



Criminal Justice Act 1982

1982 CHAPTER 48

PART I

TREATMENT OF YOUNG OFFENDERS

Custody and detention of persons under 21

1 General restriction on custodial sentences

- (1) Subject to subsection (2) below, no court shall pass a sentence of imprisonment on a person under 21 years of age or commit such a person to prison for any reason.
- (2) Nothing in subsection (1) above shall prevent the committal to prison of a person under 21 years of age who is remanded in custody or committed in custody for trial or sentence.
- (3) No court shall pass a sentence of Borstal training.
- (4) Where a person under 21 years of age is convicted or found guilty of an offence, the court may not—
 - (a) make a detention centre order in respect of him under section 4 below;
 - (b) pass a youth custody sentence on him under section 6 below; or
 - (c) pass a sentence of custody for life on him under section 8(2) below,unless it is of the opinion that no other method of dealing with him is appropriate because it appears to the court that he is unable or unwilling to respond to non-custodial penalties or because a custodial sentence is necessary for the protection of the public or because the offence was so serious that a non-custodial sentence cannot be justified.
- (5) No court shall commit a person under 21 years of age to be detained under section 9 below unless it is of the opinion that no other method of dealing with him is appropriate.
- (6) For the purposes of any provision of this Act which requires the determination of the age of a person by the court or the Secretary of State his age shall be deemed to be

that which it appears to the court or the Secretary of State (as the case may be) to be after considering any available evidence.

2 Social inquiry reports etc.

- (1) For the purpose of determining whether there is any appropriate method of dealing with a person under 21 years of age other than a method whose use in the case of such a person is restricted by section 1(4) or (5) above the court shall obtain and consider information about the circumstances and shall take into account any information before the court which is relevant to his character and his physical and mental condition.
- (2) Subject to subsection (3) below, the court shall in every case obtain a social inquiry report for the purpose of determining whether there is any appropriate method of dealing with a person other than a method whose use is restricted by section 1 (4) above.
- (3) Subsection (2) above does not apply if, in the circumstances of the case, the court is of the opinion that it is unnecessary to obtain a social inquiry report.
- (4) Where a magistrates' court deals with a person under 21 years of age by a method whose use in the case of such a person is restricted by section 1(4) above, it shall state in open court the reason for its opinion that no other method of dealing with him is appropriate because it appears to the court that he is unable or unwilling to respond to non-custodial penalties or because a custodial sentence is necessary for the protection of the public or because the offence was so serious that a non-custodial sentence cannot be justified.
- (5) Where a magistrates' court deals with a person under 21 years of age by a method whose use in the case of such a person is restricted by section 1(5) above, it shall state in open court the reason for its opinion that no other method of dealing with him is appropriate.
- (6) Where a magistrates' court deals with a person under 21 years of age by a method whose use in the case of such a person is restricted by section 1(4) above without obtaining a social inquiry report, it shall state in open court the reason for its opinion that it was unnecessary to obtain such a report.
- (7) A magistrates' court shall cause a reason stated under subsection (4), (5) or (6) above to be specified in the warrant of commitment and to be entered in the register.
- (8) No sentence or order shall be invalidated by the failure of a court to comply with subsection (2) above, but any other court on appeal from that court shall obtain a social inquiry report if none was obtained by the court below, unless it is of the opinion that in the circumstances of the case it is unnecessary to do so.
- (9) In determining whether it should deal with the appellant by a method different from that by which the court below dealt with him the court hearing the appeal shall consider any social inquiry report obtained by it or by the court below.
- (10) In this section " social inquiry report" means a report about a person and his circumstances made by a probation officer or by a social worker of a local authority social services department.

3 Restriction on imposing custodial sentences on persons under 21 not legally represented

- (1) A magistrates' court on summary conviction or the Crown Court on committal for sentence or on conviction on indictment shall not—
- (a) make a detention centre order under section 4 below ;
 - (b) pass a youth custody sentence under section 6 below ;
 - (c) pass a sentence of custody for life under section 8(2) below; or
 - (d) make an order for detention under section 53(2) of the Children and Young Persons Act 1933, in respect of or on a person who is not legally represented in that court, unless either—
 - (i) he applied for legal aid and the application was refused on the ground that it did not appear his means were such that he required assistance ;
or
 - (ii) having been informed of his right to apply for legal aid and had the opportunity to do so, he refused or failed to apply.
- (2) For the purposes of this section a person is to be treated as legally represented in a court if, but only if, he has the assistance of counsel or a solicitor to represent him in the proceedings in that court at some time after he is found guilty and before he is sentenced, and in subsection (1)(i) and (ii) above " legal aid " means legal aid for the purposes of proceedings in that court, whether the whole proceedings or the proceedings on or in relation to sentence; but in the case of a person committed to the Crown Court for sentence or trial, it is immaterial whether he applied for legal aid in the Crown Court to, or was informed of his right to apply by, that court or the court which committed him.

4 Orders for detention of male offenders aged 14 to 20

- (1) Where—
- (a) a male offender under 21 but not less than 14 years of age is convicted of an offence which is punishable with imprisonment in the case of a person aged 21 or over; and
 - (b) the court considers—
 - (i) that the only appropriate method of dealing with him is to pass a custodial sentence on him; but
 - (ii) that the term of such a sentence should be no more than 4 months, the order that the court is to make, subject to the provisions of this section and to section 5(2) below, is an order for his detention in a detention centre for such period, not exceeding 4 months, as it considers appropriate.
- (2) If the maximum term of imprisonment that a court could impose for an offence is less than 4 months, the maximum term of detention it may specify for that offence in a detention centre order is the same as the maximum term of imprisonment.
- (3) Subject to subsection (4) below, no order may be made under this section for the detention of an offender in a detention centre for less than 21 days.
- (4) A court may order the detention of an offender in a detention centre for less than 21 days for an offence under section 15(11) below.

