

Status: Point in time view as at 01/10/1997.

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SCHEDULES

SCHEDULE 1

Section 2.

TIMES WHEN PROCEEDINGS ARE ACTIVE FOR PURPOSES OF SECTION 2

Preliminary

- 1 In this Schedule “criminal proceedings” means proceedings against a person in respect of an offence, not being appellate proceedings or proceedings commenced by motion for committal or attachment in England and Wales or Northern Ireland; and “appellate proceedings” means proceedings on appeal from or for the review of the decision of a court in any proceedings.

VALID FROM 28/11/2011

[^{F1}1ZA Proceedings under the Double Jeopardy (Scotland) Act 2011 (asp 16) are criminal proceedings for the purposes of this Schedule.]

Textual Amendments

- F1** Sch. 1 para. 1ZA inserted (S.) (28.11.2011) by [Double Jeopardy \(Scotland\) Act 2011 \(asp 16\)](#), s. 17(3), [Sch. para. 2](#); [S.S.I. 2011/365](#), [art. 3](#)

VALID FROM 28/03/2009

[^{F2}1A In paragraph 1 the reference to an offence includes a service offence within the meaning of the Armed Forces Act 2006.]

Textual Amendments

- F2** Sch. 1 para. 1A inserted (28.3.2009 for specified purposes otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 92](#); [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

Modifications etc. (not altering text)

- C1** Sch. 1 para. 1A modified (24.4.2009 for specified purposes otherwise 31.10.2009) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), arts. 1(3), 205, [Sch. 1 para. 20](#)

- 2 Criminal, appellate and other proceedings are active within the meaning of section 2 at the times respectively prescribed by the following paragraphs of this Schedule; and in relation to proceedings in which more than one of the steps described in any of those paragraphs is taken, the reference in that paragraph is a reference to the first of those steps.

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Criminal proceedings

- 3 Subject to the following provisions of this Schedule, criminal proceedings are active from the relevant initial step specified in paragraph 4 [^{F3} or 4A] until concluded as described in paragraph 5.

Textual Amendments

- F3** Words in [Sch. 1 para. 3](#) inserted (E.W.,N.I.) (4.7.1996 with effect as mentioned in [s. 54\(4\)\(7\)\(8\)](#) of the amending Act) by [1996 c. 25, ss. 54\(4\)\(7\)\(8\), 57\(4\)](#) (with [s. 78\(1\)](#)); [S.I. 1997/1019, art. 2](#); [S.I. 1997/1504, art. 2](#)

- 4 The initial steps of criminal proceedings are:—
- (a) arrest without warrant;
 - (b) the issue, or in Scotland the grant, of a warrant for arrest;
 - (c) the issue of a summons to appear, or in Scotland the grant of a warrant to cite;
 - (d) the service of an indictment or other document specifying the charge;
 - (e) except in Scotland, oral charge.

- [^{F4}4A Where as a result of an order under section 54 of the Criminal Procedure and Investigations Act 1996 (acquittal tainted by an administration of justice offence) proceedings are brought against a person for an offence of which he has previously been acquitted, the initial step of the proceedings is a certification under subsection (2) of that section; and paragraph 4 has effect subject to this.]

Textual Amendments

- F4** [Sch. 1 para. 4A](#) inserted (E.W.,N.I.) (4.7.1996 with effect as mentioned in [s. 54\(4\)\(7\)\(8\)](#) of the amending Act) by [1996 c. 25, ss. 54\(4\)\(7\)\(8\), 57\(4\)](#) (with [s. 78\(1\)](#)); [S.I. 1997/1019, art. 2](#); [S.I. 1997/1504, art. 2](#)

- 5 Criminal proceedings are concluded—
- (a) by acquittal or, as the case may be, by sentence;
 - (b) by any other verdict, finding, order or decision which puts an end to the proceedings;
 - (c) by discontinuance or by operation of law.

- 6 The reference in paragraph 5(a) to sentence includes any order or decision consequent on conviction or finding of guilt which disposes of the case, either absolutely or subject to future events, and a deferment of sentence under section 1 of the ^{M1}Powers of Criminal Courts Act 1973, section 219 or 432 of the ^{M2}Criminal Procedure (Scotland) Act 1975 or Article 14 of the ^{M3}Treatment of Offenders (Northern Ireland) Order 1976.

