
STATUTORY INSTRUMENTS

2006 No. 1116

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

The Criminal Justice Act 1988
(Reviews of Sentencing) Order 2006

<i>Made</i>	- - - -	<i>18th April 2006</i>
<i>Laid before Parliament</i>		<i>21st April 2006</i>
<i>Coming into force</i>	- -	<i>16th May 2006</i>

The Secretary of State, in exercise of the powers conferred by section 35(4) of the Criminal Justice Act 1988 ^{M1}, makes the following Order:

Marginal Citations

M1 1988 c. 33; section 35 was amended by the [Criminal Justice and Public Order Act 1994 \(c. 33\)](#), [section 168\(1\)](#) and Schedule 9, paragraph 34.

Citation, commencement and extent

1.—(1) This Order may be cited as the Criminal Justice Act 1988 (Reviews of Sentencing) Order 2006 and shall come into force on 16th May 2006.

(2) This Order extends to England, Wales and Northern Ireland.

Part IV of the Criminal Justice Act 1988

2. Part IV of the Criminal Justice Act 1988 (reviews of sentencing) shall apply to any case of a description specified in Schedule 1.

Revocations

3. The Orders set out in Schedule 2 to this Order are revoked.

SCHEDULE 1

Article 2

Descriptions of cases to which Part IV of the Criminal Justice Act 1988 is to apply

1. Any case tried on indictment—

- (a) following a notice of transfer given under section 4 of the Criminal Justice Act 1987 ^{M2} (notices of transfer and designated authorities) by an authority designated for that purpose under subsection (2) of that section; or
- (b) in which one or more of the counts in respect of which sentence is passed relates to a charge which was dismissed under section 6(1) of the Criminal Justice Act 1987 (applications for dismissal) and on which further proceedings were brought by means of preferment of a voluntary bill of indictment.

Marginal Citations

M2 1987 c. 38; section 4 is prospectively repealed by the [Criminal Justice Act 2003 \(c. 44\)](#), sections 41, 332, [Schedule 3, Part II paragraph 58\(1\)](#) and (2), Schedule 37, Part IV.

[^{F1}1A. Any case tried on indictment—

- (a) following a notice given under section 51B of the Crime and Disorder Act 1998 (notices in serious or complex fraud cases); or
- (b) following such a notice, in which one or more of the counts in respect of which sentence is passed relates to a charge—
 - (i) which was dismissed under paragraph 2 of Schedule 3 to the Crime and Disorder Act 1998 (applications for dismissal); and
 - (ii) on which further proceedings were brought by means of the preferment of a voluntary bill of indictment.]

F1 Sch. 1 para. 1A inserted (6.8.2012) by [The Criminal Justice Act 1988 \(Reviews of Sentencing\) \(Amendment\) Order 2012 \(S.I. 2012/1833\)](#), arts. 1(1), [2\(2\)\(a\)](#)

2. Any case in which sentence is passed on a person for one of the following offences:

- (a) an offence under section 16 of the Offences against the Person Act 1861 ^{M3} (threats to kill);
- (b) an offence under section 5(1) of the Criminal Law Amendment Act 1885 ^{M4} (defilement of a girl between 14 and 17);
- (c) an offence under section 1 of the Children and Young Persons Act 1933 ^{M5} (cruelty to persons under 16) or section 20 of the Children and Young Persons Act (Northern Ireland) 1968 ^{M6} (cruelty to persons under 16);
- (d) an offence under section 6 of the Sexual Offences Act 1956 ^{M7} (unlawful sexual intercourse with a girl under 16), section 14 or 15 of that Act (indecent assault on a woman or on a man), section 52 of the Offences against the Person Act 1861 (indecent assault upon a female), or Article 21 of the Criminal Justice (Northern Ireland) Order 2003 ^{M8} (indecent assault on a male);
- (e) an offence under section 1 of the Indecency with Children Act 1960 ^{M9} or section 22 of the Children and Young Persons Act (Northern Ireland) 1968 (indecent conduct with a child);