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- (5) Subject to subsection (6) below, a court shall not make an order under this section for the detention of an offender in a detention centre—
- (a) if it considers that his detention in such a centre would be unsuitable because of his mental or physical condition ; or
 - (b) if he is serving or has ever served a sentence—
 - (i) of imprisonment;
 - (ii) of detention under section 53 of the Children and Young Persons Act 1933 (detention on conviction of certain grave crimes);
 - (iii) of Borstal training ;
 - (iv) of youth custody under section 6 below ; or
 - (v) of custody for life under section 8 below.
- (6) A court may make an order under this section for the detention in a detention centre of an offender who has served a sentence of a description specified in subsection (5)(b) above if it appears to the court that there are special circumstances (whether relating to the offence or to the offender) which warrant the making of such an order in his case.
- (7) An order under this section is referred to in this Act as a " detention centre order " .

5 Consecutive terms and aggregate periods of detention

- (1) Subject to the provisions of this section, any court which makes a detention centre order may direct that the term of detention under the order shall commence on the expiration of a term of detention under another detention centre order.
- (2) No court shall—
- (a) make a detention centre order in respect of an offender who is subject to another such order ; or
 - (b) give a direction under subsection (1) above,
if the effect would be that the offender would be ordered to be detained in a detention centre for more than 4 months at a time.
- (3) If a court makes such an order or gives such a direction in respect of an offender aged less than 15 years, so much of the aggregate of all the terms of detention in a detention centre to which he is subject as exceeds 4 months shall be treated as remitted.
- (4) If a court makes such an order or gives such a direction in respect of an offender aged 15 years or over, he shall be treated for all purposes as if he had been sentenced to a term of youth custody equal to the aggregate of all the terms of detention in a detention centre to which he is subject.
- (5) Where
- (a) an offender not less than 15 years of age is serving a term of detention in a detention centre ; and
 - (b) on his conviction of an offence the court by which he is convicted considers that the only appropriate method of dealing with him is to pass a custodial sentence on him; and
 - (c) the length of sentence which the court considers appropriate is such that the period for which he would be ordered to be detained by virtue of the sentence, together with the period for which any detention centre order to which he is subject directed that he should be detained, would exceed 4 months,

the sentence that the court is to pass is a youth custody sentence for the term which it considers appropriate.

- (6) Where a court passes a youth custody sentence on an offender under subsection (5) above, it shall direct that any detention centre order to which he is subject at the time of the conviction for which the youth custody sentence is imposed shall be treated for all purposes as if it had been a sentence of youth custody.
- (7) Where a detention centre order is treated as a sentence of youth custody by virtue of this section, the portion of the term of detention imposed by the order which the offender has already served shall be deemed to have been a portion of a term of youth custody.

6 Youth custody: offenders aged 15 to 20

- (1) Subject to section 8 below and to section 53 of the Children and Young Persons Act 1933, where—
 - (a) a person under 21 but not less than 15 years of age is convicted of an offence which is punishable with imprisonment in the case of a person aged 21 or over; and
 - (b) the court considers for reasons which shall be stated in open court that the only appropriate method of dealing with the offender is to pass a custodial sentence ; and
 - (c) either—
 - (i) the court considers that it would be appropriate to sentence the offender to a term of more than 4 months, or where the offender has been convicted of more than one offence, to terms of more than 4 months in the aggregate ; or
 - (ii) the case falls within subsection (2) or (4) below,the sentence that the court is to pass is a sentence of youth custody.
- (2) A case falls within this subsection where the offender is male and the court determines—
 - (a) that a sentence of 4 months or less would be appropriate ; but
 - (b) that a detention centre order is precluded by section 4(5) above.
- (3) If a court passes a sentence of youth custody on an offender because it considers that his detention in a detention centre would be unsuitable because of his mental condition, it shall certify in the warrant of commitment that it passed the sentence of youth custody for that reason.
- (4) A case falls within this subsection if the offender is female and has attained the age of 17 years.
- (5) A sentence under this section is referred to in this Act as a " youth custody sentence ".

7 Youth custody: length of term

- (1) Subject to subsection (8) below, the maximum term of youth custody that a court may impose for an offence is the same as the maximum term of imprisonment that it may impose for that offence.
- (2) Subject to subsection (8) below, where—

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- (a) an offender is convicted of more than one offence for which he is liable to a sentence of youth custody ; or
 - (b) an offender who is serving a youth custody sentence is convicted of one or more further offences for which he is liable to such a sentence,
- the court shall have the same power to pass consecutive youth custody sentences as if they were sentences of imprisonment.
- (3) Where an offender who—
- (a) is serving a youth custody sentence ; and
 - (b) is aged over 21 years,
- is convicted of one or more further offences for which he is liable to imprisonment, the court shall have the power to pass one or more sentences of imprisonment to run consecutively upon the youth custody sentence.
- (4) Subject to subsections (6) and (7) below, a court shall not pass a youth custody sentence on an offender whose effect would be that he would be sentenced to a total term which is less than the usual term of youth custody.
- (5) The usual term of youth custody is a term exceeding 4 months.
- (6) If a case falls within section 6(2) or (4) above, the term of youth custody to which the offender is sentenced may be less than the usual term but not less than 21 days.
- (7) A court may pass a sentence of youth custody for less than 21 days for an offence under section 15(11) below.
- (8) An offender aged less than 17 years shall not be sentenced to a term of youth custody which exceeds 12 months at a time; and accordingly—
- (a) a court shall not pass a youth custody sentence on such an offender whose effect would be that he would be sentenced to a total term which exceeds 12 months; and
 - (b) so much of any such term for which such an offender is sentenced as exceeds 12 months shall be treated as remitted.
- (9) In subsections (4) and (8)(a) above " total term " means—
- (a) in the case of an offender sentenced to two or more terms of youth custody which are consecutive or wholly or partly concurrent, the aggregate of those terms ;
 - (b) in the case of any other offender, the term of the youth custody sentence in question.

