates to obtain from the registrar any documents or things, including

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

copies or reproductions of documents, required for the reference or application and may authorise the registrar to make charges for them in accordance with scales and rates fixed from time to time by the Treasury.

- 4 An application to the Court of Appeal for leave to refer a case to the House of Lords under section 36(5) above shall be made within the period of 14 days beginning with the date on which the Court of Appeal conclude their review of the case; and an application to the House of Lords for leave shall be made within the period of 14 days beginning with the date on which the Court of Appeal conclude their review or refuse leave to refer the case to the House of Lords.
- 5 The time during which a person whose case has been referred for review under section 36 above is in custody pending its review and pending any reference to the House of Lords under subsection (5) of that section shall be reckoned as part of the term of any sentence to which he is for the time being subject.
- 6 Except as provided by paragraphs 7 and 8 below, a person whose sentencing is the subject of a reference to the Court of Appeal under section 36 above shall be entitled to be present, if he wishes it, on the hearing of the reference, although he may be in custody.
- 7 A person in custody shall not be entitled to be present—
 - (a) on an application by the Attorney General for leave to refer a case; or
 - (b) on any proceedings preliminary or incidental to a reference,unless the Court of Appeal give him leave to be present.
- 8 The power of the Court of Appeal to pass sentence on a person may be exercised although he is not present.
- 9 A person whose sentencing is the subject of a reference to the House of Lords under section 36(5) above and who is detained pending the hearing of that reference shall not be entitled to be present on the hearing of the reference or of any proceeding preliminary or incidental thereto except where an order of the House authorises him to be present, or where the House or the Court of Appeal, as the case may be, give him leave to be present.
- 10 The term of any sentence passed by the Court of Appeal or House of Lords under section 36 above shall, unless they otherwise direct, begin to run from the time when it would have begun to run if passed in the proceeding in relation to which the reference was made.
- 11 Where on a reference to the Court of Appeal under section 36 above or a reference to the House of Lords under subsection (5) of that section the person whose sentencing is the subject of the reference appears by counsel for the purpose of presenting any argument to the Court or the House, he shall be entitled to his costs, that is to say to the payment out of central funds of such funds as are reasonably sufficient to compensate him for expenses properly incurred by him for the purpose of being represented on the reference; and any amount recoverable under this paragraph shall be ascertained,

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

as soon as practicable, by the registrar of criminal appeals or, as the case may be, such officer as may be prescribed by order of the House of Lords.

- 12 In the application of this Schedule to Northern Ireland—
- (a) any reference to the Attorney General shall be construed as a reference to the Attorney General for Northern Ireland;
 - (b) any reference (except in paragraph 11) to the registrar of criminal appeals shall be construed as a reference to the Master (Queen’s Bench and Appeals);
 - (c) the reference in paragraph 11 to central funds shall be construed as a reference to money provided by Parliament;
 - (d) the reference in paragraph 11 to the registrar of criminal appeals shall be construed as a reference to the Master (Taxing Office).

SCHEDULE 4

Section 71.

CONFISCATION ORDERS

PART I

OFFENCES IN RESPECT OF WHICH MAGISTRATES’ COURTS MAY MAKE CONFISCATION ORDERS

Modifications etc. (not altering text)

C2 Sch. 4 Pt. I amended by S.I. 1990/1570, art. 2

<i>[^{F2}Enactment]</i>	<i>Description of offence</i>
LONDON GOVERNMENT ACT 1963 (c. 33) Schedule 12—paragraph 10(1) and (2), in relation only to an offence to which sub-paragraph (3A) of paragraph 10 applies.	Offences relating to the use of places in Greater London for public dancing or music or other public entertainment of the like kind.
PRIVATE PLACES OF ENTERTAINMENT (LICENSING) ACT 1967 (c.19) Section 4(1)	Offences relating to the use of places for dancing, music or other entertainment of the like kind which is not a public entertainment but is provided for private gain.
Section 4(2), in relation only to an offence referred to in sub-section (3A)(b) of section 4.	
LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 (c. 30)	

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

Schedule 1—paragraph 12(1) and (2), in relation only to an offence to which subparagraph (2B) of paragraph 12 applies.	Offences relating to the use of places outside Greater London for public dancing or music or other public entertainment of the like kind (not being in the open air) or for public musical entertainment held wholly or mainly in the open air on private land.
Schedule 3—paragraphs 20 and 21.	Offences relating to sex establishments.
VIDEO RECORDINGS ACT 1984 (c. 39)	
Section 9	Supplying video recording of unclassified work.
Section 10	Possession of video recording of unclassified work for the purposes of supply.
CINEMAS ACT 1985 (c. 13)	
Section 10(1)(a)	Use of unlicensed premises for exhibition which requires a licence.

Textual Amendments

F2 [Sch. 4 Pt. I](#): Table substituted by [S.I. 1990/1570](#), [art. 3](#)

PART II

ORDERS VARYING LIST OF OFFENCES

- 1 The Secretary of State may by order made by statutory instrument amend Part I of this Schedule by removing any offence from or adding any offence to the offences listed in it.
- 2 A statutory instrument containing an order under paragraph 1 above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

SCHEDULE 5

Section 103.

DRUG TRAFFICKING AMENDMENTS

PART I

AMENDMENTS OF DRUG TRAFFICKING OFFENCES ACT 1986

- 1 The ^{M4}Drug Trafficking Offences Act 1986 shall be amended as follows.

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

Marginal Citations

M4 1986 c. 32.

- 2 In section 7 (cases in which restraint orders and charging orders may be made)—
- (a) in subsection (2)(a) for the words from “an” to “committed” there shall be substituted the words “whether by the laying of an information or otherwise, a person is to be charged with”; and
 - (b) in subsection (4), for the words “the proposed proceedings are not instituted” there shall be substituted the words “proceedings in respect of the offence are not instituted (whether by the laying of an information or otherwise)”.
- 3 (1) The following subsection shall be inserted after subsection (5) of section 8 (restraint orders)—
- “(5A) An application for the discharge or variation of a restraint order may be made by any person affected by it.”.
- (2) The following subsections shall be added at the end of that section—
- “(10) The Land Charges Act 1972 and the Land Registration Act 1925 shall apply—
 - (a) in relation to restraint orders, as they apply in relation to orders affecting land made by the court for the purpose of enforcing judgments or recognisances; and
 - (b) in relation to applications for restraint orders, as they apply in relation to other pending land actions.
 - (11) The prosecutor shall be treated for the purposes of section 57 of the Land Registration Act 1925 (inhibitions) as a person interested in relation to any registered land to which a restraint order or an application for such an order relates.”.
- 4 (1) The following paragraphs shall be substituted for subsection (3)(a) and (b) of section 9 (charging orders in respect of land, securities etc.)—
- “(a) may be made only on an application by the prosecutor;
 - (b) may be made on an ex parte application to a judge in chambers;
 - (c) shall provide for notice to be given to persons affected by the order; and
 - (d) may be made subject to such conditions as the court thinks fit and, without prejudice to the generality of this paragraph, such conditions as it thinks fit as to the time when the charge is to become effective”.
- (2) The following subsection shall be added at the end of that section—
- “(8) An application for the discharge or variation of a charging order may be made by any person affected by it.”.

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

- 5 Subsection (1) of section 10 of that Act (charging orders: supplementary provisions) shall cease to have effect.
- 6 (1) Section 12 (application of proceeds of realisation and other sums) shall be amended as follows.
- (2) In subsection (1), after the word “shall” there shall be inserted the words “first be applied in payment of such expenses incurred by a person acting as an insolvency practitioner as are payable under section 17A(2) of this Act and then shall,”.
- (3) In subsection (3), for the words from “sum”, in the second place where it occurs, to “balance” there shall be substituted the words “justices’ clerk shall apply the money received for the purposes specified in this section and in the order so specified.
- (4) The justices’ clerk shall first pay any expenses incurred by a person acting as an insolvency practitioner and payable under section 17A(2) of this Act but not already paid under subsection (1) above.
- (5) If the money was paid to the justices’ clerk by a receiver appointed under section 8 or 11 of this Act or in pursuance of a charging order the justices’ clerk shall next pay the receiver’s remuneration and expenses.
- (6) After making—
- (a) any payment required by subsection (4) above; and
- (b) in a case to which subsection (5) above applies, any payment required by that subsection,
- the justices’ clerk shall reimburse any amount paid under section 18(2) of this Act.
- (7) Any balance in the hands of the justices’ clerk after he has made all payments required by the foregoing provisions of this section”.
- 7 In section 15 (bankruptcy of defendant etc.)—
- (a) subsection (5)(b) and (c) shall cease to have effect; and
- (b) the following paragraph shall be substituted for subsection (7)(d)—
- “(d) subsection (2)(b) is omitted.”.
- 8 (1) Section 16 (sequestration in Scotland of defendant etc.) shall be amended as follows.
- (2) At the end of subsection (2) there shall be inserted the words “and it shall not be competent to submit a claim in relation to the confiscation order to the permanent trustee in accordance with section 48 of that Act”.
- (3) The following subsection shall be substituted for subsection (5)—
- “(5) Where, during the period before sequestration is awarded, an interim trustee stands appointed under the proviso to section 13(1) of that Act and any property in the debtor’s estate is subject to a restraint order, the powers conferred on the trustee by virtue of that Act do not apply to property for the time being subject to the restraint order.”.

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

9 In subsection (1) of section 17 (winding up of company holding realisable property) the words from “but” to the end shall cease to have effect.

10 The following section shall be inserted after that section—

“17A Insolvency officers dealing with property subject to restraint order.

