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STATUTORY INSTRUMENTS

1993 No. 2050

The Prisoners and Criminal Proceedings (Scotland) Act 1993 Commencement, Transitional Provisions and Savings Order 1993

Citation and Interpretation

1. This Order may be cited as the Prisoners and Criminal Proceedings (Scotland) Act 1993 Commencement, Transitional Provisions and Savings Order 1993.

2. In this Order–

"the Act" means the Prisoners and Criminal Proceedings (Scotland) Act 1993.

Commencement of Provisions

3.—(1) This Article has effect subject to the provisions of Articles 4 to 10 below.

(2) The provisions of the Act which are specified in column 1 of Schedule 1 to this Order shall, insofar as they are not then in force, come into force on 18th August 1993 but, where a particular purpose in relation to any such provision is specified in column 2 of that Schedule, that provision shall come into force on that day only for that purpose.

(3) The provisions of the Act which are specified in column 1 of Schedule 2 to this Order shall, insofar as they are not then in force, come into force on 18th September 1993 but, where a particular purpose in relation to any such provision is specified in column 2 of that Schedule, that provision shall come into force on that day only for that purpose.

(4) All provisions of the Act insofar as they are not in force immediately before 1st October 1993, with the exception of those mentioned in paragraph (5) of this Article, shall come into force on 1st October 1993.

(5) Sections 30, 33, 34 and 35 of the Act shall come into force on 1st January 1994.

Savings

4.—(1) Each of the following provisions shall apply only in relation to criminal proceedings which are commenced on or after the date when that provision comes into force, for all purposes, by virtue of this Order, namely:–

(a) any provision in Part II of the Act, except sections 28, 29, 40(1), 42(1) and 43;

(b) any provision in Schedule 4 to the Act;

(c) in Schedule 5 to the Act, any provision in any of the sub-paragraphs of paragraph 1, except sub-paragraphs (1), (5), (8), (9) to (29), (35) and (38); and

(d) in Part I of Schedule 7 to the Act, any repeal which is consequential upon any of the above provisions;

(2) For the purposes of paragraph (1) of this Article, criminal proceedings are commenced–

(a) in summary proceedings, on the date of the first calling of the case; and

(b) in solemn proceedings, on the date on whichever of the following first occurs:–

(i) the grant of a warrant to arrest and commit;

(ii) the intimation of a petition; and

(iii) the service of an indictment.

5. Each of the following provisions shall apply only in a case where the trial has commenced on or after the date on which that provision comes into force, for all purposes, by virtue of this Order, namely:–

(a) section 40(1) of the Act; and

(b) in Schedule 5 to the Act, sub-paragraph (5) of paragraph 1,

and, for the purposes of this Article and Article 7 below, a trial shall be taken to commence when the oath is administered to the jury.

6. Without prejudice to section 17(2) of the Interpretation Act 1978((**1**)), insofar as anything done under or by virtue of section 274 of the Criminal Procedure (Scotland) Act 1975((**2**)), as in force immediately before 1st October 1993, could have been done under or by virtue of the new provision, it shall have effect as if done under or by virtue of the new provision; and, for the purposes of this Article, the "new provision" means section 274 of that Act, as substituted by sub-paragraph (27) of paragraph 1 of Schedule 5 to the Act.

7. Section 275 of the Criminal Procedure (Scotland) Act 1975, as substituted by sub-paragraph (27) of paragraph 1 of Schedule 5 to the Act, shall apply in respect of any request made on or after 1st October 1993 for a transcript to be made of the proceedings at any trial, whether that trial commenced before or after that date.

8. Section 28 of the Act shall apply only in the case of a person who is arrested or is detained under section 2(1) of the Criminal Justice (Scotland) Act 1980((**3**)) on or after 1st October 1993.

9. The following provisions of the Act shall apply only in the case of a person who has been convicted on or after 1st September 1993, namely:–

(a) section 43 of the Act; and

(b) in Part I of Schedule 7 to the Act, the repeal of paragraph 12 of Schedule 3 to the Criminal Justice (Scotland) Act 1980.

10. The following provisions shall apply only in the case of a person who has been convicted on or after 1st October 1993, namely:–

(a) section 42(1) of the Act; and

(b) in Schedule 5 to the Act, paragraph 1(9) to (26), (29) and (35).

St Andrew's House,
Edinburgh
16th August 1993

Fraser of Carmyllie
Minister of State, Scottish Office

(**1**) 1978 c. 30.

(**2**) 1975 c. 21. Section 274 was repealed in part by the Criminal Justice (Scotland) Act 1980, Schedule 2, paragraph 30 and Schedule 8.

(**3**) 1980 c. 62.