8 Custody for life

- (1) Where a person under the age of 21 is convicted of murder or any other offence the sentence for which is fixed by law as imprisonment for life, the court shall sentence him to custody for life unless he is liable to be detained under section 53(1) of the Children and Young Persons Act 1933 (detention of persons under 18 convicted of murder).
- (2) Where a person aged 17 years or over but under the age of 21 is convicted of any other offence for which a person aged 21 years or over would be liable to imprisonment for life, the court shall, if it considers that a custodial sentence for life would be appropriate, sentence him to custody for life.

9 Detention of persons aged 17 to 20 for default or contempt

- (1) In any case where, but for section 1(1) above, a court would have power—
- (a) to commit a person under 21 but not less than 17 years of age to prison for default in payment of a fine or any other sum of money ; or
 - (b) to make an order fixing a term of imprisonment in the event of such a default by such a person ; or
 - (c) to commit such a person to prison for contempt of court or any kindred offence,
- the court shall have power, subject to section 1(5) above, to commit him to be detained under this section or, as the case may be, to make an order fixing a term of detention under this section in the event of default, for a term not exceeding the term of imprisonment.
- (2) For the purposes of subsection (1) above, the power of a court to order a person to be imprisoned under section 23 of the Attachment of Earnings Act 1971 shall be taken to be a power to commit him to prison.

10 Computation of custodial sentences for young offenders

The following subsections shall be added at the end of section 67 of the Criminal Justice Act 1967 (reduction of custodial sentence by period already spent in custody)

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- “(5) This section applies—
- (a) to orders made under section 4 of the Criminal Justice Act 1982 (detention centre orders); and
 - (b) to sentences passed by virtue of section 6 of the Criminal Justice Act 1982 (youth custody sentences),
- as it applies to sentences of imprisonment.
- (6) The reference in subsection (1) above to an offender being committed to custody by an order of a court includes a reference to his being committed to a remand centre or to prison under section 23 of the Children and Young Persons Act 1969 or section 37 of the Magistrates' Courts Act 1980 but does not include a reference to his being committed to the care of a local authority under the said section 23.”.

Accommodation of young offenders

11 Provision of premises for young offenders etc.

The following section shall be substituted for section 43 of the Prison Act 1952—

“43 Remand centres, detention centres and youth custody centres.

- (1) The Secretary of State may provide—
- (a) remand centres, that is to say places for the detention of persons not less than 14 but under 21 years of age who are remanded or committed in custody for trial or sentence ;

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- (b) detention centres, that is to say places in which male offenders not less than 14 but under 21 years of age who are ordered to be detained in such centres under the Criminal Justice Act 1982 may be kept for short periods under discipline suitable to persons of their age and description; and
 - (c) youth custody centres, that is to say places in which offenders not less than 15 but under 21 years of age may be detained and given training, instruction and work and prepared for their release.
- (2) The Secretary of State may from time to time direct—
- (a) that a woman aged 21 years or over who is serving a sentence of imprisonment or who has been committed to prison for default shall be detained in a remand centre or a youth custody centre instead of a prison ;
 - (b) that a woman aged 21 years or over who is remanded in custody or committed in custody for trial or sentence shall be detained in a remand centre instead of a prison;
 - (c) that a person under 21 but not less than 17 years of age who is remanded in custody or committed in custody for trial or sentence shall be detained in a prison instead of a remand centre or a remand centre instead of a prison, notwithstanding anything in section 27 of the Criminal Justice Act 1948 or section 23(3) of the Children and Young Persons Act 1969.
- (3) Notwithstanding subsection (1) above, any person required to be detained in an institution to which this Act applies may be detained in a remand centre for any temporary purpose or for the purpose of providing maintenance and domestic services for that centre.
- (4) Sections 5A, 6(2) and (3), 16, 22, 25 and 36 of this Act shall apply to remand centres, detention centres and youth custody centres and to persons detained in them as they apply to prisons and prisoners.
- (5) The other provisions of this Act preceding this section, except sections 28 and 37(2) above, shall apply to such centres and to persons detained in them as they apply to prisons and prisoners, but subject to such adaptations and modifications as may be specified in rules made by the Secretary of State.
- (6) References in the preceding provisions of this Act to imprisonment shall, so far as those provisions apply to institutions provided under this section, be construed as including references to detention in those institutions.
- (7) Nothing in this section shall be taken to prejudice the operation of section 12 of the Criminal Justice Act 1982.”.