(1) Without prejudice to the generality of any enactment contained in the Insolvency Act 1986 or in any other Act, where—

(a) any person acting as an insolvency practitioner seizes or disposes of any property in relation to which his functions are not exercisable because it is for the time being subject to a restraint order; and

(b) at the time of the seizure or disposal he believes, and has reasonable grounds for believing, that he is entitled (whether in pursuance of an order of the court or otherwise) to seize or dispose of that property,

he shall not be liable to any person in respect of any loss or damage resulting from the seizure or disposal except in so far as the loss or damage is caused by his negligence in so acting; and a person so acting shall have a lien on the property, or the proceeds of its sale, for such of his expenses as were incurred in connection with the liquidation, bankruptcy or other proceedings in relation to which the seizure or disposal purported to take place and for so much of his remuneration as may reasonably be assigned for his acting in connection with those proceedings.

(2) Any person who, acting as an insolvency practitioner, incurs expenses—

(a) in respect of such property as is mentioned in paragraph (a) of subsection (1) above and in so doing does not know and has no reasonable grounds to believe that the property is for the time being subject to a restraint order; or

(b) other than in respect of such property as is so mentioned, being expenses which, but for the effect of a restraint order, might have been met by taking possession of and realising the property,

shall be entitled (whether or not he has seized or disposed of that property so as to have a lien under that subsection) to payment of those expenses under section 12(1) or (3)(za) of this Act.

(3) In this Act, the expression “acting as an insolvency practitioner” shall be construed in accordance with section 388 (interpretation) of the said Act of 1986 except that for the purposes of such construction the reference in subsection (2)(a) of that section to a permanent or interim trustee in sequestration shall be taken to include a reference to a trustee in sequestration and subsection (5) of that section (which provides that nothing in the section is to apply to anything done by the official receiver) shall be disregarded; and the expression shall also comprehend the official receiver acting as receiver or manager of the property.”.

11 In subsection (2) of section 18 (receivers: supplementary provisions) for “(3)(a)” there shall be substituted “(3B)”.

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

- 12 In section 19 (compensation)—
- (a) in paragraph (b)(i) of subsection (1), the words “(and no conviction for any drug trafficking offence is substituted)” shall cease to have effect;
 - (b) at the end of that subsection there shall be added the words “if, having regard to all the circumstances, it considers it appropriate to make such an order”;
 - (c) in subsection (2)—
 - (i) the words “and that, but for that default, the proceedings would not have been instituted or continued,”; and
 - (ii) in paragraph (b), the word “substantial”, shall cease to have effect; and
 - (d) the following subsection shall be inserted after that subsection—

“(2A) The Court shall not order compensation to be paid in any case where it appears to the Court that the proceedings would have been instituted or continued if the serious default had not occurred.”.

F3

13

Textual Amendments

F3 Sch. 5 para. 13 repealed by [Police Officers \(Central Service\) Act 1989 \(c. 11, SIF 95\)](#), s. 3, [Sch.](#)

- 14 (1) The following paragraph shall be substituted for subsection (1)(d) of section 25 (enforcement of Northern Ireland orders)—
- “(d) the references to the laying of an information in section 7(2) and (4) of this Act included references to making a complaint under Article 20 of the Magistrates’ Courts (Northern Ireland) Order 1981.”.
- (2) In subsection (3) of that section the words “varying or revoking a previous Order in Council” shall cease to have effect.

15 The following sections shall be substituted for section 26—

“26 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 Act shall apply to external confiscation orders and to proceedings which have been or are to be instituted in the designated country and may result in an external confiscation order being made there;
 - (b) make—

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

- (i) such provision in connection with the taking of action in the designated country with a view to satisfying a confiscation order; and
 - (ii) such provision as to evidence or proof of any matter for the purposes of this section and section 26A 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 Act—
- “external confiscation order” means an order made by a court in a designated country for the purpose of recovering payments or other rewards received in connection with drug trafficking or their value; 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 Act in such a way as to confer power on a person to exercise a discretion.
- (5) An Order in Council under this section shall not be made unless a draft of the Order has been laid before Parliament and approved by resolution of each House of Parliament.

26A 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;
 - (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.”

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

16 The following subsections shall be substituted for subsections (12) and (13) of section 38 (general interpretation)—

“(12) Proceedings for an offence are concluded—

(a) when (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of a confiscation order being made in the proceedings;

(b) on the satisfaction of a confiscation order made in the proceedings (whether by payment of the amount due under the order or by the defendant serving imprisonment in default).

(13) An order is subject to appeal 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.”

17 In section 40(4) (effect of Act in Scotland), in paragraph (b), for “17” there shall be substituted “17A”.

PART II

AMENDMENTS OF CRIMINAL JUSTICE (SCOTLAND) ACT 1987

18 The ^{M5}Criminal Justice (Scotland) Act 1987 shall be amended as follows.

Marginal Citations

M5 1987 c. 41.

19 In section 1 (confiscation orders) in paragraph (b) of subsection (2) after the words “restriction on importation” there shall be inserted the words “and exportation”.

20 In subsection (6)(a) of section 11 (which applies the provisions of that section to restraint orders under the ^{M6}Drug Trafficking Offences Act 1986 registered in Scotland) after the word “information” there shall be inserted the words “in respect of the charge”.

Marginal Citations

M6 1986 c. 22.

21 In subsection (3) of section 16 (application of proceeds of realisation and other sums) for the words from “sum”, in the second place where it occurs, to “applied”, in the third place where it occurs, there shall be substituted the words “sheriff clerk shall apply the money received—

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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) first, in payment of any expenses to payment of which a person is entitled under section 37(2) of this Act but which were not paid to him under subsection (1) above;
 - (b) next, in payment of the administrator's remuneration and expenses;
 - (c) next,".
- 22 In section 34(6)(d) (bankruptcy in England and Wales of person holding realisable property) for the words "subsections (2)(b) and (4) are" there shall be substituted the words "subsection (2)(b) is".
- 23 In subsection (5) of section 38 (order to permit entry to premises) after the word "constable" there shall be inserted the words "or person commissioned as aforesaid".

SCHEDULE 6

Section 108.

THE CRIMINAL INJURIES COMPENSATION BOARD

Status

- 1 The Board shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and the Board's property shall not be regarded as property of, or held on behalf of, the Crown.

Membership

- 2 (1) The Board shall consist of such number of members as the Secretary of State thinks fit to appoint, and he may appoint one of them as chairman.
- (2) A person may only be appointed to be a member of the Board [^{F4}if—]
- ^{F4}(a) he has a 7 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;
 - (b) he is an advocate or solicitor in Scotland; or
 - (c) he holds or has held judicial office in England and Wales;
 - (d) he holds or has held judicial office in Scotland.]
- (3) Subject to the following provisions of this Schedule, a person shall hold and vacate office as a member or chairman of the Board in accordance with the terms of his appointment.
- (4) A person shall not hold office as a member of the Board for more than five years under any one appointment, but a person who ceases to be a member shall be eligible for reappointment.
- (5) A person shall vacate office as a member of the Board—
- (a) if he ceases to be qualified for appointment to that office; or
 - (b) on attaining the age of 72;

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

unless the Secretary of State considers that it is in the interests of the efficient operation of the compensation scheme that he should continue to hold office.

- (6) A person may at any time resign his office as a member or as chairman of the Board by giving the Secretary of State notice in writing to that effect.
- (7) Subject to sub-paragraph (8) below, the Secretary of State may at any time remove a person from office as a member of the Board if satisfied that—
- (a) he has been convicted of a criminal offence;
 - (b) he has become bankrupt or has had his estate sequestrated or has made an arrangement with, or granted a trust deed for, his creditors;
 - (c) he is incapacitated by physical or mental illness; or
 - (d) he is otherwise unable or unfit to perform his duties.
- (8) The power conferred by sub-paragraph (7) above shall only be exercisable—
- [^{F5}(a) in the case of a member who qualifies for appointment under sub-paragraph (2)(a) or (c), with the consent of the Lord Chancellor; and
 - (b) in the case of a member who qualifies for appointment under sub-paragraph (2)(b) or (d), with the consent of the Lord President of the Court of Session.]

Textual Amendments

- F4** Sch. 6 para. 2(2)(a)–(d) and words “if—” substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), s. 71(2), [Sch. 10 para. 7\(1\)](#)
- F5** Sch. 6 para. 2(8)(a)(b) substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), s. 71(2), [Sch. 10 para. 71\(2\)](#)

- 3 (1) The Board shall pay to its members such remuneration and allowances as the Secretary of State may, with the approval of the Treasury, determine.
- (2) In the case of any such member or former member of the Board as the Secretary of State may, with the approval of the Treasury, determine, the Board shall pay, or make arrangements for the payment of, such pension, allowance or gratuity to, or in respect of, him as may be so determined.
- [^{F6}(3) Sub-paragraph (2) above does not apply to a chairman or former chairman of the Board who is a person to whom Part I of the Judicial Pensions and Retirement Act 1993 applies, except to the extent provided by or under that Act.]

Textual Amendments

- F6** Sch. 6 para. 3(3) inserted (*prosp.*) by [1993 c. 8, s. 31\(2\)\(3\)](#), [Sch. 8 para.20](#)

- 4 Where a person ceases to hold office as a member of or as chairman of the Board otherwise than on the expiry of his term of office and it appears to the Secretary of State that there are special circumstances which make it right for that person to receive compensation, the Secretary of State may, with the consent of the Treasury, direct the Board to make to that person a payment of such amount as, with the consent of the Treasury, the Secretary of State may determine.

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

Staff

- 5 The Board may, after consultation with the Secretary of State, appoint such officers and servants as the Board think fit, subject to the approval of the Treasury as to numbers and as to remuneration and other terms and conditions of service.
- 6 Employment by the Board shall be included among the kinds of employment to which a superannuation scheme under section 1 of the ^{M7}Superannuation Act 1972 can apply, and accordingly in Schedule 1 to that Act, at the beginning of the list of "Other Bodies" there shall be inserted—
- "Criminal Injuries Compensation Board".

