
STATUTORY INSTRUMENTS

1988 No. 1676 (C.60)

**CRIMINAL LAW, ENGLAND AND
WALES
CRIMINAL LAW, NORTHERN
IRELAND
CRIMINAL LAW, SCOTLAND**

**The Criminal Justice Act 1988
(Commencement No. 2) Order 1988**

Made - - - - 29th September 1988

In exercise of the powers conferred on me by section 171(1) and (2) of the Criminal Justice Act 1988⁽¹⁾, I hereby make the following Order:

1. This Order may be cited as the Criminal Justice Act (Commencement No. 2) Order 1988.
2. Subject to article 3 of this Order, the provisions of the Criminal Justice Act 1988 (hereinafter called “the Act”) referred to in column 1 of the Schedule to this Order (which relate to the matters described in column 2 of that Schedule) shall come into force on 12th October 1988 (hereinafter called “the commencement date”).
- 3.—(1) Section 33 of the Act (evidence of persons under 14 in committal proceedings) shall not apply to proceedings before a magistrates' court acting as examining justices which began before the commencement date.
(2) Section 34 of the Act (abolition of requirement of corroboration for unsworn evidence of children) shall not apply to proceedings before a magistrates' court acting as examining justices, or to a trial, which began before the commencement date.
(3) Sections 37 and 39 of the Act (offences of taking motor vehicle or other conveyance without authority etc., driving while disqualified, common assault and battery to be summary offences) shall not apply to any offence in respect of which before the commencement date it has been decided, in accordance with the provisions of sections 18 to 21 of the Magistrates' Courts Act 1980⁽²⁾, whether the accused is to be tried summarily or on indictment.
4. Appendix A to the Schedule to the Criminal Justice Act 1988 (Commencement No. 1) Order 1988⁽³⁾ is hereby amended by the deletion of the reference to section 133 of the Magistrates' Courts Act 1980⁽⁴⁾.

(1) 1988 c. 33.

(2) 1980 c. 43.

(3) S.I. 1988/1408.

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Home Office
29th September 1988

Douglas Hurd
One of Her Majesty's Principal Secretaries of
State

(4) 1980 c. 43. The amendment for section 133 was brought into force on the day the Criminal Justice Act 1988 was passed, by virtue of section 171(5) of that Act.

SCHEDULE

Article 2

PROVISIONS OF THE CRIMINAL JUSTICE ACT 1988 COMING INTO FORCE ON 12th OCTOBER 1988

(Column 1) Provisions of the Act	(Column 2) Subject matter of provisions
Section 33.	Evidence of persons under 14 in committal proceedings.
Section 34.	Abolition of requirement of corroboration for unsworn evidence of children.
Sections 37 to 39.	Offences of taking motor vehicle or other conveyance without authority etc, driving while disqualified, certain offences of criminal damage, common assault and battery to be summary offences.
Section 40.	Power to join in indictment count for certain summary offences.
Section 41.	Power of Crown Court to deal with summary offence where person committed for either way offence.
Section 42.	Amendments of section 56 of the Criminal Justice Act 1967 relating to committal for sentence.
Section 49.	Abolition of power of magistrates' court under section 134 of the Magistrates' Courts Act 1980 to order detention in a place certified by the Secretary of State.
Sections 51 to 54.	Maximum fines under subordinate legislation.
Sections 55 and 56.	Fines under secondary subordinate instruments.
Section 57.	Powers of harbour authorities to provide for maximum fines up to level 4 on standard scale.
Section 59.	Power to alter exceptionally high maximum fines.
Section 63.	Amendment of section 28 of the Transport Act 1982 (fixed penalty notices).
Section 70.	Forfeiture for drug offences.
Sections 96 and 97.	External confiscation orders.
Sections 104 to 106.	Compensation orders.
Section 107.	Power to make order applying proceeds of sale of property forfeited by offender for benefit of victim.
Section 121.	Continuation of trials for murder on death or discharge of juror.

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(Column 1) Provisions of the Act	(Column 2) Subject matter of provisions
Section 122.	Judge to decide issue of autrefois acquit and autrefois convict.
Section 131.	Bail: requirement to comply with hostel rules.
Section 132 and Schedule 11, so far as not already in force.	Administration of the probation service etc.
Section 133 and Schedule 12.	Compensation for miscarriages of justice.
Section 145.	Power to petition for winding-up etc on information obtained on investigation by Director of Serious Fraud Office.
Section 147.	Searches of detained persons.
Section 148.	Computer data about fingerprints.
Section 155.	Power to provide for remands in custody for more than eight days.
Section 156.	Appeals to Crown Court.
Section 157.	Groundless appeals and applications for leave to appeal.
Section 163.	Application of restitution orders to the Crown.
Section 164.	Alteration of names of petty sessions areas.
Section 165.	Officers of magistrates' courts.
Section 170(1), to the extent necessary to bring into force the provisions of Schedule 15 specified in Appendix A hereto.	Minor and consequential amendments.
Section 170(2), to the extent necessary to bring into force the provisions of Schedule 16 specified in Appendix B hereto.	Repeals.
So much of Schedule 15 as is specified in Appendix A hereto.	Minor and consequential amendments.
So much of Schedule 16 as is specified in Appendix B hereto.	Repeals.