12 Accommodation of young offenders and defaulters etc.

- (1) Subject to subsection (11) below, a male offender sentenced to youth custody shall be detained in a youth custody centre
- (a) if the term of his youth custody sentence is more than 4 but not more than 18 months ; and
 - (b) if the term is not treated by virtue of section 67 of the Criminal Justice Act 1967 as reduced to less than 21 days,

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unless the Secretary of State gives a direction for his detention in a prison under subsection (4) below.

- (2) Subject to subsection (11) below, an offender aged 16 years or less who is sentenced to youth custody, other than an offender who falls to be detained in a youth custody centre by virtue of subsection (1) above, is to be detained in a youth custody centre or in a remand centre as the Secretary of State may from time to time direct unless—
 - (a) the term of his youth custody sentence is treated by virtue of section 67 of the Criminal Justice Act 1967 as reduced to less than 21 days; or
 - (b) he has been sentenced under section 15(11) below to youth custody for less than 21 days ; or
 - (c) the Secretary of State gives a direction for his detention in a prison under subsection (4) below.
- (3) Subject to subsection (11) below, an offender who has been sentenced to youth custody because the court considered that his detention in a detention centre would be unsuitable because of his mental condition is to be detained in a youth custody centre or in a remand centre as the Secretary of State may from time to time direct unless—
 - (a) the term of his youth custody sentence is treated by virtue of section 67 of the Criminal Justice Act 1967 as reduced to less than 21 days ; or
 - (b) he has been sentenced under section 15(11) below to youth custody for less than 21 days ; or
 - (c) the Secretary of State gives a direction for his detention in a prison under subsection (4) below.
- (4) The Secretary of State may from time to time direct that—
 - (a) an offender who falls to be detained in a youth custody centre by virtue of subsection (1) above ; or
 - (b) an offender who falls to be detained in a youth custody centre or a remand centre by virtue of subsection (2) or (3) above,is instead to be detained for any temporary purpose in a prison.
- (5) Any offender sentenced to youth custody, other than an offender who falls to be detained in a youth custody centre by virtue of subsection (1) above or an offender who falls to be detained in a youth custody centre or a remand centre by virtue of subsection (2) or (3) above, is to be detained—
 - (a) in a youth custody centre ;
 - (b) in a remand centre ; or
 - (c) in a prison,as the Secretary of State may from time to time direct.
- (6) Subject—
 - (a) to subsection (7) below, and
 - (b) to the enactments mentioned in subsection (11) below,an offender sentenced to custody for life is to be detained in a prison.
- (7) The Secretary of State may from time to time direct that an offender sentenced to custody for life—
 - (a) who is female ; or
 - (b) who is male and under 22 years of age,is to be detained in a youth custody centre instead of a prison.

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- (8) Where a detention centre order has been made in respect of an offender aged 15 years or over, the Secretary of State may from time to time direct that he shall be detained for any temporary purpose in a youth custody centre or a prison instead of a detention centre.
- (9) Where in the case of an offender aged 15 years or over—
- (a) either—
 - (i) a detention centre order has been made; and
 - (ii) the term for which he is ordered to be detained is treated by virtue of section 67 of the Criminal Justice Act 1967 as reduced to less than 21 days ; or
 - (b) he is ordered under section 15(11) below to be detained in a detention centre for less than 21 days,
- the Secretary of State may from time to time direct that he is to be detained (otherwise than for a temporary purpose) in a remand centre, a youth custody centre or (where the offender is aged 17 or over) a prison instead of a detention centre.
- (10) A person in respect of whom an order has been made under section 9 above is to be detained—
- (a) in a remand centre ;
 - (b) in a detention centre ;
 - (c) in a youth custody centre ; or
 - (d) in any place in which a person aged 21 years or over could be imprisoned or detained for default in payment of a fine or any other sum of money,
- as the Secretary of State may from time to time direct.
- (11) This section is without prejudice—
- (a) to section 22(2)(b) of the Prison Act 1952 (removal to hospital etc.); and
 - (b) to section 43(3) of that Act (detention in remand centre for a temporary purpose or for the purpose of providing maintenance and domestic services).

Provisions supplementary to sections 1 to 12

13 Conversion of sentence of youth custody to sentence of imprisonment

- (1) Subject to subsection (3) below, where—
- (a) an offender has been sentenced to a term of youth custody ; and
 - (b) either—
 - (i) he has attained the age of 21 years ; or
 - (ii) the conditions specified in subsection (2) below are satisfied in relation to him,
- the Secretary of State may direct that he shall be treated as if he had been sentenced to imprisonment for the same term.
- (2) The conditions mentioned in subsection (1) above are—
- (a) that the offender has attained the age of 18 years; and
 - (b) that he has been reported to the Secretary of State by the board of visitors of the institution in which he is detained as exercising a bad influence on the

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other inmates of the institution or as behaving in a disruptive manner to the detriment of those inmates.

- (3) An offender who by virtue of this section falls to be treated as if he had been sentenced to imprisonment instead of youth custody is not to be so treated for the purposes of section 15 below.
- (4) Where the Secretary of State gives a direction under subsection (1) above in relation to an offender, the portion of the term of youth custody imposed by the youth custody sentence which he has already served shall be deemed to have been a portion of a term of imprisonment.
- (5) Rules under section 47 of the Prison Act 1952 may provide that any award for an offence against discipline made in respect of an offender serving a youth custody sentence shall continue to have effect after a direction under subsection (1) above has been given in relation to him.