Marginal Citations

M7 1972 c. 11.

Expenses

- 7 Any expenses incurred by the Board in discharging their functions shall be defrayed by the Secretary of State.

Proceedings

- 8 The validity of any proceedings of the Board shall not be affected by any defect in the appointment of a member.

Accounts and information etc.

- 9 (1) The Board shall—
- (a) keep proper accounts and proper records in relation to the accounts; and
 - (b) prepare in respect of each financial year a statement of accounts in such form as the Secretary of State may, with the approval of the Treasury, direct.
- (2) The statement of accounts prepared by the Board for each financial year shall be submitted to the Secretary of State at such time as he shall, with the approval of the Treasury, direct.
- (3) The Secretary of State shall, on or before 30th November in any year, send to the Comptroller and Auditor General the statement of accounts prepared by the Board under sub-paragraph (1) above for the financial year last ended.
- (4) The Comptroller and Auditor General shall examine, certify and report on the statement of accounts sent to him under sub-paragraph (3) above and shall lay copies of the statement and of his report before each House of Parliament.

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

- (5) In this Schedule “financial year” means the period beginning with the day on which this Schedule comes into force and ending with 31st March following that day and each successive period of 12 months.
- 10 (1) As soon as possible after the end of each financial year the Board shall make a report to the Secretary of State on the operation of the scheme and the discharge of their functions during that year.
- (2) The Secretary of State shall lay before each House of Parliament a copy of every report made by the Board under this paragraph.
- 11 The Board shall provide the Secretary of State with such information relating to their administration of the scheme as he may from time to time require and for that purpose shall permit any person authorised in that behalf by the Secretary of State to inspect and make copies of their accounts, books, documents or papers and shall afford to that person such explanation thereof as he may reasonably require.
- 12 The Secretary of State may give to the Board such directions as he thinks fit as to the financial and management systems and procedures to be adopted by the Board; and the Board shall give effect to any such directions.

SCHEDULE 7

Section 108.

COMPENSATION

Claims for compensation

- 1 (1) The Board shall not award compensation to a person unless, in addition to any other conditions relating to it being satisfied, he has made a claim for it in the prescribed manner.
- (2) In this Schedule “prescribed” means prescribed by rules under paragraph 14 below.
- 2 Unless the circumstances appear to them to be exceptional—
- (a) in a case where the Board have not previously awarded compensation in respect of an injury they shall not determine a claim in respect of it which is made after the end of three years from the date of the incident giving rise to the injury; and
- (b) in a case where they have previously awarded compensation in respect of an injury, they shall not determine any further claim in respect of it which is made after the end of three years beginning with the date of the notice under paragraph 6(2) below relating to the award, or latest award, of compensation in respect of the injury.

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

- 3 If
- (a) the Board—
 - (i) have previously awarded compensation in respect of an injury; and
 - (ii) stated at the time of a previous award that the evidence before them showed that a particular medical condition might arise in the future as a result of the injury; and
 - (b) a claim is made in respect of such a condition,
- the Board shall determine the claim whenever it is made.

Procedure

- 4 (1) The Secretary of State shall make rules of procedure in relation to claims for compensation.
- (2) Without prejudice to the generality of sub-paragraph (1) above rules under this paragraph may in particular—
- (a) specify matters which may be dealt with or which must be dealt with—
 - (i) by members of the Board’s staff; or
 - (ii) by a member or members of the Board;
 - (b) make provision—
 - (i) for the determination of a claim without a hearing;
 - (ii) for the reconsideration without a hearing of a previous determination without a hearing; and
 - (iii) for the extent to which a previous determination may be altered on such a reconsideration;
 - (c) make provision as to circumstances in which a claim is to be or may be determined by a decision at a hearing on specified issues and as to the procedure for settling the issues which are to be considered;
 - (d) make provision about the conduct of hearings and in particular about the calling of witnesses, the admissibility of, and weight to be given to, hearsay and opinion evidence and the order of proceedings;
 - (e) make provision as to the confidentiality of information disclosed in connection with a claim; and
 - (f) make such incidental or supplementary provision as appears to the Secretary of State to be appropriate.
- (3) Rules under this paragraph may make different provision for different descriptions of cases.
- (4) Rules under this paragraph shall be made by statutory instrument.
- (5) A statutory instrument containing any such rules shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

Applications for reconsideration of claims

- 5
- (1) Where a claimant is aggrieved by the determination of a claim which was determined without a hearing, he may question the determination by applying to the Board for the claim to be reconsidered after a hearing.
 - (2) A claimant may not make an application under this paragraph if, as part of their determination, the Board have certified that in their opinion no prima facie case for an award of compensation was disclosed by his application.
 - (3) An application under this paragraph—
 - (a) shall be entertained by the Board if it is made before the expiry of the period of three months beginning with the date on which the claimant was notified of their determination; and
 - (b) may be entertained by them if made outside that period if they are satisfied that there are exceptional reasons for doing so.
 - (4) The Board may refuse an application under this paragraph if they are of the opinion that there is sufficient reason to do so and, if the claimant so requires, shall give him a certificate that the application has been refused.
 - (5) Where the Board refuse an application for the reconsideration of a claim determined without a hearing in accordance with the law of England and Wales, the High Court, on the application of the claimant, may make an order of mandamus requiring the Board to reconsider his claim after a hearing.
 - (6) Where the Board refuse an application for the reconsideration of a claim determined without a hearing in accordance with the law of Scotland, the Court of Session, on the application of the claimant, may direct the Board to reconsider the claim after a hearing.

Payment of compensation

- 6
- (1) Except in prescribed cases, compensation, whether on an interim or a final award, shall be paid in a lump sum.
 - (2) It shall be the duty of the Board to give a claimant written notice of the amount of an award.
 - (3) A claimant shall not be entitled to a payment unless the Board have received from him written notice to the effect that he has received a notice under sub-paragraph (2) above and accepts the amount of compensation specified in the notice as the proper amount.

Deferment of determination

- 7
- (1) The Board may only defer the determination of a claim on the ground that criminal proceedings are current if they consider that the proceedings are likely to be material to their determination of the claim.

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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) Where the Board are satisfied that a claimant is qualified for an award of compensation but do not have all the information they need to assess the amount of the award, they may defer the determination of the claim for such reasonable period as may be appropriate to allow them to obtain that information.
- (3) Where the Board are satisfied that a claimant is qualified for an award of compensation but have reason to believe that he may become entitled to an award of compensation under the scheme established by the ^{M8}Criminal Injuries (Compensation) (Northern Ireland) Order 1988, or any order replacing that Order, or under any similar scheme established in any other country or territory, they may defer the determination of his claim for such reasonable period as may be appropriate in order to establish whether he will become entitled to such an award and, if he will, the amount of the award.

Marginal Citations

M8 [S.I. 1988/793 \(N.I. 4\)](#).

Appropriate law

- 8 Subject to the provisions of this Part of this Act, a claim for compensation under any of the heads specified in section 111 above is to be determined, and the amount of any compensation which falls to be assessed under any of those heads is to be assessed, in accordance with the rules of the law of England and Wales or the law of Scotland (including rules contained in Acts of Parliament but not including rules allowing a plaintiff or pursuer aggravated damages or interest) in accordance with which a claim in tort or delict arising out of the same facts for damages under a corresponding head would fall to be determined.

Private medical treatment

- 9 In assessing compensation no account shall be taken of any expenses incurred in respect of private medical treatment unless the Board are satisfied that such treatment is or was essential; and where the Board are so satisfied in relation to any such treatment, compensation for the expenses incurred in respect of that treatment shall not exceed a reasonable amount.

Calculation of earning capacity

- 10 (1) For the purposes of assessing compensation payable under this Part of this Act, the earning capacity of the person who sustained the injury to which the claim in question relates shall be taken not to be or to have been in excess of one-and-a-half times the gross average industrial wage.
- (2) For the purposes of this paragraph the gross average industrial wage shall be taken to be whatever sum is specified by the Secretary of State by order as being the gross

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

average industrial wage; and the Secretary of State shall cause any order specifying such a sum to be published in such manner as he thinks fit.

- (3) The Secretary of State may by order amend sub-paragraph (1) above by varying the multiplier for the time being specified in that sub-paragraph.
- (4) An order under sub-paragraph (2) above shall be made by statutory instrument.
- (5) A statutory instrument containing any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Reduction of compensation by reference to social security benefits etc.

- 11 (1) Compensation, other than compensation in respect of funeral expenses, shall be assessed on the basis that the loss to be compensated is reduced by the value of any entitlement to benefits which the claimant has in consequence of the injury to which the claim relates or, as the case may be, the death of the person who sustained that injury.
- (2) In this paragraph—
 - “benefit” means—
 - (a) any social security benefits payable under the laws of any part of the United Kingdom and any similar benefits payable under the laws of any other country or territory;
 - (b) ^{M9}Injuries (Compensation) (Northern Ireland) Order 1988, or any order replacing that Order, or under any similar scheme established in any other country or territory;
 - (c) benefits (including any return of premiums) under any insurance arrangements, other than private insurance arrangements; and
“private insurance arrangements” means insurance arrangements for which no person wholly or partly pays except—
 - (a) the person who sustained the injury to which the claim relates;
 - (b) his spouse;
 - (c) any person who on the date that that injury was sustained—
 - (i) was living in the same household as the person who sustained that injury,
 - (ii) was so living with him as his spouse; and
 - (iii) had been so living with him in the same household during the whole of the period of two years immediately preceding that date;
 - (d) where the person who sustained that injury was at the time under the age of 18 years, his parent or guardian.
- (3) In calculating for the purposes of this paragraph the value of any entitlement to benefits regard shall be had—
 - (a) to any liability to income tax likely to reduce the value of that entitlement; and
 - (b) to any effect the making of the award is likely to have on that entitlement.
- (4) In the case of a claim by the surviving spouse of a person who died as a result of having sustained the injury to which the claim relates, no account shall be taken of any re-marriage of his or of his prospect of re-marriage in calculating for the purposes

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

of this paragraph the value of the surviving spouse's entitlement to social security benefits.

