

## SCHEDULES

### SCHEDULE 1

Section 8.

#### THE COMMISSION: FURTHER PROVISIONS

##### *Membership*

- 1 Her Majesty shall, on the recommendation of the Prime Minister, appoint one of the members of the Commission to be the chairman of the Commission.
- 2 (1) Subject to the following provisions of this paragraph, a person shall hold and vacate office as a member of the Commission, or as chairman of the Commission, in accordance with the terms of his appointment.
- (2) An appointment as a member of the Commission may be full-time or part-time.
- (3) The appointment of a person as a member of the Commission, or as chairman of the Commission, shall be for a fixed period of not longer than five years.
- (4) Subject to sub-paragraph (5), a person whose term of appointment as a member of the Commission, or as chairman of the Commission, expires shall be eligible for re-appointment.
- (5) No person may hold office as a member of the Commission for a continuous period which is longer than ten years.
- (6) A person may at any time resign his office as a member of the Commission, or as chairman of the Commission, by notice in writing addressed to Her Majesty.
- (7) Her Majesty may at any time remove a person from office as a member of the Commission if satisfied—
- (a) that he has without reasonable excuse failed to discharge his functions as a member for a continuous period of three months beginning not earlier than six months before that time,
  - (b) that he has been convicted of a criminal offence,
  - (c) that a bankruptcy order has been made against him, or his estate has been sequestrated, or he has made a composition or arrangement with, or granted a trust deed for, his creditors, or
  - (d) that he is unable or unfit to discharge his functions as a member.
- (8) If the chairman of the Commission ceases to be a member of the Commission he shall also cease to be chairman.

##### *Members and employees*

- 3 (1) The Commission shall—
- (a) pay to members of the Commission such remuneration,
  - (b) pay to or in respect of members of the Commission any such allowances, fees, expenses and gratuities, and

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- (c) pay towards the provision of pensions to or in respect of members of the Commission any such sums,  
as the Commission are required to pay by or in accordance with directions given by the Secretary of State.
- (2) Where a member of the Commission was, immediately before becoming a member, a participant in a scheme under section 1 of the Superannuation Act 1972, the Minister for the Civil Service may determine that his term of office as a member shall be treated for the purposes of the scheme as if it were service in the employment or office by reference to which he was a participant in the scheme; and his rights under the scheme shall not be affected by sub-paragraph (1)(c).
- (3) Where—
- (a) a person ceases to hold office as a member of the Commission otherwise than on the expiry of his term of appointment, and
  - (b) it appears to the Secretary of State that there are special circumstances which make it right for him to receive compensation,
- the Secretary of State may direct the Commission to make to him a payment of such amount as the Secretary of State may determine.
- 4 (1) The Commission may appoint a chief executive and such other employees as the Commission think fit, subject to the consent of the Secretary of State as to their number and terms and conditions of service.
- (2) The Commission shall—
- (a) pay to employees of the Commission such remuneration, and
  - (b) pay to or in respect of employees of the Commission any such allowances, fees, expenses and gratuities,
- as the Commission may, with the consent of the Secretary of State, determine.
- (3) Employment by the Commission shall be included among the kinds of employment to which a scheme under section 1 of the Superannuation Act 1972 may apply.
- 5 The Commission shall pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of any increase attributable to paragraph 3(2) or 4(3) in the sums payable out of money provided by Parliament under the Superannuation Act 1972.

#### *Procedure*

- 6 (1) The arrangements for the procedure of the Commission (including the quorum for meetings) shall be such as the Commission may determine.
- (2) The arrangements may provide for the discharge, under the general direction of the Commission, of any function of the Commission—
- (a) in the case of a function specified in sub-paragraph (3), by a committee consisting of not fewer than three members of the Commission, and
  - (b) in any other case, by any committee of, or by one or more of the members or employees of, the Commission.
- (3) The functions referred to in sub-paragraph (2)(a) are—
- (a) making a reference to a court under any of sections 9 to 12,
  - (b) reporting to the Court of Appeal under section 15(4),

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- (c) giving to the Secretary of State a statement under section 16(1)(b), and
  - (d) requiring the appointment of an investigating officer under section 19.
- (4) The validity of any proceedings of the Commission (or of any committee of the Commission) shall not be affected by—
- (a) any vacancy among the members of the Commission or in the office of chairman of the Commission, or
  - (b) any defect in the appointment of any person as a member of the Commission or as chairman of the Commission.
- (5) Where—
- (a) a document or other material has been produced to the Commission under section 17, or they have been given access to a document or other material under that section, and the Commission have taken away the document or other material (or a copy of it), and
  - (b) the person who produced the document or other material to the Commission, or gave them access to it, has notified the Commission that he considers that its disclosure to others may be contrary to the interests of national security,
- the Commission shall, after consulting that person, deal with the document or material (or copy) in a manner appropriate for safeguarding the interests of national security.