14 Power to make certain alterations by order

- (1) The Secretary of State may by order made by statutory instrument—
 - (a) amend any enactment in sections 1 to 13 above which contains a reference to a period of time, by substituting a reference to some other period of time ; or
 - (b) remove either of the references to periods of time from section 12(1)(a) above ; or
 - (c) repeal that paragraph.
- (2) An order under this section may make different provision for different cases.
- (3) An order under this section may not—
 - (a) amend section 4(1) above so as to increase the period specified in paragraph (b)(ii) of that subsection in its application to offenders under the age of 15 ; or
 - (b) amend section 5(2) above so as to increase the period specified in that subsection in its application to such offenders; or
 - (c) amend section 5(3) above so as to increase the period specified in that subsection ; or
 - (d) amend section 7(8) above so as to authorise a sentence of youth custody for a term which exceeds 12 months at a time.
- (4) An order under this section may make such incidental or supplemental provision (including provision amending enactments) as the Secretary of State considers appropriate.
- (5) An order shall not be made under this section unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.

15 Release of young offenders

- (1) Subject to subsection (13) below, if subsection (2), (3) or (4) below applies to a person under 22 years of age who is released from a term of detention under a detention centre order or a term of youth custody, he shall be under the supervision of a probation officer or a social worker of a local authority social services department

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- (2) This subsection applies to a person who was neither granted remission nor released on licence.
- (3) This subsection applies to a person who was granted remission.
- (4) This subsection applies to a person—
 - (a) who was under 21 years of age when sentence was passed on him; and
 - (b) who is released on licence ; and
 - (c) whose licence expires less than 12 months after his release.
- (5) The supervision period ends on the offender's 22nd birthday if it has not ended before.
- (6) Subject to subsection (5) above, where subsection (2) above applies, the supervision period begins on the offender's release and ends 3 months from his release.
- (7) Subject to subsection (5) above and to subsection (9) below, where subsection (3) above applies, the supervision period begins on the offender's release and ends—
 - (a) 3 months from his release; or
 - (b) on the date on which his sentence would have expired if he had not been granted remission,whichever is the later.
- (8) Subject to subsection (5) above and to subsection (9) below, where subsection (4) above applies, the supervision period begins when the offender's licence expires and ends on the date on which he would have been released if he had never been granted remission or released on licence.
- (9) If the date mentioned in subsection (1)(b) or (8) above is more than 12 months from the date of the offender's release, the supervision period ends 12 months from the date of his release.
- (10) While a person is under supervision by virtue of this section, he shall comply with such requirements, if any, as may for the time being be specified in a notice from the Secretary of State.
- (11) A person who without reasonable excuse fails to comply with a requirement imposed under subsection (10) above shall be guilty of an offence and liable on summary conviction—
 - (a) to a fine not exceeding £200 ; or
 - (b) to an appropriate custodial sentence for a period not exceeding 30 days.
- (12) In subsection (11) above " appropriate custodial sentence " means—
 - (a) a sentence of imprisonment, if the offender has attained the age of 21 years when he is sentenced ; and
 - (b) a detention centre order or a youth custody sentence, if he has not then attained that age.
- (13) A person released from a custodial sentence passed under subsection (11) above shall not be liable to a period of supervision in consequence of his conviction under that subsection, but his conviction shall not prejudice any liability to supervision to which he was previously subject, and that liability shall accordingly continue until the end of the supervision period.
- (14) In this section—

" licence " means a licence under section 60 of the Criminal Justice Act 1967 ; and

" remission " means remission under rules made by virtue of section 47 of the Prison Act 1952.

Attendance centres

16 Provision, regulation and management of attendance centres

- (1) The Secretary of State may continue to provide attendance centres.
- (2) In this Act " attendance centre " means a place at which offenders under 21 years of age may be required to attend and be given under supervision appropriate occupation or instruction, in pursuance of orders made—
 - (a) by the Crown Court or magistrates' courts under section 17 below;
 - (b) by juvenile courts or other magistrates' courts under section 15(2A) or (4) of the Children and Young Persons Act 1969 (attendance centre orders made on breach of requirements in supervision orders); or
 - (c) by magistrates' courts under section 6(3)(c) of the Powers of Criminal Courts Act 1973 (attendance centre orders made on breach of requirements in probation orders).
- (3) The Secretary of State may by statutory instrument make rules for the regulation and management of attendance centres.
- (4) For the purpose of providing attendance centres the Secretary of State may make arrangements with any local authority or police authority for the use of premises of that authority.
- (5) A draft of any statutory instrument containing rules under this section shall be laid before Parliament.

17 Attendance centre orders

- (1) Subject to subsections (3) and (4) below, where a court—
 - (a) would have power, but for section 1 above, to pass a sentence of imprisonment on a person who is under 21 years of age or to commit such a person to prison in default of payment of any sum of money or for failing to do or abstain from doing anything required to be done or left undone ; or
 - (b) has power to deal with any such person under section 6 of the Powers of Criminal Courts Act 1973 for failure to comply with any of the requirements of a probation order,the court may, if it has been notified by the Secretary of State that an attendance centre is available for the reception of persons of his description, order him to attend at such a centre, to be specified in the order, for such number of hours as may be so specified.
- (2) An order under this section is referred to in this Act as an " attendance centre order ".
- (3) No attendance centre order shall be made in the case of an offender who has been previously sentenced—
 - (a) to imprisonment;
 - (b) to detention under section 53 of the Children and Young Persons Act 1933 ;

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- (c) to Borstal training ;
- (d) to youth custody or custody for life under this Act; or
- (e) to detention in a detention centre,

unless it appears to the court that there are special circumstances (whether relating to the offence or to the offender) which warrant the making of such an order in his case.