- (f) an offence under section 4(2) or (3) (production or supply of a controlled drug), section 5(3) (possession of a controlled drug with intent to supply) or section 6(2) (cultivation of cannabis plant) of the Misuse of Drugs Act 1971 ^{M10};
- (g) an offence under section 54 of the Criminal Law Act 1977 ^{M11} or Article 9 of the Criminal Justice (Northern Ireland) Order 1980 ^{M12} (inciting a girl under 16 to have incestuous sexual intercourse);
- [^{F2}(ga) an offence under section 1 of the Protection of Children Act 1978 (indecent photographs of children);]
- (h) an offence under section 50(2) or (3), section 68(2) or section 170(1) or (2) of the Customs and Excise Management Act 1979 ^{M13}, insofar as those offences are in connection with a prohibition or restriction on importation or exportation of either:
 - (i) a controlled drug within the meaning of section 2 of the Misuse of Drugs Act 1971, such prohibition or restriction having effect by virtue of section 3 of that Act; or
 - (ii) an article prohibited by virtue of section 42 of the Customs Consolidation Act 1876 ^{M14} but only insofar as it relates to or depicts a person under the age of 16;
- [^{F3}(ha) an offence under section 160 of the Criminal Justice Act 1988 (possession of indecent photograph of child);]
- (hb) an offence under section 4 (putting people in fear of violence) or section 4A (stalking involving fear of violence or serious alarm or distress) of the Protection from Harassment Act 1997;]
- (i) offences under sections 29 [^{F4}, 30, 31(a), 31(b) and] 32 of the Crime and Disorder Act 1998 ^{M15} (racially or religiously aggravated assaults; racially or religiously aggravated criminal damage; racially or religiously aggravated public order offences; racially or religiously aggravated harassment etc)[^{F5};
- (j) an offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (trafficking people for exploitation)][^{F6};
- (k) an offence under section 71 of the Coroners and Justice Act 2009 (slavery, servitude and forced or compulsory labour).]
- [^{F7}(ka) an offence under section 76 of the Serious Crime Act 2015 (controlling or coercive behaviour in an intimate or family relationship)]
- [^{F8}(l) an offence under section 1 (slavery, servitude and forced or compulsory labour), 2 (human trafficking) or 4 (committing an offence with intent to commit a human trafficking offence) of the Modern Slavery Act 2015.]

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| F2 | Sch. 1 para. 2(ga) inserted (19.11.2019) by The Criminal Justice Act 1988 (Reviews of Sentencing) (Amendment) Order 2019 (S.I. 2019/1397), arts. 1(1), 2(2)(a) |
| F3 | Sch. 1 para. 2(ha)(hb) inserted (19.11.2019) by The Criminal Justice Act 1988 (Reviews of Sentencing) (Amendment) Order 2019 (S.I. 2019/1397), arts. 1(1), 2(2)(b) |
| F4 | Words in Sch. 1 para. 2(i) substituted (19.11.2019) by The Criminal Justice Act 1988 (Reviews of Sentencing) (Amendment) Order 2019 (S.I. 2019/1397), arts. 1(1), 2(2)(c) |
| F5 | Sch. 1 para. 2(j) inserted (6.8.2012) by The Criminal Justice Act 1988 (Reviews of Sentencing) (Amendment) Order 2012 (S.I. 2012/1833), arts. 1(1), 2(2)(b) |
| F6 | Sch. 1 para. 2(k) inserted (21.7.2014) by The Criminal Justice Act 1988 (Reviews of Sentencing) (Amendment) Order 2014 (S.I. 2014/1651), arts. 1(1), 2(2) |
| F7 | Sch. 1 para. 2(ka) inserted (19.11.2019) by The Criminal Justice Act 1988 (Reviews of Sentencing) (Amendment) Order 2019 (S.I. 2019/1397), arts. 1(1), 2(2)(d) |

F8 Sch. 1 para. 2(l) inserted (31.7.2015) by [The Modern Slavery Act 2015 \(Consequential Amendments\) Regulations 2015 \(S.I. 2015/1472\)](#), regs. 1, 3

Marginal Citations

M3 1861 c. 100.
M4 1885 c. 69.
M5 1933 c. 12.
M6 1968 c. 34 (N.I.).
M7 1956 c. 69.
M8 S.I. 2003/1247 (NI 13).
M9 1960 c. 33.
M10 1971 c. 38.
M11 1977 c. 45.
M12 S.I. 1980/704 (NI 6).
M13 1979 c. 2.
M14 1876 c. 36.
M15 1998 c. 37.

