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STATUTORY INSTRUMENTS

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**1999 No. 652 (C. 18) (S. 42)**

**CRIMINAL LAW, SCOTLAND**

**The Crime and Punishment (Scotland) Act  
1997 (Commencement No. 5 and Transitional  
Provisions and Savings) Order 1999**

*Made - - - - 28th February 1999*

The Secretary of State, in exercise of the powers conferred upon him by section 65(2) and (4) of the Crime and Punishment (Scotland) Act 1997(1) and of all other powers enabling him in that behalf, hereby makes the following Order:

**Citation and interpretation**

1.—(1) This Order may be cited as the Crime and Punishment (Scotland) Act 1997 (Commencement No. 5 and Transitional Provisions and Savings) Order 1999.

(2) In this Order—

“the Act” means the Crime and Punishment (Scotland) Act 1997;

“the 1995 Act” means the Criminal Procedure (Scotland) Act 1995(2); and

“the Commission” means the Scottish Criminal Cases Review Commission.

**Commencement of provisions**

2. Subject to article 3 below, the provisions of the Act which are specified in column 1 of the Schedule to this Order and whose subject matter is specified in column 2 of that Schedule shall, insofar as they are not then in force, come into force on 1st April 1999, but where a particular purpose is specified in relation to any provision in column 3 of that Schedule that provision shall come into force on that day only for that purpose.

**Transitional provisions and savings**

3.—(1) In relation to a case which is referred to the High Court by the Secretary of State under section 124(3) of the 1995 Act before 1st April 1999—

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(1) 1997 c. 48.  
(2) 1995 c. 46.

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- (a) the Clerk of Justiciary shall send a copy of the trial judge's report that is furnished under section 113(1) of the 1995 Act to the Commission;
- (b) the Clerk of Justiciary shall send a copy of the trial judge's report that is provided under section 298(1) of the 1995 Act to the Commission.

(2) In relation to the exercise before 1st April 1999 of the power to make a reference in respect of any person to the High Court under section 124(3) of the 1995 Act, paragraph 7 of Schedule 3 to the Parliamentary Commissioner Act 1967<sup>(3)</sup> shall continue to have effect as if this Order had not been made.

(3) In relation to a reference made under section 124(3) of the 1995 Act before 1st April 1999, section 133 of the Criminal Justice Act 1988<sup>(4)</sup> shall continue to have effect as if this Order had not been made.

St Andrew's House,  
Edinburgh  
28th February 1999

*Henry McLeish*  
Minister of State, Scottish Office

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<sup>(3)</sup> 1967 c. 13.  
<sup>(4)</sup> 1988 c. 33.

## SCHEDULE

Article 2

## THE PROVISIONS OF THE ACT WHICH COME INTO FORCE ON 1ST APRIL 1999

<i>Column 1</i> <i>Provision of Act</i>	<i>Column 2</i> <i>Subject Matter</i>	<i>Column 3</i> <i>Purpose</i>
Section 20	Transfer of rights of appeal of deceased persons	
Section 25	Scottish Criminal Cases Review Commission	
Section 62	Amendments and repeals	Only for the purpose of bringing into force the provisions of Schedules 1 and 3 specified or referred to in column 1 below
In Schedule 1, paragraphs 21(16), (18), (26), (33)(b) and (34)(a)	Amendment of enactments	
In Schedule 3, the repeals specified in the Table below	Repeals	

## TABLE

<i>Column 1</i> <i>Chapter</i>	<i>Column 2</i> <i>Short Title</i>	<i>Column 3</i> <i>Extent of Repeals</i>
1995 c. 46	The Criminal Procedure (Scotland) Act 1995	In section 124, subsections (3) to (5)

**EXPLANATORY NOTE***(This note is not part of the Order)*

This Order brings into force on 1st April 1999 all the provisions of the Crime and Punishment (Scotland) Act 1997 that relate to the powers of the Scottish Criminal Cases Review Commission, insofar as these provisions are not already in force, namely sections 20 and 25 and related amendments and repeals in Schedules 1 and 3. The Scottish Criminal Cases Review Commission is the body established under section 194A of the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”) to consider claims of miscarriages of justice. Article 3 contains transitional provisions and savings in relation to references by the Secretary of State, before then, of cases to the High Court.

This Order also brings into force on 1st April 1999 paragraph 21(26) of Schedule 1 to the 1997 Act which inserts a new subsection (7A) into section 209 of the 1995 Act which deals with the relevant periods for supervised release orders.

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## NOTE AS TO EARLIER COMMENCEMENT ORDERS

*(This note is not part of the Order)*

The following provisions of the Act insofar as these are not already in force have been brought into force by Commencement orders made before the date of this Order.

<i>Provisions</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 12, 14, 17, 20 (partially), 21, 23, 24 (partially), 26 to 32, 47 (partially), 55 to 61, 62 (partially), 63 (partially), 64, 65 (partially) and Schedules 1 (partially) and 3 (partially)	1st August 1997	1997/1712
Sections 49 (partially), 50 to 54, 62(1) (partially), 63(1)(b) and Schedule 1 (partially)	1st October 1997	1997/2323
Sections 2 and 3 (partially), 5 (partially), 15 (partially), 16 (partially), 18 (partially), 19 (partially), 62 (partially), 63(1)(a)(i), and Schedules 1 (partially) and 3 (partially)	20th October 1997	1997/2323
Sections 47 (partially), 48, 62(2) (partially) and Schedule 3 (partially)	17th November 1997	1997/2694
Sections 6 to 11, 15 (partially), 22, 42 to 44, 62 (partially) and Schedules 1 (partially) and 3 (partially)	1st January 1998	1997/2323
Sections 25 (partially), 62(1) (partially), 63(1)(a)(ii) and Schedule (1) (partially)	1st January 1998	1997/3004
Section 49 (partially)	1st April 1998	1997/2323
Sections 5 (partially), 24 (partially), 62 (partially) and Schedule 1 (partially)	1st July 1998	1997/2323
Section 49 (partially)	1st October 1998	1997/2323