- (4) The aggregate number of hours for which an attendance centre order may require an offender to attend at an attendance centre shall not be less than 12 except where he is under 14 years of age and the court is of opinion that 12 hours would be excessive, having regard to his age or any other circumstances.
- (5) The aggregate number of hours shall not exceed 12 except where the court is of opinion, having regard to all the circumstances, that 12 hours would be inadequate, and in that case shall not exceed 24 where the offender is under 17 years of age, or 36 hours where the offender is under 21 but not less than 17 years of age.
- (6) A court may make an attendance centre order in respect of an offender before a previous attendance centre order made in respect of him has ceased to have effect, and may determine the number of hours to be specified in the order without regard—
 - (a) to the number specified in the previous order ; or
 - (b) to the fact that that order is still in effect.
- (7) An attendance centre order shall not be made unless the court is satisfied that the attendance centre to be specified in it is reasonably accessible to the person concerned, having regard to his age, the means of access available to him and any other circumstances.
- (8) The times at which an offender is required to attend at an attendance centre shall be such as to avoid interference, so far as practicable, with his school hours or working hours.
- (9) The first such time shall be a time at which the centre is available for the attendance of the offender in accordance with the notification of the Secretary of State and shall be specified in the order.
- (10) The subsequent times shall be fixed by the officer in charge of the centre, having regard to the offender's circumstances.
- (11) An offender shall not be required under this section to attend at an attendance centre on more than one occasion on any day, or for more than three hours on any occasion.
- (12) Where a court makes an attendance centre order, the clerk of the court shall deliver or send a copy of the order to the officer in charge of the attendance centre specified in it, and shall also deliver a copy to the offender or send a copy by registered post or the recorded delivery service addressed to the offender's last or usual place of abode.
- (13) Where an offender has been ordered to attend at an attendance centre in default of the payment of any sum of money—
 - (a) on payment of the whole sum to any person authorised to receive it, the attendance centre order shall cease to have effect;
 - (b) on payment of a part of the sum to any such person, the total number of hours for which the offender is required to attend at the centre shall be reduced proportionately, that is to say by such number of complete hours as bears to the total number the proportion most nearly approximating to, without exceeding, the proportion which the part bears to the said sum.

18 Discharge and variation of attendance centre orders

- (1) An attendance centre order may be discharged on an application made by the offender or the officer in charge of the relevant attendance centre.
- (2) An application under subsection (1) above shall be made to one of the courts specified in subsection (3) below or to the Crown Court under subsection (4) below, and the discharge of such an order shall be by order of the court.
- (3) Subject to subsection (4) below, the power to discharge an attendance centre order shall be exercised—
 - (a) by a magistrates' court acting for the petty sessions area in which the relevant attendance centre is situated ; or
 - (b) by the court which made the order.
- (4) Where the court which made the order is the Crown Court and there is included in the order a direction that the power to discharge the order is reserved to that court, the power shall be exercised by that court.
- (5) An attendance centre order may, on the application of the offender or of the officer in charge of the relevant attendance centre, be varied by a magistrates' court acting for the petty sessions area in which the relevant attendance centre is situated; and an attendance centre order made by a magistrates' court may also be varied, on such an application, by that court.
- (6) The power to vary an attendance centre order is a power by order—
 - (a) to vary the day or hour specified in the order for the offender's first attendance at the relevant attendance centre; or
 - (b) if the court is satisfied that the offender proposes to change or has changed his residence, to substitute for the relevant attendance centre an attendance centre which the court is satisfied is reasonably accessible to the offender, having regard to his age, the means of access available to him and any other circumstances.
- (7) Where an application is made under this section by the officer in charge of an attendance centre, the court may deal with it without summoning the offender.
- (8) It shall be the duty of the clerk to a court which makes an order under this section—
 - (a) to deliver a copy to the offender or send a copy by registered post or the recorded delivery service addressed to the offender's last or usual place of abode ; and
 - (b) to deliver or send a copy—
 - (i) if the order is made by virtue of subsection (1) or (6)(a) above, to the officer in charge of the relevant attendance centre ; and
 - (ii) if it is made by virtue of subsection (6)(b) above, to the officer in charge of the attendance centre which the order as varied will require the offender to attend.
- (9) In this section " the relevant attendance centre ", in relation to an attendance centre order, means the attendance centre specified in the order or substituted for the attendance centre so specified by an order made by virtue of subsection (6)(b) above.

