



# Criminal Justice Act 1948

1948 CHAPTER 58 11 and 12 Geo 6

## PART I

### POWERS AND PROCEEDINGS OF COURTS

*Abolition of penal servitude, hard labour, prison divisions and sentence of whipping*

#### **1 Abolition of penal servitude, hard labour and prison divisions.**

- (1) No person shall be sentenced by a court to penal servitude; and every enactment conferring power on a court to pass a sentence of penal servitude in any case shall be construed as conferring power to pass a sentence of imprisonment for a term not exceeding the maximum term of penal servitude for which a sentence could have been passed in that case immediately before the commencement of this Act.
- (2) No person shall be sentenced by a court to imprisonment with hard labour; and every enactment conferring power on a court to pass a sentence of imprisonment with hard labour in any case shall be construed as conferring power to pass a sentence of imprisonment for a term not exceeding the term for which a sentence of imprisonment with hard labour could have been passed in that case immediately before the commencement of this Act; and so far as any enactment requires or permits prisoners to be kept to hard labour it shall cease to have effect.
- (3) So far as any enactment provides that a person sentenced to imprisonment or committed to prison is or may be directed to be treated as an offender of a particular division, or to be placed in a separate division, it shall cease to have effect.

**2** ..... F1

#### **Textual Amendments**

**F1** S. 2 repealed by [Statute Law \(Repeals\) Act 1977 \(c. 18\)](#), [Sch. 1 Pt. IV](#)

*Status: Point in time view as at 28/05/2013.*

*Changes to legislation: There are currently no known outstanding effects for the Criminal Justice Act 1948, Part I. (See end of Document for details)*

3—12. .... F2

**Textual Amendments**  
F2 S. 3–12 repealed by Powers of Criminal Courts Act 1973 (c. 62), Sch. 6

13 ..... F3

**Textual Amendments**  
F3 S. 13 repealed by Criminal Law Act 1967 (c. 58), Sch. 3 Pt. III

14 ..... F4

**Textual Amendments**  
F4 S. 14 repealed by Powers of Criminal Courts Act 1973 (c. 62), Sch. 6

15 ..... F5

**Textual Amendments**  
F5 S. 15 repealed by Criminal Justice Act 1967 (c. 80), Sch. 7 Pt. I

*Powers relating to young offenders*

16 ..... F6

**Textual Amendments**  
F6 S. 16 repealed by Homicide Act 1957 (c. 11), Sch. 2

17  
(1) ..... F7  
(3) ..... F8  
(4) ..... F9  
(6) ..... F10

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**Textual Amendments**

- F7 S. 17(1)(2) repealed by [Powers of Criminal Courts Act 1973 \(c. 62\)](#), **Sch. 6**
- F8 S. 17(3) repealed by [Courts Act 1971 \(c. 23\)](#), **Sch. 11 Pt. IV**
- F9 S. 17(4)(5) repealed by [Magistrates' Courts Act 1952 \(c. 55\) s. 132\(2\)](#), Sch. 6
- F10 S. 17(6) repealed by [Powers of Criminal Courts Act 1973 \(c. 62\)](#), **Sch. 6**

**18** ..... F11

**Textual Amendments**

- F11 S. 18 repealed by [Criminal Justice Act 1961 \(c. 39\)](#), **Sch. 5**

**19, 20.** ..... F12

**Textual Amendments**

- F12 Ss. 19, 20, 48(2), 52, 76(2) repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **Sch. 16**

**21** ..... F13

**Textual Amendments**

- F13 S. 21 repealed by [Criminal Justice Act 1967 \(c. 80\)](#), **Sch. 7 Pt. I**

**22** ..... F14

**Textual Amendments**

- F14 S. 22 repealed by [Criminal Justice Act 1961 \(c. 39\)](#), **Sch. 5**

**23** ..... F15

**Textual Amendments**

- F15 S. 23 repealed by [Criminal Justice Act 1967 \(c. 80\)](#), **Sch. 7 Pt. I**

**24** ..... F16

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**Textual Amendments**

**F16** Ss. 24–26, 28 repealed by [Magistrates' Courts Act 1952 \(c. 55\)](#), [Sch. 6](#)

*Adjournment, remand, etc.*

**25, 26.** ..... **F17**

**Textual Amendments**

**F17** Ss. 24–26, 28 repealed by [Magistrates' Courts Act 1952 \(c. 55\)](#), [Sch. 6](#)

**[<sup>F18</sup>27 Remand of persons aged [<sup>F19</sup>18] to 20.**

<sup>F20</sup>(1) Where a court remands a person charged with or convicted of an offence or [<sup>F20</sup>commits him for trial or][<sup>F20</sup>sends him to the Crown Court for trial or commits him there for] sentence and he is not less than [<sup>F21</sup>eighteen] but under twenty–one years old and is not released on bail, then, if the court has been notified by the Secretary of State that a remand centre is available for the reception from the court of persons of his class or description, it shall commit him to a remand centre and, if it has not been so notified, it shall commit him to a prison.