3. To the extent that Part IV of the Criminal Justice Act 1988 does not apply by virtue of section 35(3)(b)(i), any case in which sentence is passed on a person for an offence under one of the following sections of the Sexual Offences Act 2003 ^{M16}:

- (a) section 3 (sexual assault);
- (b) section 4 (causing a person to engage in sexual activity without consent);
- (c) section 7 (sexual assault of a child under 13);
- (d) section 8 (causing or inciting a child under 13 to engage in sexual activity);
- (e) section 9 (sexual activity with a child);
- (f) section 10 (causing or inciting a child to engage in sexual activity);
- (g) section 11 (engaging in sexual activity in the presence of a child);
- (h) section 12 (causing a child to watch a sexual act);
- (i) section 14 (arranging or facilitating commission of a child sex offence);
- (j) section 15 (meeting a child following sexual grooming etc);
- [^{F9}(ja) section 16 (abuse of position of trust: sexual activity with a child);
- (jb) section 17 (abuse of position of trust: causing or inciting a child to engage in sexual activity);
- (jc) section 18 (abuse of position of trust: sexual activity in the presence of a child);
- (jd) section 19 (abuse of position of trust: causing a child to watch a sexual act);]
- (k) section 25 (sexual activity with a child family member);
- [^{F10}(ka) section 26 (inciting a child family member to engage in sexual activity);
- (kb) section 30 (sexual activity with a person with a mental disorder impeding choice);
- (kc) section 31 (causing or inciting a person, with a mental disorder impeding choice, to engage in sexual activity);
- (kd) section 32 (engaging in sexual activity in the presence of a person with a mental disorder impeding choice);
- (ke) section 33 (causing a person, with a mental disorder impeding choice, to watch a sexual act);]

- (l) section 47 (paying for sexual services of a child);
- (m) section 48 (causing or inciting [^{F11}sexual exploitation of a child]);
- (n) section 49 (controlling a child [^{F12}in relation to sexual exploitation]);
- (o) section 50 (arranging or facilitating [^{F13}sexual exploitation of a child]);
- (p) section 52 (causing or inciting prostitution for gain);
- (q) section 57 (trafficking into the UK for sexual exploitation);
- (r) section 58 (trafficking within the UK for sexual exploitation);
- (s) section 59 (trafficking out of the UK for sexual exploitation);
- [^{F14}(sa) section 59A (trafficking people for sexual exploitation);]
- (t) section 61 (administering a substance with intent).

- F9** Sch. 1 para. 3(ja)(jd) inserted (19.11.2019) by [The Criminal Justice Act 1988 \(Reviews of Sentencing\) \(Amendment\) Order 2019 \(S.I. 2019/1397\)](#), arts. 1(1), **2(3)(a)**
- F10** Sch. 1 para. 3(ka)(ke) inserted (19.11.2019) by [The Criminal Justice Act 1988 \(Reviews of Sentencing\) \(Amendment\) Order 2019 \(S.I. 2019/1397\)](#), arts. 1(1), **2(3)(b)**
- F11** Words in Sch. 1 para. 3(m) substituted (3.5.2015) by [The Serious Crime Act 2015 \(Consequential Amendments\) Regulations 2015 \(S.I. 2015/800\)](#), regs. 1(2), **3(a)**
- F12** Words in Sch. 1 para. 3(n) substituted (3.5.2015) by [The Serious Crime Act 2015 \(Consequential Amendments\) Regulations 2015 \(S.I. 2015/800\)](#), regs. 1(2), **3(b)**
- F13** Words in Sch. 1 para. 3(o) substituted (3.5.2015) by [The Serious Crime Act 2015 \(Consequential Amendments\) Regulations 2015 \(S.I. 2015/800\)](#), regs. 1(2), **3(a)**
- F14** Sch. 1 para. 3(sa) inserted (13.5.2013) by [The Protection of Freedoms Act 2012 \(Consequential Amendments\) Order 2013 \(S.I. 2013/862\)](#), art. 1(2), **Sch. para. 1**

Marginal Citations

M16 2003 c. 42.