19 Breaches of attendance centre orders or attendance centre rules

- (1) Where an attendance centre order has been made and it appears on information to a justice acting for a relevant petty sessions area that the offender—
 - (a) has failed to attend in accordance with the order ; or
 - (b) while attending has committed a breach of rules made under section 16(3) above which cannot be adequately dealt with under those rules,the justice may issue a summons requiring the offender to appear at the place and time specified in the summons before a magistrates' court acting for the area or, if the information is in writing and on oath, may issue a warrant for the offender's arrest requiring him to be brought before such a court.
- (2) For the purposes of this section a petty sessions area is a relevant petty sessions area in relation to an attendance centre order—
 - (a) if the attendance centre which the offender is required to attend by an order made by virtue of section 17(1) or 18(6)(b) above is situated in it; or
 - (b) if the order was made by a magistrates' court acting for it.
- (3) If it is proved to the satisfaction of the magistrates' court before which an offender appears or is brought under this section that he has failed without reasonable excuse to attend as mentioned in paragraph (a) of subsection (1) above or has committed such a breach of rules as is mentioned in paragraph (b) of that subsection, that court—
 - (a) if the attendance centre order was made by a magistrates' court, may revoke it and deal with him, for the offence in respect of which the order was made, in any manner in which he could have been dealt with for that offence by the court which made the order if the order had not been made ;
 - (b) if the order was made by the Crown Court, may commit him in custody or release him on bail until he can be brought or appear before the Crown Court.
- (4) A magistrates' court which deals with an offender's case under subsection (3) (b) above shall send to the Crown Court a certificate signed by a justice of the peace giving particulars of the offender's failure to attend or, as the case may be, the breach of the rules which he has committed, together with such other particulars of the case as may be desirable; and a certificate purporting to be so signed shall be admissible as evidence of the failure or the breach before the Crown Court.
- (5) Where by virtue of subsection (3)(b) above the offender is brought or appears before the Crown Court and it is proved to the satisfaction of the court that he has failed to attend as mentioned in paragraph (a) of subsection (1) above or has committed such a breach of rules as is mentioned in paragraph (b) of that subsection, that court may revoke the attendance centre order and deal with him, for the offence in respect of which the order was made, in any manner in which it could have dealt with him for that offence if it had not made the order.
- (6) A person sentenced under subsection (3)(a) above for an offence may appeal to the Crown Court against the sentence.
- (7) In proceedings before the Crown Court under this section, any question whether there has been a failure to attend or a breach of the rules shall be determined by the court and not by the verdict of a jury.

Supervision orders

20 Requirements in supervision orders

(1) The following subsections shall be substituted for subsections (2) to (3C) of section 12 of the Children and Young Persons Act 1969 (power to include requirements in supervision orders)—

“(2) Subject to section 19(12) of this Act, a supervision order may require the supervised person to comply with any directions given from time to time by the supervisor and requiring him to do all or any of the following things—

- (a) to live at a place or places specified in the directions for a period or periods so specified ;
- (b) to present himself to a person or persons specified in the directions at a place or places and on a day or days so specified ;
- (c) to participate in activities specified in the directions on a day or days so specified;

but it shall be for the supervisor to decide whether and to what extent he exercises any power to give directions conferred on him by virtue of this subsection and to decide the form of any directions; and a requirement imposed by a supervision order in pursuance of this subsection shall be subject to any such requirement of the order as is authorised by subsection (4) of this section.

(3) The total number of days in respect of which a supervised person may be required to comply with directions given by virtue of paragraph (a), (b) or (c) of subsection (2) above in pursuance of a supervision order shall not exceed 90 or such lesser number, if any, as the order may specify for the purposes of this subsection; and for the purpose of calculating the total number of days in respect of which such directions may be given the supervisor shall be entitled to disregard any day in respect of which directions were previously given in pursuance of the order and on which the directions were not complied with.

(3A) Subject to subsection (3B) of this section, this subsection applies to—

- (a) any supervision order made under section 7(7) of this Act in respect of a child or young person found guilty as there mentioned ; and
- (b) any supervision order made in respect of a person under section 21(2) of this Act by a court on discharging a care order made in respect of him under the said section 7(7).

(3B) Subsection (3A) of this section does not apply to any supervision order which by virtue of subsection (2) of this section requires the supervised person to comply with directions given by the supervisor.

(3C) Subject to the following provisions of this section and to section 19(13) of this Act, but without prejudice to subsection (4) below, a supervision order to which subsection (3A) of this section applies may require a supervised person—

- (a) to do anything that by virtue of subsection (2) of this section a supervisor has power, or would but for section 19(12) of this Act have power, to direct a supervised person to do ;
- (b) to remain for specified periods between 6 p.m. and 6 a.m.—
 - (i) at a place specified in the order ; or

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- (ii) at one of several places so specified ;
 - (c) to refrain from participating in activities specified in the order—
 - (i) on a specified day or days during the period for which the supervision order is in force; or
 - (ii) during the whole of that period or a specified portion of it.
- (3D) A requirement under subsection (3C)(b) of this section is referred to in this section as a " night restriction " .
- (3E) The total number of days in respect of which a supervised person may be subject to requirements imposed by virtue of subsection (3C)(a) or (b) of this section shall not exceed 90.
- (3F) The court may not include requirements under subsection (3C) of this section in a supervision order unless—
 - (a) it has first consulted the supervisor as to—
 - (i) the offender's circumstances; and
 - (ii) the feasibility of securing compliance with the requirements, and is satisfied, having regard to the supervisor's report, that it is feasible to secure compliance with them;
 - (b) having regard to the circumstances of the case, it considers the requirements necessary for securing the good conduct of the supervised person or for preventing a repetition by him of the same offence or the commission of other offences; and
 - (c) the supervised person or, if he is a child, his parent or guardian, consents to their inclusion.
- (3G) The court shall not include in such an order by virtue of subsection (3C) of this section—
 - (a) any requirement that would involve the co-operation of a person other than the supervisor and the supervised person unless that other person consents to its inclusion ; or
 - (b) any requirement requiring the supervised person to reside with a specified individual; or
 - (c) any such requirement as is mentioned in subsection (4) of this section.
- (3H) The place, or one of the places, specified for the purposes of a night restriction shall be the place where the supervised person lives.
- (3J) A night restriction shall not require the supervised person to remain at a place for longer than 10 hours on any one night.
- (3K) A night restriction shall not be imposed in respect of any day which falls outside the period of three months beginning with the date when the supervision order is made.
- (3L) A night restriction shall not be imposed in respect of more than 30 days in all.
- (3M) A supervised person who is required by a night restriction to remain at a place may leave it if he is accompanied—
 - (a) by his parent or guardian ;
 - (b) by his supervisor; or
 - (c) by some other person specified in the supervision order.