Marginal Citations

M9 1988/793 (N.I. 4)

Reduction of compensation by reference to pension rights

- 12 (1) Compensation payable, other than compensation in respect of funeral expenses, shall be assessed on the basis that the loss to be compensated is reduced by the value of any pension rights, other than private pension rights, which—
- (a) where the claimant is the person who sustained the injury to which the claim relates, are enjoyed by him in consequence of that injury and by virtue of any office or employment of his; or
 - (b) where the claimant is a dependant of the person who sustained the injury to which the claim relates, are enjoyed by him in consequence of that person's death and by virtue of any office or employment of that person.
- (2) In assessing the value of any pension rights for the purposes of this paragraph, regard shall be had to any likelihood that present or future liability to income tax may reduce their value.
- (3) In this Schedule "private pension rights" means rights arising under pension arrangements for which no person wholly or partly pays except—
- (a) the person who sustained the injury to which the claim relates;
 - (b) his spouse;
 - (c) any person who on the date that that injury was sustained—
 - (i) was living in the same household as the person who sustained that injury;
 - (ii) was so living with him as his spouse; and
 - (iii) had been so living with him in the same household during the whole of the period of two years immediately preceding that date;
 - (d) where the person who sustained that injury was at the time under the age of 18 years, his parent or guardian.
- (4) For the purposes of this paragraph "pension rights" includes sums paid under insurance arrangements, other than private insurance arrangements, and gratuities.

Reduction of compensation by reference to damages etc.

- 13 Where the Board are satisfied that, by virtue of—
- (a) a judgment or decree in, or the settlement of, any action for damages; or
 - (b) any order under section 35 (compensation orders against convicted persons) or section 43A (payment of the proceeds of forfeited property to a person suffering personal injury, loss or damage as the result of an offence) of the of Criminal Courts Act 1973 or section 98 of the ^{M10}Criminal Justice (Scotland) Act 1980 (compensation orders against convicted persons),

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

[^{F7} or

- (c) any order under paragraph 11 (compensation orders) of Schedule 5A to the Army Act 1955, of Schedule 5A to the Air Force Act 1955 or of Schedule 4A to the Naval Discipline Act 1957; or
- (d) any award of stoppages under any of the Acts referred to in sub-paragraph (c) above]

a claimant has received any payment which compensates him for any loss in respect of which compensation is payable to him under this Part of this Act, the compensation so payable to him shall be assessed on the basis that that loss is reduced by the amount of that payment.

Textual Amendments

F7 Word in [Sch. 7 para. 13](#) and paras. 13(c) and (d) inserted (1. 1. 1992) by [Armed Forces Act 1991 \(c. 62, SIF 7:1\)](#), s. 26(1), [Sch. 2 para. 9\(4\)](#); S.I. 1991/2719, [art.2](#).

Marginal Citations

M10 [1980 c. 62](#).

Miscellaneous rules

- 14 (1) The Secretary of State may by rules—
- (a) provide for the use of prescribed forms;
 - (b) prescribe circumstances in which, and the method by which, one person may act for another in relation to a claim for compensation;
 - (c) prescribe the manner in which the Board are to notify their determinations;
 - (d) specify cases in which compensation is not to be paid as a lump sum and how it is to be paid in any such case;
 - (e) provide that, in the case of compensation awarded to a person who is under the age of 18 years or under a disability, the Board shall have such power with respect to the payment and investment of the award as may be prescribed; and
 - (f) make such incidental or supplementary provision as appears to the Secretary of State to be appropriate.
- (2) Rules under this paragraph may make different provision for different descriptions of cases.
- (3) Rules under this paragraph shall be made by statutory instrument.
- (4) A statutory instrument containing any such rules shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

SCHEDULE 8

Section 123.

CUSTODIAL SENTENCES FOR YOUNG OFFENDERS

PART I

AMENDMENTS

General

- 1 In any enactment for a reference to a detention centre or to a youth custody centre or to both there shall be substituted a reference to a young offender institution.
- 2 In any enactment except—
- (a) section 21 of the ^{M11}Firearms Act 1968;
 - (b) Schedule 1 to the ^{M12}Juries Act 1974;
 - (c) section 5 of the ^{M13}Rehabilitation of Offenders Act 1974; and
 - (d) section 17(3) of the ^{M14}Criminal Justice Act 1982,
- for a reference (however expressed) to a detention centre order or to a sentence of youth custody or to both there shall be substituted a reference to a sentence of detention in a young offender institution.

Marginal Citations

M11 1968 c. 27.
M12 1974 c. 23.
M13 1974 c. 53.
M14 1982 c. 48.

- 3 (1) In any enactment except—
- (a) Part II of Schedule 1 to the ^{M15}Juries Act 1974;
 - (b) section 5 of the ^{M16}Rehabilitation of Offenders Act 1974; and
 - (c) sections ^{F8} . . . 17(3) of the ^{M17}Criminal Justice Act 1982,
- for a reference to a sentence of Borstal training there shall be substituted a reference to a sentence of detention in a young offender institution.
- (2) In any enactment for a reference to a Borstal institution there shall be substituted a reference to a young offender institution.

Textual Amendments

F8 Words in Sch. 8 para. 3(1)(c) 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

M15 1974 c. 23.
M16 1974 c. 53.
M17 1982 c. 48.

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

Army Act 1955 (c. 18)

Air Force Act 1955 (c. 19)

Naval Discipline Act 1957 (c. 53)

- 4 In subsection (6) –
- (a) of section 71AA of the Army Act 1955 and the Air Force Act 1955; and
 - (b) of section 43AA of the Naval Discipline Act 1957,
- (each of which is concerned with the making of custodial orders against young Service offenders) the following paragraph shall be substituted for paragraph (a)—
- “(a) where the offender is in or removed to England or Wales, any institution in which a person sentenced to detention in a young offender institution could be detained, section 1C of the Criminal Justice Act 1982 having effect in relation to the offender as it has effect in relation to an offender sentenced to detention in a young offender institution;”
- 5 In sub-paragraph (6) of paragraph 10—
- (a) of Schedule 5A to the Army Act 1955 and the Air Force Act 1955; and
 - (b) of Schedule 4A to the Naval Discipline Act 1957,
- (each of which is concerned with the making of custodial orders against young civilian offenders) the following paragraph shall be substituted for paragraph (a)—
- “(a) where the offender is removed to England or Wales, any institution in which a person sentenced to detention in a young offender institution could be detained, section 1C of the Criminal Justice Act 1982 having effect in relation to the offender as it has effect in relation to an offender sentenced to detention in a young offender institution;”

Firearms Act 1968 (c. 27)

- 6 In section 21(1) and (2) of the Firearms Act 1968 (possession of firearms by persons previously convicted of crime) after the words “youth custody” there shall be inserted the words “or detention in a young offender institution”.

Employment Agencies Act 1973 (c. 35)

- 7 In section 13(7)(a)(ii) of the ^{M18} Employment Agencies Act 1973 for the words from “prison” to “institution”, in the second place where it occurs, there shall be substituted the words “custodial sentence passed by a criminal court in the United Kingdom, the Channel Islands or the Isle of Man;”.

Marginal Citations

M18 1973 c. 35.

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

Juries Act 1974 (c. 23)

- 8 In Part I of Schedule 1 to the ^{M19} Juries Act 1974 (persons ineligible for jury service), in the definition of “penal establishment” in Group B, for the words from “Prison” to the end there shall be substituted the words “establishment regulated by the Prison Act 1952”.

Marginal Citations

M19 1974 c. 23.

Rehabilitation of Offenders Act 1974 (c. 53)

- 9 In section 5 of the ^{M20} Rehabilitation of Offenders Act 1974 (rehabilitation periods) the words “detention in a young offender institution” shall be inserted—
- (a) in subsection (1)(b), after the words “youth custody”; and
 - (b) in subsection (2), in Table A, after the word “imprisonment”, in both places where it occurs.

Marginal Citations

M20 1974 c. 53.

Criminal Justice Act 1982 (c. 48)

- 10 The following paragraph shall be inserted after paragraph (b) of section 17(3) of the Criminal Justice Act 1982 (restrictions on making attendance centre orders)—
- “(bb) to detention in a young offender institution”.

PART II

TRANSITIONAL PROVISIONS

- 11 (1) Where—
- (a) before the date on which section 1A of the ^{M21} Criminal Justice Act 1982 comes into force an offender has been committed for sentence to the Crown Court under section 37 of the ^{M22} Magistrates’ Courts Act 1980; but
 - (b) the Crown Court has not dealt with him before that date,
- it shall have the same powers of sentencing as if he had been committed on or after that date.
- (2) A court to which it falls to determine for the purposes of any enactment how a previous court could or might have dealt with an offender shall if the offender is under 21 years of age make that determination as if Part I of the Criminal Justice Act 1982 had been in force as amended by this Act.

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

Marginal Citations

M21 1982 c. 48.

M22 1980 c. 43.

- 12 An offender who was sentenced to youth custody on a date before the commencement of section 1A of the Criminal Justice Act 1982 or who was ordered to be detained in a detention centre before that date shall, if the sentence or order has not expired at the commencement of that section, be treated for all purposes of detention, release and supervision as if he had been sentenced to detention for the like term in a young offender institution.
- 13 A person who at the commencement of section 1A of the Criminal Justice Act 1982 is detained in a detention centre or youth custody centre by virtue of a custodial order—
- (a) under section 71AA of the ^{M23} Army Act 1955, section 71AA of the ^{M24} Air Force Act 1955 or section 43AA of the Naval Discipline Act 1957; or
 - (b) under paragraph 10 of Schedule 5A to the ^{M25} Army Act 1955, Schedule 5A to the Air Force Act 1955 or Schedule 4A to the Naval Discipline Act 1957,
- shall be detained in such young offender institution as the Secretary of State may direct, and any enactment applying to persons detained in young offender institutions shall apply to a person so detained under this paragraph.