(2) Where a person is committed to a remand centre in pursuance of this section, the centre shall be specified in the warrant and he shall be detained there for the period for which he is remanded or until he is delivered thence in due course of law.

(3) In this section “ court ” includes a justice; and nothing in this section affects the provisions of [<sup>F22</sup>section 128(7) of the Magistrates’ Courts Act 1980 ] (which provides for remands to the custody of a constable). ]

**Textual Amendments**

**F18** S. 27 substituted by [Children and Young Persons Act 1969 \(c. 54\)](#), [Sch. 5 para. 24](#)

**F19** Word in s. 27 heading substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 12 para. 2](#); S.I. 2012/2906, art. 2(j)

**F20** Words in s. 27(1) substituted (9.5.2005 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 35\(2\)](#); S.I. 2005/1267, art. 2(1)(2)(a), Sch. Pt. 1

**F21** Word in s. 27(1) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 12 para. 3](#); S.I. 2012/2906, art. 2(j)

**F22** Words substituted by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), [Sch. 7 para. 7](#)

**28** ..... **F23**

**Textual Amendments**

**F23** Ss. 24–26, 28 repealed by [Magistrates' Courts Act 1952 \(c. 55\)](#), [Sch. 6](#)

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29 ..... F24

**Textual Amendments**

F24 S. 29 repealed by [Powers of Criminal Courts Act 1973 \(c. 62\)](#), [Sch. 6](#)

*Miscellaneous provisions relating to procedure, appeals, evidence, etc.*

30 ..... F25

**Textual Amendments**

F25 S. 30 repealed by [Statute Law \(Repeals\) Act 1977 \(c. 18\)](#), [Sch. 1 Pt. IV](#)

**31 Jurisdiction and procedure in respect of certain indictable offences committed in foreign countries.**

(1) Any British subject employed under His Majesty's Government in the United Kingdom in the service of the Crown who commits, in a foreign country, when acting or purporting to act in the course of his employment, any offence which, if committed in England, would be punishable on indictment, shall be guilty of an offence . . . <sup>F26</sup>, and subject to the same punishment, as if the offence had been committed in England.

(2) ..... F27

**Textual Amendments**

F26 Words repealed by [Criminal Law Act 1967 \(c. 58\)](#), [Sch. 3 Pt. III](#)

F27 S. 31(2)(3) repealed by [Criminal Law Act 1967 \(c. 58\)](#), [Sch. 3 Pt. III](#)

32, 33. .... F28

**Textual Amendments**

F28 Ss. 32, 33 repealed by [Magistrates' Courts Act 1952 \(c. 55\)](#), [Sch. 6](#)

34 ..... F29

**Textual Amendments**

F29 S. 34 repealed by [Criminal Justice Administration Act 1962 \(c. 15\)](#), [Sch. 5 Pt. II](#)

35 ..... F30

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**Textual Amendments**

**F30** S. 35 repealed by [Juries Act 1974 \(c. 23\)](#), [Sch. 3](#)

**36** ..... **F31**

**Textual Amendments**

**F31** S. 36 repealed by [Magistrates' Courts Act 1952 \(c. 55\)](#), [Sch. 6](#)

**37 Bail on appeal, case stated or application for certiorari.**

(1) Without prejudice to the powers vested before the commencement of this Act in any court to admit or direct the admission of a person to bail—

(a) ..... **F32**

[<sup>F33</sup>(b) the High Court may [<sup>F34</sup>, subject to section 25 of the Criminal Justice and Public Order Act 1994,] [<sup>F35</sup>grant bail to] a person—

(i) who, after the decision of his case by the Crown Court, has applied to the Crown Court for the statement of a case for the High Court on that decision, or

(ii) who has applied to the High Court for an order of certiorari to remove proceedings in the Crown Court in his case into the High Court, or has applied to the High Court for leave to make such an application.]