#### *Evidence*

- 7 A document purporting to be—
- (a) duly executed under the seal of the Commission, or
  - (b) signed on behalf of the Commission,
- shall be received in evidence and, unless the contrary is proved, taken to be so executed or signed.

#### *Annual reports and accounts*

- 8 (1) As soon as possible after the end of each financial year of the Commission, the Commission shall send to the Secretary of State a report on the discharge of their functions during that year.
- (2) Such a report may include an account of the working of the provisions of sections 9 to 25 and recommendations relating to any of those provisions.
- (3) The Secretary of State shall lay before each House of Parliament, and cause to be published, a copy of every report sent to him under sub-paragraph (1).
- 9 (1) The Commission shall—
- (a) keep proper accounts and proper records in relation to the accounts, and
  - (b) prepare a statement of accounts in respect of each financial year of the Commission.
- (2) The statement of accounts shall contain such information and shall be in such form as the Secretary of State may, with the consent of the Treasury, direct.
- (3) The Commission shall send a copy of the statement of accounts to the Secretary of State and to the Comptroller and Auditor General within such period after the end of the financial year to which the statement relates as the Secretary of State may direct.

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- (4) The Comptroller and Auditor General shall—
- (a) examine, certify and report on the statement of accounts, and
  - (b) lay a copy of the statement of accounts and of his report before each House of Parliament.
- 10 For the purposes of this Schedule the Commission’s financial year shall be the period of twelve months ending with 31st March; but the first financial year of the Commission shall be the period beginning with the date of establishment of the Commission and ending with the first 31st March which falls at least six months after that date.

*Expenses*

- 11 The Secretary of State shall defray the expenses of the Commission up to such amount as may be approved by him.

SCHEDULE 2

Section 29.

MINOR AND CONSEQUENTIAL AMENDMENTS

*The Army Act 1955 (c. 18)*

- 1 In section 110 of the Army Act 1955 (powers of confirming officers), for the words from “is under” in subsection (1) to the end of the proviso to that subsection substitute “is unsafe, or by confirming the finding or sentence or referring the finding or sentence (or both) for confirmation to a higher confirming officer.”

*The Air Force Act 1955 (c. 19)*

- 2 In section 110 of the Air Force Act 1955 (powers of confirming officers), for the words from “is under” in subsection (1) to the end of the proviso to that subsection substitute “is unsafe, or by confirming the finding or sentence or referring the finding or sentence (or both) for confirmation to a higher confirming officer.”

*The Public Records Act 1958 (c. 51)*

- 3 In the First Schedule to the Public Records Act 1958 (definition of public records), in Part II of the Table at the end of paragraph 3, at the appropriate place insert—
- “Criminal Cases Review Commission.”

*The Criminal Appeal Act 1968 (c. 19)*

- 4 (1) The Criminal Appeal Act 1968 shall be amended as follows.
- (2) In section 5 (disposal of appeal against conviction on special verdict), in subsection (1), for “by a person in whose case” substitute “in a case where”.
  - (3) In section 23 (evidence), in subsections (1) and (4), for “purposes of” substitute “the purposes of an appeal under”.

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- (4) In section 29 (effect of appeal on sentence), in subsection (2)(c), for “by the Secretary of State under section 17 of this Act” substitute “under section 9 of the Criminal Appeal Act 1995”.
- (5) In section 45 (construction of references to Court of Appeal and single judge)—
  - (a) in subsection (1) (references to Court of Appeal), after “II” insert “and section 44A”, and
  - (b) in subsection (2) (references to single judge), for “and 44” substitute “, 31A, 44 and 44A”.

