



# Homicide Act 1957

## 1957 CHAPTER 11

### PART I

#### AMENDMENTS OF LAW OF ENGLAND AND WALES AS TO FACT OF MURDER

#### **1 Abolition of "constructive malice"**

- (1) Where a person kills another in the course or furtherance of some other offence, the killing shall not amount to murder unless done with the same malice aforethought (express or implied) as is required for a killing to amount to murder when not done in the course or furtherance of another offence.
- (2) For the purposes of the foregoing subsection, a killing done in the course or for the purpose of resisting an officer of justice, or of resisting or avoiding or preventing a lawful arrest, or of effecting or assisting an escape or rescue from legal custody, shall be treated as a killing in the course of furtherance of an offence.

#### **2 Persons suffering from diminished responsibility**

- (1) Where a person kills or is a party to the killing of another, he shall not be convicted of murder if he was suffering from such abnormality of mind (whether arising from a condition of arrested or retarded development of mind or any inherent causes or induced by disease or injury) as substantially impaired his mental responsibility for his acts and omissions in doing or being a party to the killing.
- (2) On a charge of murder, it shall be for the defence to prove that the person charged is by virtue of this section not liable to be convicted of murder.
- (3) A person who but for this section would be liable, whether as principal or as accessory, to be convicted of murder shall be liable instead to be convicted of manslaughter.
- (4) The fact that one party to a killing is by virtue of this section not liable to be convicted of murder shall not affect the question whether the killing amounted to murder in the case of any other party to it.

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### **3 Provocation**

Where on a charge of murder there is evidence on which the jury can find that the person charged was provoked (whether by things done or by things said or by both together) to lose his self-control, the question whether the provocation was enough to make a reasonable man do as he did shall be left to be determined by the jury; and in determining that question the jury shall take into account everything both done and said according to the effect which, in their opinion, it would have on a reasonable man.

### **4 Suicide pacts**

- (1) It shall be manslaughter, and shall not be murder, for a person acting in pursuance of a suicide pact between him and another to kill the other or be a party to the other killing himself or being killed by a third person.
- (2) Where it is shown that a person charged with the murder of another killed the other or was a party to his killing himself or being killed, it shall be for the defence to prove that the person charged was acting in pursuance of a suicide pact between him and the other.
- (3) For the purposes of this section "suicide pact" means a common agreement between two or more persons having for its object the death of all of them, whether or not each is to take his own life, but nothing done by a person who enters into a suicide pact shall be treated as done by him in pursuance of the pact unless it is done while he has the settled intention of dying in pursuance of the pact.

## **PART II**

### LIABILITY TO DEATH PENALTY

### **5 Death penalty for certain murders**

- (1) Subject to subsection (2) of this section, the following murders shall be capital murders, that is to say.—
  - (a) any murder done in the course or furtherance of theft;
  - (b) any murder by shooting or by causing an explosion;
  - (c) any murder done in the course or for the purpose of resisting or avoiding or preventing a lawful arrest, or of effecting or assisting an escape or rescue from legal custody,
  - (d) any murder of a police officer acting in the execution of his duty or of a person assisting a police officer so acting;
  - (e) in the case of a person who was a prisoner at the time when he did or was a party to the murder, any murder of a prison officer acting in the execution of his duty or of a person assisting a prison officer so acting.
- (2) If, in the case of any murder falling within the foregoing subsection, two or more persons are guilty of the murder, it shall be capital murder in the case of any of them who by his own act caused the death of, or inflicted or attempted to inflict grievous bodily harm on, the person murdered, or who himself used force on that person in the course or furtherance of an attack on him; but the murder shall not be capital murder in the case of any other of the persons guilty of it.

- (3) Where it is alleged that a person accused of murder is guilty of capital murder, the offence shall be charged as capital murder in the indictment, and if a person charged with capital murder is convicted thereof, he shall be liable to the same punishment for the murder as heretofore.
- (4) In this Act " capital murder " means capital murder within subsections (1) and (2) of this section.
- (5) In this section—
  - (a) " police officer " means a constable who is a member of a police force or a special constable appointed under any Act of Parliament, and " police force " has the same meaning as in section thirty of the Police Pensions Act, 1921 (as amended by the Police Act, 1946) or, as regards Scotland, the same meaning as in section forty of the Police (Scotland) Act, 1956;
  - (b) " prison " means any institution for which rules may be made under the Prison Act, 1952, or the Prisons (Scotland) Act, 1952, and any establishment under the control of the Admiralty or the Secretary of State where persons may be required to serve sentences of imprisonment or detention passed under the Naval Discipline Act, the Army Act, 1955, or the Air Force Act, 1955;
  - (c) " prison officer " includes any member of the staff of a prison;
  - (d) " prisoner " means a person who is undergoing imprisonment or detention in a prison, whether under sentence or not, or who, while liable to imprisonment or detention in a prison, is unlawfully at large;
  - (e) " theft " includes any offence which involves stealing or is done with intent to steal.

## **6 Death penalty for repeated murders**

- (1) A person convicted of murder shall be liable to the same punishment as heretofore, if before conviction of that murder he has, whether before or after the commencement of this Act, been convicted of another murder done on a different occasion (both murders having been done in Great Britain).
- (2) Where a person is charged with the murder of two or more persons, no rule of practice shall prevent the murders being charged in the same indictment or (unless separate trials are desirable in the interests of justice) prevent them being tried together; and where a person is convicted of two murders tried together (but done on different occasions), subsection (1) of this section shall apply as if one conviction had preceded the other.

## **7 Abolition of death penalty for other murders**

No person shall be liable to suffer death for murder in any case not falling within section five or six of this Act.