(c) ..... **F36**

[<sup>F37</sup>(d) the High Court may [<sup>F34</sup>, subject to section 25 of the Criminal Justice and Public Order Act 1994,] grant bail to a person who has been convicted or sentenced by a magistrates' court and has applied to the High Court for an order of certiorari to remove the proceedings into the High Court or has applied to the High Court for leave to make such an application.]

[<sup>F38</sup>(1A) Where the court grants bail to a person under paragraph (d) of subsection (1) above—

(a) the time at which he is to appear in the event of the conviction or sentence not being quashed by the High Court shall be such time within ten days after the judgment of the High Court has been given as may be specified by the High Court; and

(b) the place at which he is to appear in that event shall be a magistrates' court acting for the same petty sessions area as the court which convicted or sentenced him.]

(2) ..... **F39**

[<sup>F40</sup>(4) Criminal Procedure Rules may be made for authorising the recommittal, in such cases and by such courts or justices as may be prescribed by the rules, of persons released from custody under this section.]

(5) ..... **F41**

(6) The time during which a person is [<sup>F42</sup>released on] bail under paragraph (b), . . . <sup>F43</sup> or (d) of subsection (1) of this section shall not count as part of any term of imprisonment under his sentence; and any sentence of imprisonment imposed by a court of summary

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jurisdiction, or, on appeal, by [<sup>F44</sup>the Crown Court], after the imposition of which a person is so [<sup>F42</sup>released on] bail, shall be deemed to begin to run or to be resumed as from the day on which he is received in prison under the sentence; and for the purposes of this subsection the expression “prison” shall be deemed to include a detention centre and remand home and the expression “imprisonment” shall be construed accordingly.

#### Textual Amendments

- F32** S. 37(1)(a) repealed by [Criminal Justice Act 1967 \(c. 80\)](#), **Sch. 7 Pt. I**
- F33** S. 37(1)(b) substituted by [Courts Act 1971 \(c. 23\)](#), **Sch. 8**, para. 28(1)
- F34** Words in s. 37(1)(b)(d) inserted (10.4.1995) by 1994 c. 33, s. 168(2), **Sch. 10 para. 6**; S.I. 1995/721, art. 2, **Sch.** Appendix A
- F35** Words substituted by [Bail Act 1976 \(c. 63\)](#), **Sch. 2 para. 11(1)(2)**
- F36** S. 37(1)(c) repealed by [Criminal Justice Act 1967 \(c. 80\)](#), **Sch. 7 Pt. I**
- F37** S. 37(1)(d) substituted by [Bail Act 1976 \(c. 63\)](#), **Sch. 2 para. 11(1)(3)**
- F38** S. 37(1A) substituted by [Bail Act 1976 \(c. 63\)](#), **Sch. 2 para. 11(1)(4)**
- F39** S. 37(2)(3) repealed by [Bail Act 1976 \(c. 63\)](#), **Sch. 3**
- F40** S. 37(4) substituted (1.9.2004) by [Courts Act 2003 \(c. 39\)](#), s. 110(1), **Sch. 8 para. 83**; S.I. 2004/2066, art. 2(c)(iii) (with art. 3)
- F41** S. 37(5) repealed by [Courts Act 1971 \(c. 23\)](#), **Sch. 11 Pt. IV**
- F42** Words substituted by [Bail Act 1976 \(c. 63\)](#), **Sch. 2 para. 11(1)(5)**
- F43** Word repealed by [Criminal Justice Act 1967 \(c. 80\)](#), s. 22(5), **Sch. 7 Pt. I**
- F44** Words substituted by [Courts Act 1971 \(c. 23\)](#), **Sch. 8 para. 24(b)**

#### Modifications etc. (not altering text)

- C1** S. 37 applied by [Administration of Justice Act 1960 \(c. 65\)](#) s. 4(2)
- C2** S. 37(6) extended by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), **s. 113(4)**
- C3** S. 37(6) applied by [Magistrates' Courts Act 1952 \(c. 55\)](#), **s. 89(3)**

<b>38</b>	(1) .....	<b>F45</b>
	(2) .....	<b>F46</b>
	(3) .....	<b>F47</b>
	(5) .....	<b>F48</b>
	(6) .....	<b>F49</b>