Marginal Citations

- M1** [1973 c. 62.](#)

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- M2** 1975 c. 21.
M3 S.I. 1976/226 (N.I. 4).

- 7 Proceedings are discontinued within the meaning of paragraph 5(c)—
- (a) in England and Wales or Northern Ireland, if the charge or summons is withdrawn or a *nolle prosequi* entered;
 - [^{F5}(aa) in England and Wales, if they are discontinued by virtue of section 23 of the Prosecution of Offences Act 1985;]
 - (b) in Scotland, if the proceedings are expressly abandoned by the prosecutor or are deserted *simpliciter*;
 - (c) in the case of proceedings in England and Wales or Northern Ireland commenced by arrest without warrant, if the person arrested is released, otherwise than on bail, without having been charged.

Textual Amendments

- F5** Sch. 1 para. 7(aa) inserted (E.W.) by Prosecution of Offences Act 1985 (c. 23, SIF 39:1), s. 31(5), Sch. 1 Pt. 1 para. 4

- 8 Criminal proceedings before a court-martial or standing civilian court are not concluded until the completion of any review of finding or sentence.
- 9 Criminal proceedings in England and Wales or Northern Ireland cease to be active if an order is made for the charge to lie on the file, but become active again if leave is later given for the proceedings to continue.
- [^{F6}9A Where proceedings in England and Wales have been discontinued by virtue of section 23 of the Prosecution of Offences Act 1985, but notice is given by the accused under subsection (7) of that section to the effect that he wants the proceedings to continue, they become active again with the giving of that notice.]

Textual Amendments

- F6** Sch. 1 para. 9A inserted (E.W.) by Prosecution of Offences Act 1985 (c. 23, SIF 39:1), s. 31(5), Sch. 1 Pt. 1 para. 5

- 10 Without prejudice to paragraph 5(b) above, criminal proceedings against a person cease to be active—
- (a) if the accused is found to be under a disability such as to render him unfit to be tried or unfit to plead or, in Scotland, is found to be insane in bar of trial; or
 - (b) if a hospital order is made in his case under [^{F7}section 51(5) of the Mental Health Act 1983] or [^{F8}Article 57(5) of the Mental Health (Northern Ireland) Order 1986] or, in Scotland, where a transfer order ceases to have effect by virtue of [^{F9}section 73(1) of the Mental Health (Scotland) Act 1984],
- but become active again if they are later resumed.

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Textual Amendments

- F7** Words substituted by [Mental Health Act 1983 \(c. 20\)](#), [Sch. 4 para. 57\(c\)](#)
F8 Words substituted by [S.I. 1986/595 \(N.I. 4\)](#), art. 136(1), [Sch. 5 Pt. II](#)
F9 Words substituted by [Mental Health \(Scotland\) Act 1984 \(c. 36, SIF 85\)](#), ss. 17(2), 127(1), [Sch. 3 para. 48](#)

- 11 Criminal proceedings against a person which become active on the issue or the grant of a warrant for his arrest cease to be active at the end of the period of twelve months beginning with the date of the warrant unless he has been arrested within that period, but become active again if he is subsequently arrested.

Other proceedings at first instance

- 12 Proceedings other than criminal proceedings and appellate proceedings are active from the time when arrangements for the hearing are made or, if no such arrangements are previously made, from the time the hearing begins, until the proceedings are disposed of or discontinued or withdrawn; and for the purposes of this paragraph any motion or application made in or for the purposes of any proceedings, and any pre-trial review in the county court, is to be treated as a distinct proceeding.
- 13 In England and Wales or Northern Ireland arrangements for the hearing of proceedings to which paragraph 12 applies are made within the meaning of that paragraph—
- (a) in the case of proceedings in the High Court for which provision is made by rules of court for setting down for trial, when the case is set down;
 - (b) in the case of any proceedings, when a date for the trial or hearing is fixed.
- 14 In Scotland arrangements for the hearing of proceedings to which paragraph 12 applies are made within the meaning of that paragraph—
- (a) in the case of an ordinary action in the Court of Session or in the sheriff court, when the Record is closed;
 - (b) in the case of a motion or application, when it is enrolled or made;
 - (c) in any other case, when the date for a hearing is fixed or a hearing is allowed.

Appellate proceedings

- 15 Appellate proceedings are active from the time when they are commenced—
- (a) by application for leave to appeal or apply for review, or by notice of such an application;
 - (b) by notice of appeal or of application for review;
 - (c) by other originating process, until disposed of or abandoned, discontinued or withdrawn.