*The Courts-Martial (Appeals) Act 1968 (c. 20)*

- 5
- (1) The Courts-Martial (Appeals) Act 1968 shall be amended as follows.
  - (2) In section 12 (disposal of appeal against conviction by court-martial), for subsection (1) (grounds on which Courts-Martial Appeal Court are to allow or dismiss appeal), including the proviso, substitute—
    - “(1) The Appeal Court—
      - (a) shall allow an appeal against conviction by court-martial if they think that the conviction is unsafe; and
      - (b) shall dismiss such an appeal in any other case.”,and, in the side-note, for “wrong in law, etc” substitute “unsafe”.
  - (3) In section 28 (evidence)—
    - (a) in subsection (1) (power to receive evidence etc.), for paragraph (c) substitute—
      - “(c) receive any evidence which was not adduced at the trial.”,
    - (b) for subsection (2) (duty to receive evidence in certain circumstances) substitute—
      - “(2) The Appeal Court shall, in considering whether to receive any evidence, have regard in particular to—
        - (a) whether the evidence appears to the Court to be capable of belief;
        - (b) whether it appears to the Court that the evidence may afford any ground for allowing the appeal;
        - (c) whether the evidence would have been admissible at the trial on an issue which is the subject of the appeal; and
        - (d) whether there is a reasonable explanation for the failure to adduce the evidence at the trial.”, and
      - (c) in subsection (3), after “any” insert “evidence of a”.

*The Costs in Criminal Cases Act (Northern Ireland) 1968 (c. 10 (N.I.))*

- 6
- In section 4 of the Costs in Criminal Cases Act (Northern Ireland) 1968 (costs awarded by Court of Appeal), at the end insert—
    - “(5) Where section 47A of the Criminal Appeal (Northern Ireland) Act 1980 (death of convicted person) applies, any reference in this section to the appellant includes the person approved under that section.”

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*The Superannuation Act 1972 (c. 11)*

- 7 In Schedule 1 to the Superannuation Act 1972 (kinds of employment to which a scheme under section 1 of that Act may apply) at the end of the list of “Royal Commissions and other Commissions” insert—
- “Criminal Cases Review Commission.”

*The Juries Act 1974 (c. 23)*

- 8 In Part I of Schedule 1 to the Juries Act 1974 (persons ineligible for jury service), in Group B, after the entry beginning “Members of the Parole Board” insert—
- “Members and employees of the Criminal Cases Review Commission.”

*The Juries (Northern Ireland) Order 1974 (S.I. 1974/2143 (N.I.6))*

- 9 In Schedule 2 to the Juries (Northern Ireland) Order 1974 (exemptions from jury service), in the group headed “Persons concerned with administration of justice”, at the end insert—
- “Members and employees of the Criminal Cases Review Commission.”

*The House of Commons Disqualification Act 1975 (c. 24)*

- 10 In the House of Commons Disqualification Act 1975, in Part II of Schedule 1 (bodies of which all members are disqualified), at the appropriate place insert—
- “The Criminal Cases Review Commission”.

*The Northern Ireland Assembly Disqualification Act 1975 (c. 25)*

- 11 In the Northern Ireland Assembly Disqualification Act 1975, in Part II of Schedule 1 (bodies of which all members are disqualified), at the appropriate place insert—
- “The Criminal Cases Review Commission”.

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

- 12 (1) The Criminal Appeal (Northern Ireland) Act 1980 shall be amended as follows.
- (2) In section 16 (notice of appeal or application for leave), in subsection (1), omit “appeal or”.
- (3) In section 25 (evidence), in subsection (1), after “purposes of” insert “an appeal under”.
- (4) In section 26 (additional powers of Court), in subsection (1), after “purposes of” insert “an appeal under”.
- (5) In section 29 (computation of sentence), in subsection (3)(c), for “section 14 of this Act” substitute “section 10 of the Criminal Appeal Act 1995”.
- (6) In section 45 (powers of the Court of Appeal exercisable by single judge), after subsection (3A) insert—

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“(3B) Subject to section 44(4) above, the power of the Court of Appeal to approve a person under section 47A of this Act may be exercised by a single judge of the Court.”

*The County Courts (Northern Ireland) Order 1980 (S.I. 1980/397 (N.I.3))*

- 13 In Article 28(3) of the County Courts (Northern Ireland) Order 1980 (power of county court to increase punishment on appeal), after “1954” insert “but subject to section 12(6) of the Criminal Appeal Act 1995”.

*The Supreme Court Act 1981 (c. 54)*

- 14 In section 48 of the Supreme Court Act 1981 (appeals to Crown Court), in subsection (4) (power to award more severe punishment), for “If” substitute “Subject to section 11(6) of the Criminal Appeal Act 1995, if”.

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

- 15 In section 21(1) of the Prosecution of Offences Act 1985 (interpretation of Part II), before the definition of “defendant’s costs order” insert—

““accused” and “appellant”, in a case where section 44A of the Criminal Appeal Act 1968 (death of convicted person) applies, include the person approved under that section;”.