#### Textual Amendments

- F45** S. 38(1) repealed by [Criminal Appeal Act 1968 \(c. 19\)](#), **Sch. 7**
- F46** S. 38(2) repealed by [Criminal Appeal Act 1966 \(c. 31\)](#), **Sch. 3**
- F47** S. 38(3)(4) repealed by [Criminal Justice Act 1967 \(c. 80\)](#), **Sch. 7 Pt. I**
- F48** S. 38(5) repealed by [Costs in Criminal Cases Act 1952 \(c. 48\)](#), **Sch.**
- F49** S. 38(6) repealed by [Administration of Justice Act 1960 \(c. 65\)](#), **Sch. 4**

#### <sup>F50</sup>**39 Proof of previous convictions by finger-prints.**

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**Textual Amendments**

**F50** S. 39 repealed (1.1.2003) by 2001 c. 16, ss. 78(9), 137, **Sch. 7 Pt. II(1)**; S.I. 2002/3032, **art. 2(a)**

**40** ..... **F51**

**Textual Amendments**

**F51** S. 40 repealed by **Magistrates' Courts Act 1952 (c. 55), Sch. 6**

**41 Evidence by certificate.**

(1) In any criminal proceedings, a certificate purporting to be signed by a constable, or by a person having the prescribed qualifications, and certifying that a plan or drawing exhibited thereto is a plan or drawing made by him of the place or object specified in the certificate, and that the plan or drawing is correctly drawn to a scale so specified, shall be evidence of the relative position of the things shown on the plan or drawing.

(2) ..... **F52**

(3) ..... **F53**

(4) Nothing in this section shall be deemed to make a certificate . . . **F54** admissible as evidence in proceedings for an offence except in a case where and to the extent to which oral evidence to the like effect would have been admissible in those proceedings.

(5) Nothing in this section shall be deemed to make a certificate . . . **F54** admissible as evidence in proceedings for any offence—

(a) unless a copy thereof has, not less than seven days before the hearing or trial, been served in the prescribed manner on the person charged with the offence; or

(b) if that person, not later than three days before the hearing or trial or within such further time as the court may in special circumstances allow, serves notice in the prescribed form and manner on the prosecutor requiring the attendance at the trial of the person who signed the certificate . . . **F54**

[**F55**( 5A ) [**F56**Where the proceedings mentioned in subsection (1) above are proceedings before a magistrates' court inquiring into an offence as examining justices this section shall have effect with the omission of—

(a) subsection (4), and

(b) in subsection (5), paragraph (b) and the word “or” immediately preceding it.]]

(6) In this section the expression “prescribed” means prescribed by rules made by the Secretary of State.

**Textual Amendments**

**F52** S. 41(2) repealed by **Road Traffic Act 1960 (c. 16), Sch. 18 Pt. I**

**F53** S. 41(3) repealed by **Theft Act 1968 (c. 60, s. 33(3), Sch. 3 Pt. III**



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- F54** Words repealed by [Theft Act 1968 \(c. 60\)](#), s. 33(3), **Sch. 3 Pt. III**
- F55** S. 41(5A) inserted (4.7.1996 but with effect as mentioned in Sch. 1 Pt. III para. 39) by [1996 c. 25](#), s. 47, **Sch. 1 Pt. II para. 18** (with s. 78(1)); S.I. 1997/683, **art. 1(2)**
- F56** S. 41(5A) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), **Sch. 3 para. 35(3)Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c)(d), **Sch.** (with arts. 34) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4)

## 42 Order of speeches.

(1) Notwithstanding anything in section two of the <sup>M1</sup>Criminal Procedure Act 1865, as amended by section three of the <sup>M2</sup>Criminal Evidence Act 1898, the prosecution shall not be entitled to the right of reply upon the trial of any person on indictment on the ground only that documents have been put in evidence for the defence.

(2) ..... <sup>F57</sup>

### Textual Amendments

**F57** S. 42(2)(3) repealed by [Magistrates' Courts Act 1952 \(c. 55\)](#), **Sch. 6**

### Marginal Citations

**M1** [1865 c. 18](#).

**M2** [1898 c. 36](#).

43 ..... <sup>F58</sup>

### Textual Amendments

**F58** S. 43 repealed by [Powers of Criminal Courts Act 1973 \(c. 62\)](#), **Sch. 6**

44 ..... <sup>F59</sup>

### Textual Amendments

**F59** S. 44 repealed by Costs in [Criminal Cases Act 1952 \(c. 48\)](#), **Sch.**

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