Modifications etc. (not altering text)

- C2** [Sch. 1 para. 15](#) excluded (25.4.2000) by 1999 c. 17, ss. 3(4), 4(6), 5(12), [Sch. 3, Pt. IV, para. 23\(3\)](#); [S.I. 2000/880](#), art. 2, [Sch. 2](#)

- 16 Where, in appellate proceedings relating to criminal proceedings, the court—

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- (a) remits the case to the court below; or
 - (b) orders a new trial or *avenire de novo*, or in Scotland grants authority to bring a new prosecution,
- any further or new proceedings which result shall be treated as active from the conclusion of the appellate proceedings.

SCHEDULE 2

Sections 13, 14.

AMENDMENTS

PART I

F10
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Textual Amendments

F10 Sch. 2 Pt. I repealed by [Legal Aid Act 1988 \(c. 34, SIF 77:1\)](#), s. 45, [Sch. 6](#)

^{F11}PART II

LEGAL AID (SCOTLAND) ACT 1967 (C. 43)

Textual Amendments

F11 Sch. 2 Pt. II repealed (S.) by [Legal Aid \(Scotland\) Act 1986 \(c. 47, SIF 77:2\)](#), s. 45(3), [Sch. 5](#)

Modifications etc. (not altering text)

C3 The text of ss. 3(4), 4(4), 14(5), 16(6), Sch. 2 Pt. II and Pt. III paras. 1, 6 and 7 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

- 1 In section 1, in subsection (2), after “provide,” there shall be inserted the words “and subject to subsection (7A) below,”.
- 2 In section 1, after subsection (7) there shall be inserted the following subsection:—
 - “(7A) In any case where a person is liable to be dealt with for contempt of court during the course of or in connection with any proceedings he may be given legal aid and the provisions made by or under this Act in relation to legal aid in summary criminal proceedings shall apply, with any necessary modifications, in such a case, but—
 - (a) sections 1(6) and (6A) and 2(5) of this Act shall not so apply; and
 - (b) the court granting legal aid may order in any case that the legal aid to be given shall consist of representation by counsel only or, in a court where solicitors have a right of audience, by a solicitor only; and (notwithstanding anything contained in section 6(1) of this Act)

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the court may assign for the purpose any counsel or solicitor who is within the precincts of the court at the time when the order is made.”.]

PART III

CORONERS ACT 1887, COUNTY COURTS ACT 1959, ATTACHMENT OF EARNINGS ACT 1971 AND MAGISTRATES’ COURT ACT 1980

Coroners Act 1887 (c. 71)

1 In subsections (1) and (2) of section 19 and in section 23, for the words “five pounds” there shall be substituted “£200”.

Modifications etc. (not altering text)

C4 The text of ss. 3(4), 4(4), 14(5), 16(6), Sch. 2 Pt. II and Pt. III paras. 1, 6 and 7 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

2—5. **F12**

Textual Amendments

F12 Sch. 2 Pt. III paras. 2–5 repealed by County Courts Act 1984 (c. 28, SIF 34), s. 148(3), **Sch. 4**

Attachment of Earnings Act 1971 (c. 32)

6 In section 23, after subsection (1) there shall be inserted the following subsection:—

“(1A) In any case where the judge has power to make an order of imprisonment under subsection (1) for failure to attend, he may, in lieu of or in addition to making that order, order the debtor to be arrested and brought before the court either forthwith or at such time as the judge may direct.”

Modifications etc. (not altering text)

C5 The text of ss. 3(4), 4(4), 14(5), 16(6), Sch. 2 Pt. II and Pt. III paras. 1, 6 and 7 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

Magistrates’ Courts Act 1980 (c. 43)

7 In section 97, in subsection (4), for the words “7 days” there shall be substituted “one month” and at the end of the subsection there shall be added the words “or impose on him a fine not exceeding £500, or both”.

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Modifications etc. (not altering text)

- C6** The text of ss. 3(4), 4(4), 14(5), 16(6), Sch. 2 Pt. II and Pt. III paras. 1, 6 and 7 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

SCHEDULE 3

Section 17.