Marginal Citations

M23 1955 c. 18.

M24 1955 c. 19.

M25 1957 c. 53.

- 14 Rules under section 47 of the ^{M26} Prison Act 1952 may provide that any awards for an offence against discipline made before the commencement of section 1A of the ^{M27} Criminal Justice Act 1982 shall continue to have effect, subject to such modifications as the Secretary of State may consider appropriate in relation to any particular description of award.

Marginal Citations

M26 1952 c. 52.

M27 1982 c. 48.

- 15 Where on the commencement of section 1A of the Criminal Justice Act 1982 a person is subject—
- (a) to a licence under section 60 of the ^{M28} Criminal Justice Act 1967 granted for his release from a youth custody sentence; or
 - (b) to supervision by virtue of section 15 of the Criminal Justice Act 1982,

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

he shall be treated thereafter as if the sentence or order by virtue of which he is so subject had been a sentence of detention in a young offender institution.

Marginal Citations

M28 1967 c. 80.

16 Nothing in this Act affects any right of appeal against a sentence of youth custody.

SCHEDULE 9

Section 124.

DETENTION OF YOUNG OFFENDERS IN SCOTLAND

PART I

AMENDMENTS

1 **F9**

Textual Amendments

F9 Sch. 9 para. 1 repealed by Prisons (Scotland) Act 1989 (c. 45, SIF 39:1), s. 45(2), Sch. 3

Army Act 1955 (c. 18)

Air Force Act 1955 (c. 19)

Naval Discipline Act 1957 (c. 53)

- 2 In subsection (6)—
- (a) of section 71AA of the Army Act 1955 and the Air Force Act 1955; and
 - (b) of section 43AA of the Naval Discipline Act 1957,
- (each of which is concerned with the making of custodial orders against young Service offenders) the following paragraph shall be substituted for paragraph (b)—
- “(b) where the offender is in or removed to Scotland, a young offenders institution;”.
- 3 In sub-paragraph (6) of paragraph 10—
- (a) of Schedule 5A to the Army Act 1955 and the Air Force Act 1955; and
 - (b) of Schedule 4A to the Naval Discipline Act 1957,
- (each of which is concerned with the making of custodial orders against young civilian offenders) the following paragraph shall be substituted for paragraph (b)—

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

“(b) where the offender is removed to Scotland, a young offenders institution;”.

Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55)

- 4 In paragraph (b) of Part II (Persons Disqualified) of Schedule I to the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 in sub-paragraph (i) for the words “or detention” there shall be substituted the words “detention or youth custody”.

Criminal Justice (Scotland) Act 1980 (c. 62)

- 5 In section 41(2)(b)(ii) of the Criminal Justice (Scotland) Act 1980 after the words “detention in a” there shall be inserted the words “young offender institution or.”.

PART II

TRANSITIONAL PROVISIONS

- 6 An Offender who was ordered to be detained in a detention centre on a date before the commencement of section 124(1) of this Act shall, if the order has not expired at the commencement of that section, be treated for all purposes of detention, release and supervision as if he had been sentenced to detention for the like term in a young offenders institution.
- 7 A person who at the commencement of section 124 of this Act is detained in a detention centre by virtue of a custodial order—
- (a) under section 71 AA of the ^{M29} Army Act 1955, section 71AA of the ^{M30} Air Force Act 1955 or section 43AA of the Naval Discipline Act 1957; or
 - (b) under paragraph 10 of Schedule 5A to the Army Act 1955, Schedule 5A to the Air Force Act 1955 or Schedule 4A to the ^{M31} Naval Discipline Act 1957,
- shall be detained in such young offenders institution as the Secretary of State may direct, and any enactment applying to persons detained in young offenders institutions shall apply to a person so detained under this paragraph.

Marginal Citations

M29 1955 c. 18.

M30 1955 c. 19.

M31 1957 c. 53

- 8 Section 5 of the ^{M32} Rehabilitation of Offenders Act 1974 (rehabilitation periods) shall continue to apply as regards any person who, before the commencement of section 124(1) of this Act, had served a sentence of detention in a detention centre as if the said section 124(1) had not been commenced.

Marginal Citations

M32 1974 c. 53.

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

SCHEDULE 10

Section 128.

SUPERVISION

PART I

SECTIONS SUBSTITUTED FOR SECTION 12 OF ^{M33} CHILDREN AND YOUNG PERSONS ACT 1969**Marginal Citations**

M33 1969 c. 54.

Power to include requirements in supervision orders.

- 12 (1) A supervision order may require the supervised person to reside with an individual named in the order who agrees to the requirement, but a requirement imposed by a supervision order in pursuance of this subsection shall be subject to any such requirement of the order as is authorised by the following provisions of this section or by section 12A, 12B or 12C below.
- (2) Subject to section 19(12) of this Act, a supervision order may require the supervised person to comply with any directions given from time to time by the supervisor and requiring him to do all or any of the following things—
- (a) to live at a place or places specified in the directions for a period or periods so specified;
 - (b) to present himself to a person or persons specified in the directions at a place or places and on a day or days so specified;
 - (c) to participate in activities specified in the directions on a day or days so specified;
- but it shall be for the supervisor to decide whether and to what extent he exercises any power to give directions conferred on him by virtue of this subsection and to decide the form of any directions; and a requirement imposed by a supervision order in pursuance of this subsection shall be subject to any such requirement of the order as is authorised by section 12B(1) of this Act.
- (3) The total number of days in respect of which a supervised person may be required to comply with directions given by virtue of paragraph (a), (b) or (c) of subsection (2) above in pursuance of a supervision order shall not exceed 90 or such lesser number, if any, as the order may specify for the purposes of this subsection; and for the purpose of calculating the total number of days in respect of which such directions may be given the supervisor shall be entitled to disregard any day in respect of which directions were previously given in pursuance of the order and on which the directions were not complied with.

Young offenders.

- 12A (1) Subject to subsection (2) of this section, this subsection applies to—
- (a) any supervision order made under section 7(7) of this Act in respect of a child or young person found guilty as there mentioned; and

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

- (b) any supervision order made in respect of a person under section 21(2) of this Act by a court on discharging a care order made in respect of him under the said section 7(7).
- (2) Subsection (1) of this section does not apply to any supervision order which by virtue of section 12(2) above requires the supervised person to comply with directions given by the supervisor.
- (3) Subject to the following provisions of this section and to section 19(13) of this Act, a supervision order to which subsection (1) of this section applies may require a supervised person—
 - (a) to do anything that by virtue of section 12(2) of this Act a supervisor has power, or would but for section 19(12) of this Act have power, to direct a supervised person to do;
 - (b) to remain for specified periods between 6 p.m. and 6 a.m.—
 - (i) at a place specified in the order; or
 - (ii) at one of several places so specified;
 - (c) to refrain from participating in activities specified in the order—
 - (i) on a specified day or days during the period for which the supervision order is in force; or
 - (ii) during the whole of that period or a specified portion of it.
- (4) Any power to include a requirement in a supervision order which is exercisable in relation to a person by virtue of this section or the following provisions of this Act may be exercised in relation to him whether or not any other such power is exercised.
- (5) The total number of days in respect of which a supervised person may be subject to requirements imposed by virtue of subsection (3)(a) or (b) above shall not exceed 90.
- (6) The court may not include requirements under subsection (3) above in a supervision order unless—
 - (a) it has first consulted the supervisor as to—
 - (i) the offender's circumstances; and
 - (ii) the feasibility of securing compliance with the requirements,and is satisfied, having regard to the supervisor's report, that it is feasible to secure compliance with them;
 - (b) having regard to the circumstances of the case, it considers the requirements necessary for securing the good conduct of the supervised person or for preventing a repetition by him of the same offence or the commission of other offences; and
 - (c) the supervised person or, if he is a child, his parent or guardian, consents to their inclusion.
- (7) The court shall not include in such an order by virtue of subsection (3) above—
 - (a) any requirement that would involve the co-operation of a person other than the supervisor and the supervised person unless that other person consents to its inclusion; or
 - (b) any requirement requiring the supervised person to reside with a specified individual; or
 - (c) any such requirement as is mentioned in section 12B(1) of this Act.

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

- (8) The place, or one of the places, specified in a requirement under subsection (3)(b) above (“a night restriction”) shall be the place where the supervised person lives.
- (9) A night restriction shall not require the supervised person to remain at a place for longer than 10 hours on any one night.
- (10) A night restriction shall not be imposed in respect of any day which falls outside the period of three months beginning with the date when the supervision order is made.
- (11) A night restriction shall not be imposed in respect of more than 30 days in all.
- (12) A supervised person who is required by a night restriction to remain at a place may leave it if he is accompanied—
 - (a) by his parent or guardian;
 - (b) by his supervisor; or
 - (c) by some other person specified in the supervision order.
- (13) A night restriction imposed in respect of a period of time beginning in the evening and ending in the morning shall be treated as imposed only in respect of the day upon which the period begins.

Requirements as to mental treatment.