[^{F15}**3A.**—(1) Any case in which sentence is passed on a person for an offence under one of the following—

- (a) section 11 or 12 of the Terrorism Act 2000 (“the 2000 Act”) (offences relating to proscribed organisations);
- (b) sections 15 to 18 of the 2000 Act (offences relating to terrorist property);
- [sections 19 (disclosure of information: duty), 21A (failure to disclose: regulated sector) or
- [^{F16}(ba) 21D (tipping off: regulated sector) of the 2000 Act;]
- (c) section 38B of the 2000 Act (failure to disclose information about acts of terrorism);
- [section 39 of the 2000 Act (disclosure of information);]
- [^{F17}(ca)
- (d) section 54 of the 2000 Act (weapons training);
- (e) sections 57 to 58A of the 2000 Act (possessing things, collecting information and eliciting, publishing or communicating information about members of the armed forces etc for the purposes of terrorism);
- (f) section 113 of the Anti-Terrorism, Crime and Security Act 2001 (use of noxious substances or things to cause harm or intimidate);
- (g) section 1 or 2 of the Terrorism Act 2006 (encouragement of terrorism);
- (h) section 6 or 8 of the Terrorism Act 2006 (training for terrorism).

- [section 54 of the Counter-Terrorism Act 2008 (offences relating to notification);
^{F18}(i)
 (j) section 23 of the Terrorism Prevention and Investigation Measures Act 2011 (offence of contravening a TPIM notice);
 (k) section 10 of the Counter-Terrorism and Security Act 2015 (offences of contravening a Temporary Exclusion Order or not complying with a restriction after return).]
 (2) Any case in which sentence is passed on a person for one of the following—
 (a) an offence under section 20 of the Offences Against the Person Act 1861 (inflicting bodily harm);
 (b) an offence under the following provisions of the Criminal Damage Act 1971
 (i) section 1(1) (destroying or damaging property);
 (ii) section 1(1) and (3) (arson);
 (iii) section 2 (threats to destroy or damage property);
 (c) an offence under sections 1 to 5 of the Forgery and Counterfeiting Act 1981;

where there is jurisdiction in England and Wales by virtue of any of sections 63B to 63D of the 2000 Act (extra-territorial jurisdiction in respect of certain offences committed outside the United Kingdom for the purposes of terrorism etc).]

- [^{F19}(3) Any case in which sentence is passed on a person for an offence under one of the following—
 (a) section 4 of the Aviation Security Act 1982 (offences in relation to certain dangerous articles);
 (b) section 114 of the Anti-Terrorism, Crime and Security Act 2001 (hoaxes involving noxious substances or things)

where the court has determined that the offence has a terrorist connection under [^{F20} section 69 of the Sentencing Code] (sentences for offences with a terrorist connection: England and Wales).]

- F15** Sch. 1 para. 3A inserted (7.8.2017) by [The Criminal Justice Act 1988 \(Reviews of Sentencing\) \(Amendment\) Order 2017 \(S.I. 2017/751\)](#), arts. 1(1), **2(2)**
F16 Sch. 1 para. 3A(1)(ba) inserted (29.1.2018) by [The Criminal Justice Act 1988 \(Reviews of Sentencing\) \(Amendment No. 2\) Order 2017 \(S.I. 2017/1328\)](#), arts. 1(1), **2(2)(a)**
F17 Sch. 1 para. 3A(1)(ca) inserted (29.1.2018) by [The Criminal Justice Act 1988 \(Reviews of Sentencing\) \(Amendment No. 2\) Order 2017 \(S.I. 2017/1328\)](#), arts. 1(1), **2(2)(b)**
F18 Sch. 1 para. 3A(1)(i)-(k) inserted (29.1.2018) by [The Criminal Justice Act 1988 \(Reviews of Sentencing\) \(Amendment No. 2\) Order 2017 \(S.I. 2017/1328\)](#), arts. 1(1), **2(2)(c)**
F19 Sch. 1 para. 3A(3) inserted (29.1.2018) by [The Criminal Justice Act 1988 \(Reviews of Sentencing\) \(Amendment No. 2\) Order 2017 \(S.I. 2017/1328\)](#), arts. 1(1), **2(3)**
F20 Words in Sch. 1 para. 3A(3) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 350** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

- [^{F21}4.—(1) Any case in which sentence is passed on a person for—
 (a) attempting to commit a relevant offence;
 (b) inciting the commission of a relevant offence; or
 (c) an offence under section 44 or 45 of the Serious Crime Act 2007 (encouraging or assisting an offence) in relation to a relevant offence.

