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SCHEDULES

SCHEDULE 1

Section 7(4).

PROVISIONS APPLICABLE ON RETRIAL

Legal Aid

- 1 [F1Article 29 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981] (grant of certificate to person returned for trial on indictment) shall apply in the case of an appellant who is to be retried by virtue of an order under section 6 of this Act as if he had been committed for trial for the offence or the offences in question, and as if references in [F1paragraph (2) of the said Article 29] to a magistrates' court included references to the Court of Appeal.

Textual Amendments

F1 Words substituted by S.I. 1981/228 (N.I. 8), Sch. 3

Depositions

- 2 On a retrial ordered under section 6 of this Act, [F2Article 42(1) of the Magistrates' Courts (Northern Ireland) Order 1981] (reading of depositions) shall not apply to the depositions of any person who gave evidence at the original trial, but a transcript of the shorthand notes of the evidence given by any witness at the original trial may, with the leave of the judge, be read as evidence—
- (a) by agreement between the prosecution and the defence; or
 - (b) if the judge is satisfied that the witness is dead or unfit to give evidence or to attend for that purpose, or that all reasonable efforts to find him or to secure his attendance have been made without success;
- and in either case may be so read without further proof if verified in accordance with rules of court.

Textual Amendments

F2 Words substituted by S.I. 1981/1675 (N.I. 26), art. 170(2), Sch. 6 para. 60

- [F3F42A Subject to paragraph 2 above, evidence given orally at the original trial must be given orally at the retrial.]

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Textual Amendments

- F3** Schedule 1 para. 2A inserted by S.I. 1988/1847 (N.I. 17), art. 16(1), **Sch. 2 para. 2**
- F4** Sch. 1 para. 2 and preceding cross-heading substituted (N.I.) (18.4.2005) for Sch. 1 para. 2, 2A and preceding cross-heading by **The Criminal Justice (Evidence) (Northern Ireland) Order 2004 (S.I. 2004/1501 (N.I. 10)), arts. 1, 34** (with savings in art. 43); S.R. 2005/242, **art. 2**

Conviction and sentence

- 3 Notwithstanding any rule of law to the contrary, a person ordered to be retried under section 6 of this Act may, if found guilty, be convicted on the retrial and the court before whom he is so convicted may pass in respect of the offence of which he is so convicted any sentence authorised by law to be imposed upon a conviction for that offence.
- 4 Without prejudice to the power of the court to impose any other sentence, the court before whom a person is convicted on retrial may pass in respect of the offence any sentence lawfully passed in respect of the offence charged on the original conviction notwithstanding that, on the date of the conviction on retrial, that person has ceased to be of an age at which such a sentence could otherwise be passed.
- 5 Where the person convicted on retrial is sentenced to imprisonment or other detention, the sentence shall begin to run from the time when such a sentence passed at the original trial would have begun to run; but, in computing the term of his sentence or the period for which he may be detained thereunder, as the case may be, there shall be disregarded—
- (a) any time before his conviction on retrial which would have been disregarded if the sentence had been passed at the original trial and the original conviction had not been quashed; or
 - (b) any time during which he was at large after being admitted to bail under section 17 of this Act.

SCHEDULE 2

Section 13(6).

CONSEQUENCES AND EFFECT OF ORDER UNDER SECTION 13(6) FOR DETENTION IN HOSPITAL

- 1 (1) An order for detention under section 13(6) of this Act shall be sufficient authority for a constable, [^{F5}an approved social worker] or any other person directed by the Court of Appeal to take the person to whom the order relates and convey him at any time within the period of seven days beginning with the date on which the order was made, to the hospital mentioned in that subsection.
- (2) The Court of Appeal may give such directions as it thinks fit for the conveyance of the person to whom the order relates to a place of safety within the meaning of [^{F6}Article 129(7) of the Mental Health Order] and his detention therein pending his admission to hospital within the said period of seven days.
- (3) Where a person is ordered under section 13(6) of this Act to be detained in a hospital, the order shall be sufficient authority to detain him in the hospital in accordance

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with the provisions of the [^{F6}Mental Health Order], as applied by the next following paragraph.

Textual Amendments

- F5** Words substituted by S.I. 1986/595 (N.I. 4), arts. 51(6), 136(1), Sch. 5 Pt. I
F6 Words substituted by S.I. 1986/595 (N.I. 4), arts. 51(6), 136(1), Sch. 5 Pt. I

- 2 A person who is detained in hospital in pursuance of an order under section 13(6) of this Act shall be treated for the purposes of [^{F7}the Mental Health Order] as if he had been admitted on the date of the order in pursuance of an application [^{F7}for assessment duly made under Part II of that Order].