- 12B (1) Where a court which proposes to make a supervision order is satisfied, on the evidence of a medical practitioner approved for the purposes of section 12 of the ^{M34} Mental Health Act 1983, that the mental condition of a supervised person is such as requires and may be susceptible to treatment but is not such as to warrant his detention in pursuance of a hospital order under Part III of that Act, the court may include in the supervision order a requirement that the supervised person shall, for a period specified in the order, submit to treatment of one of the following descriptions so specified, that is to say—
- (a) treatment by or under the direction of a fully registered medical practitioner specified in the order;
 - (b) treatment as a non-resident patient at a place specified in the order; or
 - (c) treatment as a resident patient in a hospital or mental nursing home within the meaning of the said Act of 1983, but not a special hospital within the meaning of that Act.
- (2) A requirement shall not be included in a supervision order in pursuance of subsection (1) above—
- (a) in any case, unless the court is satisfied that arrangements have been or can be made for the treatment in question and, in the case of treatment as a resident patient, for the reception of the patient;
 - (b) in the case of an order made or to be made in respect of a person who has attained the age of 14, unless he consents to its inclusion;
- and a requirement so included shall not in any case continue in force after the supervised person becomes 18.

Marginal Citations

M34 1983 c. 20.

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

Requirements as to education.

- 12C (1) Subject to subsection (3) below, a supervision order to which section 12A(1) of this Act applies may require a supervised person, if he is of compulsory school age, to comply, for as long as he is of that age and the order remains in force, with such arrangements for his education as may from time to time be made by his parent, being arrangements for the time being approved by the local education authority.
- (2) The court shall not include such a requirement in a supervision order unless it has consulted the local education authority with regard to its proposal to include the requirement and is satisfied that in the view of the local education authority arrangements exist for the child or young person to whom the supervision order will relate to receive efficient full-time education suitable to his age, ability and aptitude and to any special educational need he may have.
- (3) Expressions used in subsection (1) above and in the ^{M35} Education Act 1944 have the same meaning there as in that Act.
- (4) The court may not include a requirement under subsection (1) above unless it has first consulted the supervisor as to the offender's circumstances and, having regard to the circumstances of the case, it considers the requirement necessary for securing the good conduct of the supervised person or for preventing a repetition by him of the same offence or the commission of other offences.

Marginal Citations

M35 1944 c. 31.

Duty of court to state in certain cases that requirement in place of custodial sentence.

- 12D (1) Where—
- (a) in pursuance of section 12A(3)(a) of this Act a court includes a requirement in a supervision order directing the supervised person to participate in specified activities; and
 - (b) it would have imposed a custodial sentence if it had not made a supervision order including such a requirement,
- it shall state in open court—
- (i) that it is making the order instead of a custodial sentence;
 - (ii) that it is satisfied that—
 - (a) the offender has a history of failure to respond to non-custodial penalties and is unable or unwilling to respond to any non-custodial penalty other than a supervision order including such a requirement; or
 - (b) only a supervision order including such a requirement or a custodial sentence would be adequate to protect the public from serious harm from him; or
 - (c) the offence for which he has been convicted or found guilty was so serious that a non-custodial sentence for it other than a supervision order including such a requirement could not be justified; and
 - (iii) why it is so satisfied.
- (2) Where the Crown Court makes such a statement, it shall certify in the supervision order that it has made such a statement.

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

- (3) Where a magistrates’ court makes such a statement, it shall certify in the supervision order that it has made such a statement and shall cause the statement to be entered in the register.

PART II

AMENDMENTS CONSEQUENTIAL ON SUBSTITUTION
OF SECTIONS SET OUT IN PART I FOR SECTION 12

The amendments of the ^{M36}Children and Young Persons Act 1969 mentioned in section 128(2) above are—

- (a) the substitution of references to section 12A(3) for the references to section 12(3C) in ^{F10} . . . section 18(4) and section 19(1)(b) and (13);
- (b) the substitution of references to section 12B(1) for the references to section 12(4) in ^{F10} . . . section 16(6)(c) and (7); and
- (c) the insertion of “, 12A, 12B or 12C” after “section 12” in ^{F10} . . . section 16(5)(b) and (c) and (6)(a).

Textual Amendments
F10 Words in Sch. 10 Pt. II 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
M36 1969 c. 54.

^{F11}**PART III**

Textual Amendments
F11 Sch. 10 Pt. III 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.

.....
^{F12}₁

Textual Amendments
F12 Sch. 10 Pt. III 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.

.....
^{F13}₂

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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

F13 Sch. 10 Pt. III 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.

F14³

Textual Amendments

F14 Sch. 10 Pt. III 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.

PART IV

SECTION INSERTED AFTER SECTION 16

Application of sections 17 to 19 of Criminal Justice Act 1982.

“16A(1) The provisions of section 17 of the Criminal Justice Act 1982 (attendance centre orders) shall apply for the purposes of section 15(2A)(b) and (4)(a) of this Act but as if—

- (a) in subsection (1), for the words from “has power” to “probation order” there were substituted the words “considers it appropriate to make an attendance centre order in respect of any person in pursuance of 1969 c. 54. section 15(2A) or (4) of the Children and Young Persons Act 1969”;
- (b) for references to an offender there were substituted references to a supervised person; and
- (c) subsection (13) were omitted.

(2) Sections 18 and 19 of the Criminal Justice Act 1982 (discharge and variation of attendance centre order and breach of attendance centre orders or attendance centre rules) shall also apply for the purposes of each of those paragraphs but as if—

- (a) for the references to an offender there were substituted references to the person in respect of whom the attendance centre order has been made; and
- (b) there were omitted—
 - (i) from subsections (3) and (5) of section 19, the words “ , for the offence in respect of which the order was made,” and “for that offence” ; and
 - (ii) from subsection (6), the words “for an offence”.

F15 SCHEDULE 11

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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

F15 Sch. 11 repealed (5.2.1994) by 1993 c. 47, ss. 32, 33(3), **Sch.4** (Sch. 11 para. 8 expressed to be repealed (11.9.1998) by 1998 c. 18, ss. 54(3), 55(2), **Sch.5**).

SCHEDULE 12

Section 133.

ASSESSORS OF COMPENSATION FOR MISCARRIAGES OF JUSTICE

- 1 A person may only be appointed to be an assessor for the purposes of section 133 above if he is—
- [^{F16}(a) a person who has a 7 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;
 - (b) an advocate or solicitor in Scotland;
 - (c) a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 7 years' standing;]
 - (d) a person who holds or has held judicial office in any part of the United Kingdom; or
 - (e) a member (whether the chairman or not) of the Criminal Injuries Compensation Board.

Textual Amendments

F16 Sch. 12 para. 1(a)–(c) substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 71(2), **Sch. 10**, para. 72(1)

- 2 A person shall hold and vacate office as an assessor in accordance with the terms of his appointment.
- 3 A person shall vacate office as an assessor—
- (a) if he ceases to be qualified for appointment as an assessor; or
 - (b) on attaining the age of 72;
- unless the Secretary of State considers that it is in the interests of the efficient operation of section 133 above that he should continue to hold office.
- 4 A person may at any time resign his office as an assessor by giving the Secretary of State notice in writing to that effect.
- 5 Subject to paragraph 6 below, the Secretary of State may at any time remove a person from office as an assessor if satisfied that—
- (a) he has been convicted of a criminal offence;
 - (b) he has become bankrupt or has had his estate sequestrated or has made an arrangement with, or granted a trust deed for, his creditors;
 - (c) he is incapacitated by physical or mental illness; or
 - (d) he is otherwise unable or unfit to perform his duties.
- 6 The power conferred by paragraph 5 above shall only be exercisable—

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

- [^{F17}(a) in the case of a person who qualifies for appointment under paragraph 1(a) or (c), or paragraph 1(d) by virtue of holding or having held judicial office in England and Wales or Northern Ireland, with the consent of the Lord Chancellor; and
- (b) in the case of a person who qualifies for appointment under paragraph 1(b), or paragraph 1(d) by virtue of holding or having held judicial office in Scotland, with the consent of the Lord President of the Court of Session.]

Textual Amendments

F17 Sch. 12 para. 6(a)(b) substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 71(2), **Sch. 10 para. 72(2)**

- 7 An assessor shall be paid such remuneration and allowances as the Secretary of State may, with the approval of the Treasury, determine.

SCHEDULE 13

Section 146.

EVIDENCE BEFORE COURTS-MARTIAL ETC.

Interpretation

- 1 In this Schedule—
- “procedural instruments” means—
- (a) Rules of Procedure under section 103 of the ^{M39}Army Act 1955 or section 103 of the ^{M40}Air Force Act 1955;
- (b) General Orders under section 58 of the ^{M41}Naval Discipline Act 1957;
- (c) rules under section 49 of the ^{M42}Courts-Martial (Appeals) Act 1968; and
- (d) orders under paragraph 12 of Schedule 3 to the ^{M43}Armed Forces Act 1976; and
- “Service courts” means—
- (a) courts-martial constituted under the Army Act 1955 or the Air Force Act 1955;
- (b) courts-martial constituted under the Naval Discipline Act 1957 and disciplinary courts constituted under section 50 of that Act;
- (c) the Courts-Martial Appeal Court; and
- (d) Standing Civilian Courts.

Marginal Citations

M39 1955 c. 18.
M40 1955 c. 19.
M41 1957 c. 53.
M42 1968 c. 20.
M43 1976 c. 52.

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

First-hand hearsay

- 2 Sections 23 and 24 above shall have effect in relation to proceedings in the United Kingdom or elsewhere before Service courts with the substitution of the following sub-paragraph for section 23(2)(b)(i)—
- “(i) the person who made the statement is not in the country where the court is sitting; and”.

Modifications etc. (not altering text)

- C3** Sch. 13 para. 2 applied (2.10.2000) by S.I. 2000/2372, **Rule 27(1)(e)**
 Sch. 13 para. 2 applied by S.I. 2000/2370, **Rule 27(1)(f)**

Documentary evidence

- 3 Section 25 above shall have effect in relation to proceedings in the United Kingdom or elsewhere before Service courts as if such proceedings were mentioned in subsection (1) of that section.