## **8 Courts-martial**

- (1) The foregoing provisions of this Part of this Act shall not have effect in relation to courts-martial, but a person convicted by a court-martial of murder (or of an offence corresponding thereto under section seventy of the Army Act, 1955, or of the Air Force Act, 1955) shall not be liable to suffer death, unless he is charged with and convicted of

committing the offence under circumstances which, if he had committed it in England, would make him guilty of capital murder.

- (2) An accused so charged before a court-martial under the Naval Discipline Act may, on failure of proof of the offence having been committed under such circumstances as aforesaid, be found guilty of the murder as not having been committed under such circumstances.

## **9 Punishment for murders not punishable with death, and other consequential provisions**

- (1) Where a court (including a court-martial) is precluded by this Part of this Act from passing sentence of death, the sentence shall be one of imprisonment for life.
- (2) Accordingly paragraph (a) of subsection (3) of section seventy of the Army Act, 1955, and of the Air Force Act, 1955, and the first paragraph of section forty-five of the Naval Discipline Act, shall each be amended by the addition, at the end of the paragraph, of the words " or, in a case of murder not falling within section eight of the Homicide Act, 1957, imprisonment for life ".
- (3) In section fifty-three of the Children and Young Persons Act, 1933, and in section fifty-seven of the Children and Young Persons (Scotland) Act, 1937, there shall be substituted for subsection (1)—

“(1) Sentence of death shall not be pronounced on or recorded against a person convicted of an offence who appears to the court to have been under the age of eighteen years at the time the offence was committed, nor shall any such person be sentenced to imprisonment for life under section nine of the Homicide Act, 1957; but in lieu thereof the court shall (notwithstanding anything in this or any other Act) sentence him to be detained during Her Majesty's pleasure, and if so sentenced he shall be liable to be detained in such place and under such conditions as the Secretary of State may direct.”

- (4) The provisions of the First Schedule to this Act shall have effect with respect to procedural and other matters arising out of sections five to seven of this Act, and with respect to the convictions which may be taken into account under section six.

## **PART III**

### AMENDMENTS AS TO FORM AND EXECUTION OF DEATH SENTENCE IN ENGLAND AND WALES

#### **10 Form of sentence of death for murder**

Where by virtue of section five or six of this Act a person convicted of murder is sentenced to death, the form of the sentence shall be to the effect only that he is to "suffer death in the manner authorised by law ".

#### **11 Notice of execution**

- (1) Sections seven and ten of the Capital Punishment Amendment Act, 1868, shall cease to have effect, in so far as they require provision to be made for the purpose of making known without the prison walls the fact that execution of sentence of death for murder

is taking place, or require any document relating to such an execution to be exhibited on or near the prison.

- (2) Where sentence of death for murder is to be executed in accordance with that Act, it shall be the duty of the Secretary of State, as early as he conveniently can, to publish in such manner as he thinks fit the time and place fixed for the execution.
- (3) Where sentence of death for murder has been executed in accordance with that Act, it shall be the duty of the Secretary of State, as early as he conveniently can, to publish in such manner as he thinks fit the fact that the execution has taken place, and to cause to be published in the London Gazette a copy of the coroner's inquisition required by the Act.

## **12 Avoidance of double executions**

Where two or more persons sentenced to death for murder are confined in the same prison, the Secretary of State may, with a view to avoiding the execution of more than one such sentence in that prison on the same day, direct that any of those persons shall be removed to and confined in some other prison specified in the direction; and the sentence on that person may lawfully be executed in the prison so specified, and the sheriff charged with the execution shall for that purpose have the same jurisdiction in that prison and over the officers of it, and be subject to the same responsibilities and duties in it, as though the prison were that in which the sentence would have been executed but for the direction.

## **PART IV**

### **APPLICATION TO, AND SPECIAL PROVISIONS FOR, SCOTLAND**

## **13 Application of Parts I and III to Scotland**

- (1) Part I and, subject to subsection (2) of this section, Part III of this Act shall not extend to Scotland.
- (2) Section eleven of this Act shall extend to Scotland, with the omission of subsection (2) and with the substitution in subsection (3) of a reference to the Edinburgh Gazette for the reference to the London Gazette and of a reference to the report or deliverance of the sheriff or sheriff substitute for the reference to the coroner's inquisition.
- (3) Subsection (1) of this section does not affect courts-martial.

## **14 Amendment as to penalty for certain attempts to murder**

The Criminal Law (Scotland) Act, 1829 (which makes punishable by death certain crimes of violence against Her Majesty's subjects), shall have effect with the substitution for any reference to a sentence of death of a reference to a sentence of imprisonment for life.

## **15 Amendment as to period within which date of execution is to be fixed**

Section two of the Criminal Law (Scotland) Act, 1830 (which provides for the date of execution to be fixed within different periods according to whether the sentence is

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pronounced north or south of the Forth), shall have effect, in the case of a sentence of death for murder, as if the words " if pronounced in Edinburgh or in any other part of Scotland to the southward of the firth or river of Forth " and the words from " and if pronounced " to the end of the section were omitted.

## **PART V**

### COMMENCEMENT, ETC.

#### **16 Past offences**

This Act shall not have effect in relation to any offence, where an indictment for that offence has been signed or, in Scotland, has been served before the date of the commencement of this Act, or, as the case may be, a court-martial for the trial of that offence has been ordered or convened before that date; but (subject to that) this Act shall have effect in relation to offences committed wholly or partly before that date as it applies in relation to offences committed after that date.

#### **17 Short title, repeal and extent**

- (1) This Act may be cited as the Homicide Act, 1957.
- (2) The enactments specified in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (3) This Act, except as regards courts-martial, shall not extend to Northern Ireland.