Textual Amendments

- F7** Words substituted by S.I. 1986/595 (N.I. 4), arts. 51(6), 136(1), Sch. 5 Pt. I

SCHEDULE 3

Section 48.

PROCEDURAL AND OTHER MODIFICATIONS FOR CAPITAL CASES

Appeal to Court of Appeal

- 1 The power of the Court of Appeal under section 16 of this Act to extend the time for giving notice of appeal, or of application for leave to appeal, shall not be exercisable in the case of a conviction involving sentence of death.
- 2 In the case of a conviction involving sentence of death—
- (a) the sentence shall not in any case be executed until after the expiration of the time for giving notice of appeal or of application for leave to appeal under the said section 16; and
 - (b) if notice is so given, the appeal or application shall be heard and determined with as much expedition as practicable, and the sentence shall not be executed until after the determination of the appeal or, in a case where an application for leave to appeal is finally refused, of the application.

Appeal to House of Lords

- 3 The power of the Court of Appeal or the House of Lords under section 32 of this Act to extend the time for making an application for leave to appeal shall not be exercisable in the case of a conviction involving sentence of death.

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- 4 An application for leave to appeal under Part II of this Act in a case involving sentence of death and any appeal for which leave is granted on the application, shall be heard and determined with as much expedition as practicable.
- 5 Where an appeal to the Court of Appeal is dismissed in a case involving sentence of death, the sentence shall not in any case be executed until after the expiration of the time for making an application for leave to appeal under Part II of this Act; and if such an application is duly made, the sentence shall not be executed while that application, and any appeal for which leave to appeal is granted thereon, is pending.
- 6 Section 32(3) of this Act applies for the construction of paragraph 5 above.

SCHEDULE 4

Section 51(1)

AMENDMENTS.

Modifications etc. (not altering text)

C1 The text of Schedule 4 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

The Criminal Justice Act (Northern Ireland) 1945 (c. 15).

- 1 In section 33(4) for the words from “may appeal” to “and that Court” substitute the words “ may appeal under Part I of the Criminal Appeal (Northern Ireland) Act 1980 to the Court of Appeal, and that Court ”.
- 2 **F8**

Textual Amendments

F8 Sch. 4 para. 2 repealed by S.I. 1989/1344 (N.I. 15), art. 14(2), Sch. 2

The Geneva Convention Act 1957 (c. 52).

- 3 In section 4 in subsection (1) for the words “section 3(1)(a) of the Criminal Appeal (Northern Ireland) Act 1968” substitute the words “ section 27(1)(a) of the Criminal Appeal (Northern Ireland) Act 1980 ” and in the Table following subsection (1A) for the entry relating to the Criminal Appeal (Northern Ireland) Act 1968 substitute the following entry—
“The Criminal Appeal (Northern Ireland) Act 1980 Section 32(1)”.
- 4, 5. **F9**

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Textual Amendments

F9 Sch. 4 paras. 4, 5 repealed by S.I. 1986/595 (N.I. 4), art. 138, Sch. 7

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

- 6 In section 3(4) for the words “section 13 of the Criminal Appeal (Northern Ireland) Act 1968” and “section 46(2) of the Criminal Appeal (Northern Ireland) Act 1968” substitute the words “ section 6 of the Criminal Appeal (Northern Ireland) Act 1980 ” and “ section 41(2) of the Criminal Appeal (Northern Ireland) Act 1980 ” respectively.
- 7 In section 4. . . ^{F10} in subsection (2) for the words “section 32(2)” substitute the words “ section 28(2) ”.

Textual Amendments

F10 Words repealed by S.I. 1982/159, art. 4, Sch. para. 6

- 8 In section 6 for the words “section 32(2) of the Criminal Appeal (Northern Ireland) Act 1968” substitute the words “ section 28(2) of the Criminal Appeal (Northern Ireland) Act 1980 ”.

The Children and Young Persons Act (Northern Ireland) 1968 (c. 34).

- 9 In section 76(6)(b) for the words “the Criminal Appeal (Northern Ireland) Act 1968” substitute the words “ section 9 of the Criminal Appeal (Northern Ireland) Act 1980 ”.

The Criminal Jurisdiction Act 1975 (c. 59).

- 10 In Part II of Schedule 4, in paragraph 5(1)(b) for the words “Act 1968” substitute the words “ Act 1980 ”.

The Treatment of Offenders (Northern Ireland) Order 1976 (S.I. 1976/226 (N.I.4)).