(2) In this paragraph, “a relevant offence” means an offence set out in paragraph 2(a) to [F22(hb)][F23, [F24(j), (k), (ka) or (l)]] or [F25paragraphs 3 or 3A].]

F21	Sch. 1 para. 4 substituted (6.8.2012) by The Criminal Justice Act 1988 (Reviews of Sentencing) (Amendment) Order 2012 (S.I. 2012/1833) , arts. 1(1), 2(2)(c)
F22	Word in Sch. 1 para. 4(2) substituted (19.11.2019) by The Criminal Justice Act 1988 (Reviews of Sentencing) (Amendment) Order 2019 (S.I. 2019/1397) , arts. 1(1), 2(4)(a)
F23	Words in Sch. 1 para. 4(2) substituted (21.7.2014) by The Criminal Justice Act 1988 (Reviews of Sentencing) (Amendment) Order 2014 (S.I. 2014/1651) , arts. 1(1), 2(3)
F24	Words in Sch. 1 para. 4(2) substituted (19.11.2019) by The Criminal Justice Act 1988 (Reviews of Sentencing) (Amendment) Order 2019 (S.I. 2019/1397) , arts. 1(1), 2(4)(b)
F25	Words in Sch. 1 para. 4(2) substituted (7.8.2017) by The Criminal Justice Act 1988 (Reviews of Sentencing) (Amendment) Order 2017 (S.I. 2017/751) , arts. 1(1), 2(3)

SCHEDULE 2

Article 3

Revocations

<i>Orders Revoked</i>	<i>References</i>
The Criminal Justice Act 1988 (Reviews of Sentencing) Order 1994	S.I. 1994/119
The Criminal Justice Act 1988 (Reviews of Sentencing) Order 1995	S.I. 1995/10
The Criminal Justice Act 1988 (Reviews of Sentencing) Order 2000	S.I. 2000/1924
The Criminal Justice Act 1988 (Reviews of Sentencing) Order 2003	S.I. 2003/2267

EXPLANATORY NOTE

(This note is not part of the Order)

Part IV of the Criminal Justice Act 1988 (“the Act”) empowers the Attorney General to refer certain criminal cases to the Court of Appeal, with the leave of that Court, where he considers that the sentences imposed were unduly lenient. By virtue of section 35(3)(b)(i) of the Act, Part IV applies to offences which are triable on indictment only. The Secretary of State may by Order, made under section 35(4) of the Act, specify further cases to which Part IV is to apply. Article 2 of this Order provides that Part IV is to apply to the cases specified in Schedule 1.

Paragraph 1 of Schedule 1 specifies serious fraud cases which have been transferred to the Crown Court by way of a notice of transfer made under section 4 of the Criminal Justice Act 1987, and serious fraud cases in which proceedings were brought by way of a voluntary bill of indictment following dismissal of charges which were the subject of a notice of transfer.

Changes to legislation: *There are currently no known outstanding effects for the The Criminal Justice Act 1988 (Reviews of Sentencing) Order 2006. (See end of Document for details)*

Paragraph 2 of Schedule 1 specifies cases in which a sentence has been passed for one of the miscellaneous offences listed. Paragraph 3 of Schedule 1 specifies cases in which a sentence has been passed for one of the offences listed, all of which are offences under the Sexual Offences Act 2003.

Paragraph 4 of Schedule 1 specifies cases in which a sentence has been passed for attempting to commit or inciting the commission of any of the offences listed in paragraphs 2 and 3 other than those at paragraph 2(i).

This Order revokes the Orders set out in Schedule 2 and consolidates their contents. It also adds further offences to those which Part IV applies, the majority of which derive from the Sexual Offences Act 2003.

This Order applies to England, Wales and Northern Ireland.

Changes to legislation:

There are currently no known outstanding effects for the The Criminal Justice Act 1988 (Reviews of Sentencing) Order 2006.