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

- 16 (1) The Criminal Justice Act 1988 shall be amended as follows.
- (2) In section 32 (evidence through television links), in subsection (1A) (proceedings where section applies)—
- (a) in paragraph (a), for “section 17 of the Criminal Appeal Act 1968” substitute “section 9 of the Criminal Appeal Act 1995”, and
  - (b) in paragraph (b), for “and appeals to the Crown Court arising out of such proceedings” substitute “, appeals to the Crown Court arising out of such proceedings and hearings of references under section 11 of the Criminal Appeal Act 1995 so arising”.
- (3) In section 32A (video recordings of testimony from child witnesses), in subsection (1) (proceedings where section applies)—
- (a) in paragraph (b), for “section 17 of the Criminal Appeal Act 1968” substitute “section 9 of the Criminal Appeal Act 1995”, and
  - (b) in paragraph (c), for “and appeals to the Crown Court arising out of such proceedings” substitute “, appeals to the Crown Court arising out of such proceedings and hearings of references under section 11 of the Criminal Appeal Act 1995 so arising”.
- (4) In section 133 (compensation for miscarriages of justice), in subsection (5) (meaning of “reversed” in relation to a conviction), in paragraph (b) (references), for sub-paragraph (i) substitute—
- “(i) under the Criminal Appeal Act 1995; or”,
- and omit sub-paragraph (iii).

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*The Legal Aid Act 1988 (c. 34)*

- 17 In section 21 of the Legal Aid Act 1988 (availability of representation for the purposes of criminal proceedings), after subsection (10) insert—
- “(10A) Where section 44A of the Criminal Appeal Act 1968 (death of convicted person) applies, the reference in subsection (1) above to the convicted person shall be construed as a reference to the person approved under that section.”

*The Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I.12))*

- 18 (1) The Police and Criminal Evidence (Northern Ireland) Order 1989 shall be amended as follows.
- (2) In Article 81 (evidence through television links), in paragraph (1A) (proceedings where Article applies)—
- (a) in sub-paragraph (a), for “section 14 of the Criminal Appeal (Northern Ireland) Act 1980” substitute “section 10 of the Criminal Appeal Act 1995”, and
- (b) in sub-paragraph (b), for “and appeals to the county court arising out of such proceedings” substitute “, appeals to the county court arising out of such proceedings and hearings of references under section 12 of the Criminal Appeal Act 1995 so arising”.
- (3) In Article 81A (video recordings of testimony from child witnesses), in paragraph (1) (proceedings where Article applies)—
- (a) in sub-paragraph (b), for “section 14 of the Criminal Appeal (Northern Ireland) Act 1980” substitute “section 10 of the Criminal Appeal Act 1995”, and
- (b) in sub-paragraph (c), for “and appeals to the county court arising out of such proceedings” substitute “, appeals to the county court arising out of such proceedings and hearings of references under section 12 of the Criminal Appeal Act 1995 so arising”.

*The Criminal Justice and Public Order Act 1994 (c. 33)*

- 19 In section 51 of the Criminal Justice and Public Order Act 1994 (intimidation etc. of witnesses, jurors and others), in subsection (9), in the definition of “the relevant period”, for “reference under section 17 of the Criminal Appeal Act 1968” substitute “a reference under section 9 or 11 of the Criminal Appeal Act 1995”.

SCHEDULE 3

Section 29.

REPEALS

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1967 c. 13.	The Parliamentary Commissioner Act 1967.	In Schedule 3, in paragraph 7, the words “the Court of Appeal,”.



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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1968 c. 19.	The Criminal Appeal Act 1968.	Section 17. In section 23(3), the words following “compellable”.
1968 c. 20.	The Courts-Martial (Appeals) Act 1968.	In section 28(3), the words following “compellable”.
1977 c. 45.	The Criminal Law Act 1977.	Section 44.
1980 c. 43.	The Magistrates' Courts Act 1980.	In section 142, in subsection (2), the words “, subject to subsection (4) below,” and subsection (4).
1980 c. 47.	The Criminal Appeal (Northern Ireland) Act 1980.	Section 14. In section 16(1), the words “appeal or”. In section 25(3), the words following “compellable”. In section 44(4), the words “14 or”.
1981 c. 54.	The Supreme Court Act 1981.	In Schedule 5, the entries relating to the Army Act 1955 and the Air Force Act 1955.
S.I. 1986/595 (N.I. 4).	The Mental Health (Northern Ireland) Order 1986.	In Schedule 5, in Part I, the entry relating to section 14(1) of the Criminal Appeal (Northern Ireland) Act 1980.
1988 c. 33.	The Criminal Justice Act 1988.	In section 133(5)(b), subparagraph (iii) and the word “or” immediately preceding it.
1991 c. 25.	The Criminal Procedure (Insanity and Unfitness to Plead) Act 1991.	In Schedule 3, paragraphs 3(1) and 4.