Modifications etc. (not altering text)

- C4** Sch. 13 para. 3 applied (2.10.2000) by S.I. 2000/2372, **Rule 27(1)(e)**
 Sch. 13 para. 3 applied (2.10.2000) by S.I. 2000/2370, **Rule 27(1)(f)**

- 4 In section 26 above—
- (a) the reference to criminal proceedings in paragraph (a) includes summary proceedings under section 77 of the Army Act 1955, section 77 of the Air Force Act 1955 or section 49 of the Naval Discipline Act 1957; and
- (b) in paragraph (b) “criminal investigation” includes any investigation which may lead—
- (i) to proceedings before a court-martial or Standing Civilian Court;
 or
 (ii) to summary proceedings such as are mentioned in sub-paragraph (a) above.

- 5 Without prejudice to the generality of any enactment conferring power to make them, procedural instruments may make such provision as appears to the authority making any of them to be necessary or expedient for the purposes of Part II of this Act.

Modifications etc. (not altering text)

- C5** Sch. 13 para. 5 applied (2.10.2000) by S.I. 2000/2372, **Rule 27(1)(e)**
 Sch. 13 para. 5 applied (2.10.2000) by S.I. 2000/2370, **Rule 27(1)(f)**

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

Letters of request etc.

- 6 (1) ^{F18}No application shall be made under section 3 of the Criminal Justice (International Co-operation) Act 1990 in relation to any offence which is or is to be the subject of proceedings before a Service court], but the Secretary of State may by order make provision as to letters of request or corresponding documents for such proceedings.
- (2) An order under this paragraph may make different provision for different classes of case.
- (3) The power to make an order under this paragraph shall be exercisable by statutory instrument and a statutory instrument containing any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Without prejudice to the generality of any enactment conferring power to make procedural instruments, procedural instruments may make such provision as appears to the authority making them to be necessary or expedient in relation to letters of request or corresponding documents for proceedings before a Service court.

Textual Amendments

F18 Words in Sch. 13 para. 6(1) substituted (10.6.1991) by Criminal Justice (International Co-operation) Act 1990 (c. 5, SIF 39:1), s. 31(1), Sch. 4 para. 6(3); S.I. 1991/1072, art. 2(a), Schedule Pt. I

Modifications etc. (not altering text)

C6 Sch. 13 para. 6 applied (2.10.2000) by S.I. 2000/2372, Rule 27(1)(e)
Sch. 13 para. 6 applied (2.10.2000) by S.I. 2000/2370, Rule 27(1)(f)

Form of evidence and glossaries

- 7 For the purpose of helping members—
- (a) of courts-martial constituted under the ^{M44}Army Act 1955 or the ^{M45}Air Force Act 1955; or
- (b) of courts-martial constituted under the ^{M46}Naval Discipline Act 1957 or disciplinary courts constituted under section 50 of that Act,
- to understand complicated issues of fact or technical terms Rules of Procedure under section 103 of either of the first two of those Acts and General Orders under section 58 of the Naval Discipline Act 1957 may make provision—
- (i) 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
- (ii) 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.

Marginal Citations

M44 1955 c. 18.

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

M45 1955 c. 19.

M46 1957 c. 53.

Use of television links

- 8 (1) The Secretary of State may by order direct that section 32(1) to (3) above shall have effect in relation—
- (a) to proceedings before Service courts; or
 - (b) to proceedings or proceedings of specified descriptions before Service courts in specified places.
- (2) If an order is made under this paragraph—
- (a) subsection (1) of section 32 above shall have effect in relation to any court to which the order applies with the substitution of the following paragraph for paragraph (a)—
 - “(a) the witness is not in the country where the court is sitting; or”; and
 - (b) subsection (2) of that section shall have effect in relation to any such court with the substitution, for each reference to an offence, of a reference to a civil offence under section 70 of the Army or the Air Force Act 1955 or section 42 of the Naval Discipline Act 1957 in relation to which the corresponding civil offence, within the meaning of those sections, is that offence.
- (3) An order under this paragraph may provide that section 32(1), (2) or (3) above shall have effect in relation to any court to which the order applies subject to such modifications as may be specified in the order, in addition to the modifications for which sub-paragraph (2) above provides.
- (4) The power to make an order conferred by this paragraph shall be exercisable by statutory instrument and a statutory instrument containing any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Without prejudice to the generality of any enactment conferring power to make procedural instruments, procedural instruments may make such provision as appears to the authority making them to be necessary or expedient for the purposes of section 32(1) to (3) above in their application to proceedings such as are mentioned in sub-paragraph (1) above by virtue of an order under that sub-paragraph.
- (6) In this paragraph “modifications” includes additions, omissions and amendments.

VALID FROM 01/10/1996

[^{F19} Video recordings of evidence]

Textual Amendments

F19 Sch. 13 paras. 9, 10 added (1.10.1996) by 1996 c. 46, s.7; S.I. 1996/2474, art.2.

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

- ^{F20}9 (1) The Secretary of State may by order direct that section 32A above shall have effect in relation—
- (a) to proceedings before Service courts; or
 - (b) to proceedings, or proceedings of specified descriptions, before Service courts in specified places,
- subject to such modifications as may be specified in the order.
- (2) The power to make an order conferred by this paragraph shall be exercisable by statutory instrument and a statutory instrument containing any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Without prejudice to the generality of any enactment conferring power to make procedural instruments, procedural instruments may make such provision as appears to the authority making them to be necessary or expedient for the purposes of section 32A above in their application to proceedings such as are mentioned in sub-paragraph (1) above by virtue of an order under that sub-paragraph.
- (4) In this paragraph “modifications” includes additions, omissions and amendments.

Textual Amendments

F20 Sch. 13 paras. 9,10 added (1.10.1996) by 1996 c. 46, s.7; S.I. 1996/2474, art.2.

VALID FROM 01/10/1996

^{F21}*Cross -examination of children*

Textual Amendments

F21 Sch. 13 paras. 9, 10 added (1.10.1996) by 1996 c. 46, s.7; S.I. 1996/2474, art.2.

- ^{F22}10 (1) The Secretary of State may by order direct that section 34A above shall have effect in relation—
- (a) to proceedings before Service courts; or
 - (b) to proceedings or proceedings of specified descriptions before Service courts in specified places,
- subject to such modifications as may be specified in the order.
- (2) The power to make an order conferred by this paragraph shall be exercisable by statutory instrument and a statutory instrument containing any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) In this paragraph “modifications” includes additions, omissions and amendments.

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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

F22 Sch. 13 paras. 9, 10 added (1.10.1996) by 1996 c. 46, s.7; S.I. 1996/2474, art.2.

F23 SCHEDULE 14

Textual Amendments

F23 Sch. 14 repealed by S.I. 1989/1341 (N.I. 12), art. 90(2), Sch. 7 Pt. I

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".

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

- 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.

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 ^{M47}Child Abduction Act 1984.

Marginal Citations

M47 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)—

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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) for each of the references in subsections (2) and (4) to section 43 of the Magistrates' ^{M48}Courts Act 1980 there shall be substituted references to Part IV of the Police and Criminal ^{M49}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
- (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

M48 1980 c. 43.

M49 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 ^{M50}Prosecution of Offences Act 1985”.

Marginal Citations

M50 1985 c. 23.

Criminal Justice Act 1967 (c. 80)

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

[^{F24}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

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

(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

F24 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)”.

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 ^{F25}(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

F25 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

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

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—

“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

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

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
- (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

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

of the ^{M51}Criminal Appeal Act 1968 (which relates to the effect on such orders of appeals)".

Marginal Citations

M51 1968 c. 19.

34

F26

Textual Amendments

F26 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)

F27 37

Textual Amendments

F27 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—

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

“(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
- (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”.

F28 42

Textual Amendments

F28 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

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

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 ^{M52}Criminal Justice (Scotland) Act 1987)—

(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

M52 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).

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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) 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. F29

Textual Amendments

F29 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 F30

Textual Amendments

F30 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;

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

- (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 “, 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 ^{M53}Powers of Criminal Courts Act 1973 (compensation orders)”.

Marginal Citations

M53 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 ^{M54}Sexual Offences (Amendment) Act 1976 (anonymity of complainant in rape etc. cases)”.

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

Marginal Citations

M54 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”.

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”.

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—

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

“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 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)—

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

“(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.”.

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 F31

Textual Amendments

F31 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 ^{M55}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

M55 1986 c. 32.

83, 84. F32

Textual Amendments

F32 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. F33

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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

F33 Sch. 15 paras. 34, 54, 55, 57, 81, 83–88 repealed by Extradition Act 1989 (c. 33, SIF 48), s. 37, Sch. 2

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. F34

Textual Amendments

F34 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. F35

Textual Amendments

F35 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”.

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

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—

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)

^{F36}105

Textual Amendments

F36 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.

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

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.

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”.
- 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—

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

- (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)—
- “(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.”.
- 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 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

SCHEDULE 16

Section 170.

REPEALS

Extent Information

- E1** The extent of any repeal of an enactment in Sch. 16 is the same as that of the enactment repealed, subject to the Notes at the end of the Schedule

Commencement Information

- II** Sch. 16 partly in force; Sch. 16 in force at Royal Assent so far as relating to specified repeals see s. 171(5); Sch. 16 in force so far as relating to further specified repeals at 29.9.1988 see s. 171(6); Sch. 16 in force so far as relating to further specified repeals: 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 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

7 Geo. 4. c. 24.	Criminal Law Act 1826.	Section 30.
24 & 25 Vict. c. 100.	Offences against the Person Act 1861.	Sections 42 and 43. In section 44, the word “such, in the first place where it occurs, and the words “under either of the last two preceding sections. Section 46. In section 47, the words from “and to the end.
6 & 7 Geo. 5. c. 64.	Prevention of Corruption Act 1916.	Sections 1 and 3.
15 & 16 Geo. 5. c. 86.	Criminal Justice Act 1925.	Section 39.
23 & 24 Geo. 5. c. 12.	Children and Young Persons Act 1933.	Section 1(5) and (6). In section 38(1), the proviso. In Schedule 1, in the third paragraph, the words “forty-two, forty-three.
1 Edw. 8. & 1 Geo. 6. c. 37.	Children and Young Persons (Scotland) Act 1937.	Section 12(5) and (6).
15 & 16 Geo. 6. and 1 Eliz. 2. c. 52.	Prison Act 1952.	Section 43(1)(b) and (c).
1952 c. 61.	Prisons (Scotland) Act 1952.	In section 31(1), paragraph (b). In section 31(3), the words “detention c entre.