APPENDIX A

PROVISIONS OF SCHEDULE 15 COMING INTO FORCE ON 12th OCTOBER 1988

So much of Schedule 15 as amends the following enactments:—

The Criminal Law Act [1826 \(c. 64\)](#).

The Offences against the Person Act [1861 \(c. 100\)](#).

Schedule 1 to the Children and Young Persons Act [1933 \(c. 12\)](#).

The Administration of Justice (Miscellaneous Provisions) Act [1933 \(c. 36\)](#).

Section 62 of the Criminal Justice Act [1967 \(c. 80\)](#).

Sections 9, 10, 11, 19, 29, 30, 31(1) and (2) and 44 of the Criminal Appeal Act [1968 \(c. 19\)](#).

The Theft Act [1968 \(c. 60\)](#).

Sections 34A and 43 of the Powers of Criminal Courts Act [1973 \(c. 62\)](#).

The Legal Aid Act [1974 \(c. 4\)](#).

Section 289G of the Criminal Procedure (Scotland) Act [1975 \(c. 21\)](#).

The Bail Act [1976 \(c. 63\)](#).

The Interpretation Act [1978 \(c. 30\)](#).

The Justices of the Peace Act [1979 \(c. 55\)](#).

Sections 102 and 128 of the Magistrates' Courts Act [1980 \(c. 43\)](#).

The Civil Jurisdiction and Judgments Act [1982 \(c. 27\)](#).

The Transport Act [1982 \(c. 49\)](#).

The Local Government Act [1985 \(c. 51\)](#).

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

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APPENDIX B

REPEALS TAKING EFFECT ON 12th OCTOBER 1988

Chapter	Short title	Extent of repeal
7 Geo. 4 c.64.	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”.
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).
1968 c. 19.	Criminal Appeal act 1968.	Section 10(3)(d). Section 42.
1972 c. 20.	Road Traffic Act 1972.	In section 100, the words “or attempting to drive”.
1972 c. 71.	Criminal Justice Act 1972.	In Schedule 5, the amendment of the Criminal Appeal Act 1968.
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”. In Schedule 3, paragraph 2(4)(b) and the word “and” immediately preceding it, and paragraph 7. In Schedule 5, paragraph 29.
1974 c. 23.	Juries Act 1974.	In section 16(2), the words “for murder or”.

Chapter	Short title	Extent of repeal
1977 c. 45.	Criminal Law Act 1977.	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.
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. 48.	Criminal Justice Act 1982.	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;”.
1984 c. 39.	Video Recordings Act 1984.	Section 15(2), (4) and (5).
1984 c. 60.	Police and Criminal Evidence Act 1984.	In section 65, the word “and” before “references”.
1985 c. 13.	Cinemas Act 1985.	In Schedule 2, paragraph 11.
1985 c. 51.	Local Government Act 1985.	In section 15(5), the words “or 7”.
1988 c. 13.	Coroners Act 1988.	In Schedule 3, paragraph 14.

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EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 12th October 1988 sections 33, 34, 37—39, 40—42, 49, 51—57, 59, 63, 70, 96, 97, 104—107, 121, 122, 131—133, 145, 147, 148, 155—157, 163—165 and 170 of, and Schedule 11, so far as it is not already in force, and Schedule 12 to, the Criminal Justice Act 1988, and associated amendments and repeals. These provisions amend the law on miscellaneous aspects of evidence and procedure in criminal cases, and on the level and enforcement of fines and other pecuniary orders, and introduce a statutory right to apply for compensation for miscarriages of justice.

Article 3 makes transitional provision in relation to sections 33 and 34 of the Criminal Justice Act 1988, which make provision about the evidence of children in criminal proceedings, and in relation to sections 37 and 39, which provide that the offences of taking a motor vehicle or other conveyance without authority, driving while disqualified, common assault and battery shall be summary offences.

Article 4 corrects a mistake in Appendix A to the Schedule to the Criminal Justice Act 1988 (Commencement No. 1) Order 1988 by deleting the reference to the amendment of section 133 of the Magistrates' Courts Act 1980. This amendment was brought into force on the date of Royal Assent, namely 29th July 1988, by virtue of section 171(5) of that Act.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Act have been brought into force by Commencement Order made before the date of this Order:

Provisions	Date of commencement	S.I. No.
s.123, Sch. 8.	1.10.1988.	1988/1408.
ss.125 to 128, Sch. 10.		
s.170(1), Sch. 15 (partially).		
s.170(2), Sch. 16 (partially).		