- 11 In Article 4 for the words “or (5)a” substitute the words “ a magistrates’ ” and at the end add the words “ and where under Article 3(1) or (5) the Crown Court orders that a person be returned to prison or to a young offenders centre, that person may appeal against that order in accordance with section 9 of the Criminal Appeal (Northern Ireland) Act 1980 ”.
- 12 In Article 9 at the end of paragraph (6) add the words “and a person sentenced under paragraph (5)(b) for an offence or upon whom a fine has been imposed under paragraph (5)(a) for breach of any of the requirements of Article 8 may appeal against that sentence or fine in accordance with section 9 of the Criminal Appeal (Northern Ireland) Act 1980”.
- 13 In Article 10(4) for the words “(2A)(a) or (3)” substitute the words “or (2A)(a)” and at the end add the words “and a person sentenced under paragraph (3) for an

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offence may appeal in accordance with section 9 of the Criminal Appeal (Northern Ireland) Act 1980”.

THE NORTHERN IRELAND (EMERGENCY PROVISIONS) ACT 1978 (C. 5).

F11 14

Textual Amendments
F11 Sch. 4 para. 14 repealed (27.8.1991) by Northern Ireland (Emergency Provisions) Act 1991 (c. 24, SIF 39:1), ss. 69(1), 70(4), Sch. 8 Pt.I

THE JUDICATURE (NORTHERN IRELAND) ACT 1978 (C. 23).

- 15 In section 36(1) for the words “and section 48 of the Criminal Appeal Act, every appeal or reference to the Court of Appeal” substitute the words “ every appeal to the Court of Appeal, other than an appeal under the Criminal Appeal Act, ”.
- 16 In section 44(6) for the words “Part II” substitute the words “ Part I ”.
- 17 In section 49(6) for the words “section 20(1)” substitute the words “ section 16(1) ”.
- 18 In section 120(1) in the definition of “Criminal Appeal Act” for the words “Act 1968” substitute the words “ Act 1980 ” and in the definition of “sentence” for the words “section 35 of the Criminal Appeal (Northern Ireland) Act 1968”, substitute the words “ section 30 of the Criminal Appeal (Northern Ireland) Act 1980 ”.

SCHEDULE 5

Section 51(2)

REPEALS.

Modifications etc. (not altering text)
C2 The text of Schedule 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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Section 5(7). SCHEDULE 5
REPEALS

Chapter	Short Title	Extent of Repeal
1966 c. 20 (N.I.)	The Criminal Justice Act (Northern Ireland) 1966.	Section 21, Schedule 2.
1968 c. 21. (N.I.)	The Criminal Appeal (Northern Ireland) Act 1968.	The whole Act.
1968 c. 10 (N.I.)	The Costs in Criminal Cases Act (Northern Ireland) 1968.	Section 9(b).
1968 c. 29 (N.I.)	The Treatment of Offenders Act (Northern Ireland) 1968.	Section 29.
1969 c. 16 (N.I.)	The Theft Act (Northern Ireland) 1969.	Section 21(3).
1972 c. 71.	The Criminal Justice Act 1972.	Section 63(3). In section 66(6)(b) the words "nor the corresponding section referred to in section 63(3)". Schedule 4.
1973 c. 15.	The Administration of Justice Act 1973.	In section 18(2) paragraph (a) and in paragraph (c) the words "(a) or"
S.I. 1973/2163.	The Northern Ireland (Modification of Enactments—No. 1) Order 1973.	In Schedule 1 the entry relating to the Criminal Appeal (Northern Ireland) Act 1968.
S.I. 1976/226 (N.I. 4).	The Treatment of Offenders (Northern Ireland) Order 1976.	In Article 2(6) the words "or 5(b)" and "or 5(a)".
1977 c. 45.	The Criminal Law Act 1977.	In section 44 the words "and in section 9 of the Criminal Appeal (Northern Ireland) Act 1968". In section 65(10)(b) the words "section 44".
1978 c. 23.	The Judicature (Northern Ireland) Act 1978.	In section 32— (a) in subsection (1) the words "or reference" in the second place where they occur; (b) in subsections (2) and (3) the word "reference"; (c) in subsection (4), paragraphs (a) and (c); (d) in subsection (5). In section 37— (a) subsection (1); (b) in subsection (2) the words from the beginning to "section 36 and". Section 39. Section 40.

Chapter	Short Title	Extent of Repeal
1978 c. 23. — <i>cont.</i>	The Judicature (Northern Ireland) Act 1978. — <i>cont.</i>	In Schedule 5 the entries relating to the Criminal Appeal (Northern Ireland) Act 1968 and the Administration of Justice Act 1973.
S.I. 1980/704 (N.I. 6).	The Criminal Justice (Northern Ireland) Order 1980.	In Schedule 1, paragraphs 44, 45 and 46.

Sch. 5

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