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

		In section 31(4), the words “detention centres wherever they occur.
		In section 34, the words “or a detention centre.
		In section 35(1), the words “detention centres.
		In section 37(1), the words “or detention centre.
		In section 37(2), the words “or detention centre wherever they occur.
9 & 10 Eliz. 2. c. 39. 1967 c. 68.	Criminal Justice Act 1961. Fugitive Offenders Act 1967.	Section 2. In section 8(1) and (2), the words “to custody. In section 11(1), the words “in respect of a person in custody thereunder. In section 16(1), the words “(except for purposes of the references to the United Kingdom in section 3). Schedule 1.
1967 c. 80.	Criminal Justice Act 1967.	Section 49. In Schedule 3, Part I, the entry relating to the Prevention of Corruption Act 1906.
1968 c. 19.	Criminal Appeal Act 1968.	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. Section 10(3)(d). Section 42.
1968 c. 27.	Firearms Act 1968.	In section 21(2), the words “to borstal training, to corrective training for less than three years or. In section 52(1)(a), the words “preventive detention, corrective training, borstal training,.

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

1969 c. 12.	Genocide Act 1969.	Section 2(1)(b) and the word “and immediately preceding it. In section 3(1), the words “and sections 16 and 17 of the Fugitive Offenders Act 1967.
1969 c. 54.	Children and Young Persons Act 1969.	In section 16(10), the words from “and the provisions to the end. Section 22(5). In section 29, the words “he or. Section 34(1)(f) In section 60, subsection (1) (b) and the word “and immediately preceding it, and in subsection (2), the words “or section 16(2) or 17 of the said Act of 1967.
F37	F37	F37
...
1971 c. 40.	Fire Precautions Act 1971.	In section 40(2)(b), the words “detention centre.
1972 c. 20.	Road Traffic Act 1972.	In section 100, the words “or attempting to drive.
1972 c. 71.	Criminal Justice Act 1972.	Section 28(3). In Schedule 5, the amendment of the Criminal Appeal Act 1968.
1973 c. 14.	Costs in Criminal Cases Act 1973.	In Schedule 1, paragraph 3.
1973 c. 62.	Powers of Criminal Courts Act 1973.	Section 22(5). In section 34A(1)(c), the words “other than an order under section 35 of this Act.’ Sections 39 and 40. In section 57(3), the definition of “detention centre. In Schedule 3, paragraph 2(4)(b) and the word “and

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

		immediately preceding it, and paragraph 7.
		In Schedule 5, paragraph 29.
1974 c. 23.	Juries Act 1974.	In section 12(1)(a), the words “not more than three jurors without cause and.
		In section 16(2), the words “for murder or.
1976 c. 82.	Sexual Offences (Amendment) Act 1976.	In section 4, in subsection (3), the words “before the Crown Court at which a person is charged with a rape offence and “relating to the complainant, and subsection (7)(a).
		In section 5(6), the words from the beginning to “and, in the second place where it occurs.
		Section 6.
		In section 7, in subsection (4), the words “and 6(4)(b), in subsection (5), the words “and 6 and in subsection (6), the words “and section 6(1) as adapted by section 6(4)(b).
1977 c. 45.	Criminal Law Act 1977.	Section 43.
		In Schedule 5, paragraph 2, so far as relating to section 99(b) of the Road Traffic Act 1972.
		In Schedule 6, the entry relating to the Offences against the Person Act 1861.
		In Schedule 12, in the entry relating to the Children and Young Persons Act 1969, paragraph 4(b) and (c).
1978 c. 26.	Suppression of Terrorism Act 1978.	Section 3(2).
1978 c. 31.	Theft Act 1978.	In section 5(3) the words from “and to the end.
1978 c. 37.	Protection of Children Act 1978.	In section 1(6), paragraph (b) and the word “and immediately preceding it and

Status: Point in time view as at 09/01/1995.

Changes to legislation: *Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)*

		the words “and sections 16 and 17 of the 1967 Act.
		In section 4(2), the words from “taken to the end.
		In section 5(2), the words from “taken to “distributed or shown,.
1980 c. 9.	Reserve Forces Act 1980.	In Schedule 1, paragraph 5(c)(ii) and the word “or immediately preceding it.
1980 c. 43.	Magistrates’ Courts Act 1980.	Section 22(7).
		Section 32(7).
		Section 134.
		In section 143, subsection (2) (1) to (n), subsections (4) and (5) and in subsection (6) the words “or (4).
		In Schedule 1, in paragraph 5(h), the words “— common assault.
1982 c. 16.	Civil Aviation Act 1982.	Section 93(3).
1982 c. 28.	Taking of Hostages Act 1982.	In section 3, subsection (1) (b) and the word “and immediately preceding it and subsections (3) and (5).
1982 c. 36.	Aviation Security Act 1982.	In section 9, subsection (1) (b) and the word “and immediately preceding it, and subsections (2) and (3).
1982 c. 48.	Criminal Justice Act 1982.	Sections 4 to 7.
		Section 12(1) to (5), (8) and (9).
		Section 14.
		Section 20(1).
		In section 43, the words from “and, in the case to “thereof and the words from “(but to the end of the section.
		Sections 74 and 75.
		In section 80(1), the words “section 74; section 75;.

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)

		In Schedule 8, paragraphs 3(c) and 7(d).
1983 c. 18.	Nuclear Material (Offences) Act 1983.	In section 5, subsection (1) (b) and the word “and immediately preceding it, and subsections (2) and (4).
1984 c. 39.	Video Recordings Act 1984.	Section 15(2), (4) and (5).
1984 c. 46.	Cable and Broadcasting Act 1984.	In Schedule 5, paragraph 34(6).
1984 c. 47.	Repatriation of Prisoners Act 1984.	In Schedule 1, paragraph 4.
1984 c. 60.	Police and Criminal Evidence Act 1984.	Section 24(2)(e).
		In section 65, the word “and before “references.
		Section 68.
		In Schedule 3, paragraphs 1 to 7 and paragraph 13.
1985 c. 13.	Cinemas Act 1985.	In Schedule 2, paragraph 11.
1985 c. 37.	Prohibition of Female Circumcision Act 1985.	Section 3(1)(b) and the word “and immediately preceding it.
1985 c. 51.	Local Government Act 1985.	In section 15(5), the words “or 7.
1985 c. 65.	Insolvency Act 1985.	In Schedule 8, paragraph 24.
1986 c. 32.	Drug Trafficking Offences Act 1986.	In section 6, in subsection (1), paragraph (b) and the word “and immediately preceding it, in subsection (3), the words “or 9 and subsection (5).
		Section 10(1).
		Section 15(5)(b) and (c).
		In section 17(1), the words from “but to the end.
		In section 19, in subsection (1) (b) (i), the words “(and no conviction for any drug trafficking offence is substituted) and in subsection (2), in paragraph (a), the words “and that, but for that default, the proceedings would not have

Status: Point in time view as at 09/01/1995.

Changes to legislation: *Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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)*

		been instituted or continued, and in paragraph (b), the word “substantial.
		In section 25(3), the words “varying or revoking a previous Order in Council.
		In section 38(11), the words “in England and Wales.
1986 c. 45.	Insolvency Act 1986.	Section 264(1)(d) and the word “or immediately preceding it.
		Section 266(4).
		Section 267(3).
		Section 277.
		Section 282(2).
		In section 293(1), the words “does not apply where the bankruptcy order was made on a petition under section 264(1)(d) (criminal bankruptcy); and it.
		Section 297(1).
		Section 327.
		Section 341(4) and (5).
		Section 382(1)(c).
		In section 383(1)(a), the words from “(being, to “question).
		In section 385(1), the definition of “criminal bankruptcy order.
		Section 402.
1987 c. 38.	Criminal Justice Act 1987.	Section 9(3)(a).
		In section 11, in subsection (8)(e), the word “engaged, and subsection (11).
		In Schedule 2, paragraph 1(2).
1987 c. 41.	Criminal Justice (Scotland) Act 1987.	Section 45(7)(c)(ii) and the word “and immediately preceding it.
1988 c. 13.	Coroners Act 1988.	In Schedule 3, paragraph 14.

Status: Point in time view as at 09/01/1995.

Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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

F37 Sch. 16: Entry relating to s. 41(8) of the Administration of Justice Act 1970 repealed (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), ss. 23(3), 101(2), [Sch. 13](#); S.I. 1992/333, art. 2(2), [Sch. 2](#).

Notes

- 1 The repeals in the Offences against the Person Act 1861 and the Prevention of Corruption Act 1916 do not extend to Northern Ireland.
- 2 The repeal in the Road Traffic Act 1972 does not extend to Scotland.
- 3 The repeal of sections 74 and 75 of the Criminal Justice Act 1982 and the repeals in sections 80 and 81 of that Act do not affect those sections as they apply—
 - (a) in any of the Channel Islands; or
 - (b) in the Isle of Man,and any Order in Council applying section 74(1) or 75 to any of those Islands shall continue to have effect as if this Act had not been passed.

Status:

Point in time view as at 09/01/1995.

Changes to legislation:

Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 25 January 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.