APPLICATION OF MAGISTRATES' COURTS ACT 1980 TO
CIVIL CONTEMPT PROCEEDINGS UNDER SECTION 63(3)

Modifications etc. (not altering text)

- C7** Sch. 3 applied (5.4.2010) by [The Criminal Procedure Rules 2010 \(S.I. 2010/60\)](#), [rule 22.8](#)

- 1 (1) Where the proceedings are taken of the court's own motion the provisions of the Act listed in this sub-paragraph shall apply as if a complaint had been made against the person against whom the proceedings are taken, and subject to the modifications specified in sub-paragraphs (2) and (3) below. The enactments so applied are:—
- section 51 (issue of summons)
 - section 53(1) and (2) (procedure on hearing)
 - section 54 (adjournment)
 - section 55 (non-appearance of defendant)
 - section 97(1) (summons to witness)
 - section 101 (onus of proving exceptions etc.)
 - section 121(1) and (3)(a) (constitution and place of sitting of court)
 - section 123 (defect in process).
- (2) In section 55, in subsection (1) for the words “the complainant appears but the defendant does not” there shall be substituted the words “the defendant does not appear”, and in subsection (2) the words “if the complaint has been substantiated on oath, and” shall be omitted.
- (3) In section 123, in subsections (1) and (2) the words “adduced on behalf of the prosecutor or complainant” shall be omitted.
- 2 Where the proceedings are taken by way of complaint for an order, section 127 of the Act (limitation of time) shall not apply to the complaint.
- 3 Whether the proceedings are taken of the court's own motion or by way of complaint for an order, subsection (3) of section 55 shall apply as if the following words were added at the end of the subsection:— ^{F13}“ or, having been arrested under section 47 of the Family Law Act 1996 in connection with the matter of the complaint, is at large after being remanded under subsection (7)(b) or (10) of that section. ”].

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Textual Amendments

F13 Words in [Sch. 3 para. 3](#) substituted (1.10.1997) by 1996 c. 27, s. 66(1), [Sch. 8 Pt. III para. 50](#) (with [Sch. 9 paras. 9, 10](#)); S.I. 1997/1892, [art. 3\(1\)\(b\)](#)

SCHEDULE 4

Section 18.

SECTIONS 12, 13, 14 AND 16 AS APPLIED TO NORTHERN IRELAND

Offences of contempt of magistrates' courts.

- 12 (1) ^{F14}
- (2) Paragraph 26 of Schedule 1 to the Criminal Justice (Northern Ireland) ^{M4}Order 1980 is repealed.

Textual Amendments

F14 [Sch. 4 s. 12\(1\)](#) repealed by S.I. 1981/1675, (N.I. 26), [Sch. 7](#)

Marginal Citations

M4 [S.I. 1980/704 \(N.I. 6\)](#).

Legal aid.

- ^{F15} 13(1) In any case where—
- (a) a person is liable to be committed or fined—
- (i) by a magistrates' court under [^{F16}Article 160 of the Magistrates' Courts (Northern Ireland) Order 1981];
- (ii) by a county court under Article 55 of the ^{M5}County Courts (Northern Ireland) Order 1980; or
- [by a magistrates' court or the Crown Court under section 18 of the ^{F17}(ⁱⁱa) Criminal Procedure and Investigations Act 1996; or.]
- (iii) by any superior court for contempt in the face of that or any other court; and
- (b) it appears to the court that it is desirable in the interests of justice that he should have legal aid and that he has not sufficient means to enable him to obtain that aid;
- the court may order that he shall be given legal aid for the purposes of the proceedings.
- (2) Unless the court orders that the legal aid to be given under this section shall consist of representation by counsel only or, in any court where solicitors have a right of audience, by a solicitor only, legal aid under this section shall consist of representation by a solicitor and counsel assigned by the court; and the court may assign for the purpose any counsel or solicitor who is within the precincts of the court at the time when the order is made.

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- (3) If on a question of granting a person legal aid under this section there is a doubt whether his means are sufficient to enable him to obtain legal aid or whether it is desirable in the interests of justice that he should have legal aid, the doubt shall be resolved in favour of granting him legal aid.
- (4) Articles 32, 33, 36 and 40 of the ^{M6} Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 shall apply in relation to legal aid under this section as they apply in relation to legal aid under Part III of that Order as if any legal aid under this section were given in pursuance of a certificate under Article 29 of that Order.
- (5) This section is without prejudice to any other enactment by virtue of which legal aid may be granted in or for purposes of civil or criminal proceedings.]

Textual Amendments

- F15** S. 13 as it applies to N.I. repealed (prosp.) by Access to [Justice \(Northern Ireland\) Order 2003 \(S.I. 2003/435\)](#), arts. 1(2), 49, [Sch. 5](#) (with art. 45)
- F16** Words substituted by [S.I. 1981/1675](#), (N.I. 26), Sch. 6 para. 61
- F17** Sch. 4: s. 13(1)(a)(ia) inserted (N.I.) (4.7.1996 with application in relation to alleged offences into which no criminal investigation has begun before 1.4.1997) by [1996 c. 25](#), ss. 1(3), 18(11), 79(4), [Sch. 4 para. 11](#) (with s. 78(1)); [S.I. 1997/682](#), [art. 2\(1\)\(a\)](#)

Marginal Citations

- M5** [S.I. 1980/397 \(N.I. 3\)](#).
- M6** [S.I. 1981/228 \(N.I. 8\)](#).

Proceedings in Northern Ireland.

- 14 (1) In any case where a court has power to commit a person to prison for contempt of court and (apart from this provision) no limitation applies to the period of committal, the committal shall (without prejudice to the power of the court to order his earlier discharge) be for a fixed term, and that term shall not on any occasion exceed two years in the case of committal by a superior court, or one month in the case of committal by an inferior court.
- (2) In any case where an inferior court has power to fine a person for contempt of court and (apart from this provision) no limit applies to the amount of the fine, the fine shall not on any occasion exceed [^{F18}£2500].
- (3) Section 72 of the Children and Young Persons Act (Northern Ireland) ^{M7}1968 shall be amended by inserting the words “for contempt of court or” after “prison” in subsection (2), and after “such a centre” in subsection (3).
- (4) Each of the superior courts shall have the like power to make a hospital order or guardianship order under [^{F19}Article 44 of the Mental Health (Northern Ireland) Order 1986 or an interim hospital order under article 45 of that order,] in the case of a person suffering from mental disorder who could otherwise be committed to prison for contempt of court as the Crown Court has under [^{F19}that Article] in the case of a person convicted of an offence.
- [^{F20}(4A) Each of the superior courts shall have the like power to make an order under Article 42 of the said Order of 1986 where there is reason to suspect that a person who could be committed to prison for contempt of court is suffering from mental illness

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or severe mental impairment as the Crown Court has under that Article in the case of an accused person within the meaning of that Article.]

[^{F21}(4A) For the purposes of the preceding provisions of this section a county court shall be treated as a superior court and not as an inferior court.]

(5) In subsections (1) and (2) of section 20 of the ^{M8}Coroners Act (Northern Ireland) 1959, for the words “ten pounds” there shall be substituted “£200” and in section 34 of that Act for the words “twenty-five pounds” there shall be substituted “£500”.

(6) ^{F22}

(7) In Article 55 of the County Courts (Northern Ireland) ^{M9}Order 1980, in paragraph (2), for the words “not exceeding £50” there shall be substituted “not exceeding £500” and for the words “any period” there shall be substituted “a specified period”.

Textual Amendments

F18 Sch. 4: amount in s. 14(2) substituted (9.1.1995) by S.I. 1994/2795 (N.I. 15), art. 3(5), **Sch. 1**; S.R. 1994/446, **art. 2**

F19 Words substituted by S.I. 1986/595 (N.I. 4), art. 136(1), **Sch. 5 Pt. II**

F20 Sch. 4: first s. 14(4A) inserted by S.I. 1986/595 (N.I. 4), art. 136(1), **Sch. 5 Pt. II**

F21 Sch. 4: second s. 14(4A) inserted by County Courts (Penalties for Contempt) Act 1983 (c. 45, SIF 39:3), **s. 1**

F22 Sch. 4: s. 14(6) repealed by S.I. 1981/1675 (N.I. 26), **Sch. 7**

Modifications etc. (not altering text)

C8 Power to amend conferred by S.I. 1984/703 (N.I. 3), art. 17(2)(c), **Sch. 5**

Marginal Citations

M7 1968 c. 34 (N.I.)

M8 1959 c. 15 (N.I.)

M9 S.I. 1980/397 (N.I. 3).

Enforcement of fines imposed by superior courts.

16 Section 35 of the ^{M10}Criminal Justice Act (Northern Ireland) 1945 shall apply to fines imposed for contempt of court by any superior court other than the Crown Court as it applies to fines imposed by the Crown Court.

Marginal Citations

M10 1945 c. 15 (N.I.)

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