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- (3N) For the purposes of this section a night restriction imposed in respect of a period of time beginning in the evening and ending in the morning shall be treated as imposed only in respect of the day upon which the period begins.”.
- (2) The following subsection shall be substituted for section 18(4) of the Children and Young Persons Act 1969 (expenditure incurred by supervisor for purposes of directions under section 12(2) to be defrayed by local authority)—
- “(4) Where a supervision order—
- (a) requires compliance with directions given by virtue of section 12(2) of this Act; or
 - (b) includes by virtue of section 12(3Q) of this Act a requirement which involves the use of facilities for the time being specified in a scheme in force under section 19 of this Act for an area in which the supervised person resides or will reside,
- any expenditure incurred by the supervisor for the purposes of the directions or requirements shall be defrayed by the local authority whose area is named in the order in pursuance of subsection (2) of this section.”.

21 Provision of supervision facilities

- (1) The following section shall be substituted for section 19 of the Children and Young Persons Act 1969—

“19 Facilities for the carrying out of supervisors' directions and requirements included in supervision orders by virtue of section 12(3C).

- (1) It shall be the duty of a local authority, acting either individually or in association with other local authorities, to make arrangements with such persons as appear to them to be appropriate, for the provision by those persons of facilities for enabling—
- (a) directions given by virtue of section 12(2) of this Act to persons resident in their area; and
 - (b) requirements that may only be included in a supervision order by virtue of section 12(3C) of this Act if they are for the time being specified in a scheme,
- to be carried out effectively.
- (2) The authority or authorities making any arrangements in accordance with subsection (1) of this section shall consult each relevant probation committee as to the arrangements.
- (3) Any such arrangements shall be specified in a scheme made by the authority or authorities making them.
- (4) A scheme shall come into force on a date to be specified in it.
- (5) The authority or authorities making a scheme shall send copies of it to the clerk to the justices for each petty sessions area of which any part is included in the area to which the scheme relates.
- (6) A copy of a scheme shall be kept available at the principal office of every authority who are a party to it for inspection by members of the public at

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all reasonable hours, and any such authority shall on demand by any person furnish him with a copy of the scheme free of charge.

- (7) The authority or authorities who made a scheme may at any time make a further scheme altering the arrangements or specifying arrangements to be substituted for those previously specified.
- (8) A scheme which specifies arrangements to be substituted for those specified in a previous scheme shall revoke the previous scheme.
- (9) The powers conferred by subsection (7) of this section shall not be exercisable by an authority or authorities unless they have first consulted each relevant probation committee.
- (10) The authority or authorities who made a scheme shall send to the clerk to the justices for each petty sessions area of which any part is included in the area for which arrangements under this section have been specified in the scheme notice of any exercise of a power conferred by subsection (7) of this section, specifying the date for the coming into force, and giving details of the effect, of the new or altered arrangements, and the new or altered arrangements shall come into force on that date.
- (11) Arrangements shall not be made under this section for the provision of any facilities unless the facilities are approved or are of a kind approved by the Secretary of State for the purposes of this section.
- (12) A supervision order shall not require compliance with directions given by virtue of section 12(2) of this Act unless the court making it is satisfied that a scheme under this section is in force for the area where the supervised person resides or will reside; and no such directions may involve the use of facilities which are not for the time being specified in a scheme in force under this section for that area.
- (13) Subject to subsection (14) of this section, a supervision order may not include by virtue of subsection 12(3C) of this Act
 - (a) any requirement that would involve the supervised person in absence from home—
 - (i) for more than 2 consecutive nights; or
 - (ii) for more than 2 nights in any one week; or
 - (b) if the supervised person is of compulsory school age, any requirement to participate in activities during normal school hours,
unless the court making the order is satisfied that the facilities whose use would be involved are for the time being specified in a scheme in force under this section for the area in which the supervised person resides or will reside.
- (14) Subsection (13)(b) of this section does not apply to activities carried out in accordance with arrangements made or approved by the local education authority in whose area the supervised person resides or will reside.
- (15) It shall be the duty of every local authority to ensure that a scheme made by them in accordance with this section, either individually or in association with any other local authority, comes into force for their area not later than 30th April 1983 or such later date as the Secretary of State may allow.

- (16) In this section " relevant probation committee " means a probation committee for an area of which any part is included in the area to which a scheme under this section relates.
- (17) Expressions used in this section and in the Education Act 1944 have the same meanings in this section as in that Act.”.
- (2) A scheme under section 19 of the Children and Young Persons Act 1969, as originally enacted, which is in force for an area at the commencement of this section shall continue in force thereafter until the coming into force of the first scheme for that area made under the section substituted for that section by subsection (1) above.

Offences by person subject to care order owing to previous offence

22 Charge and control of offenders

The following section shall be inserted after section 20 of the Children and Young Persons Act 1969—

“20A Power of court to add condition as to charge and control of offender in care.

- (1) Where a person to whom a care order relates which was made—
- (a) by virtue of subsection (3) of section 1 of this Act in a case where the court which made the order was of the opinion that the condition mentioned in subsection (2)(f) of that section was satisfied ; or
 - (b) by virtue of section 7(7) of this Act,
- is convicted or found guilty of an offence punishable with imprisonment in the case of a person over 21, the court which convicts or finds him guilty of that offence may add to the care order a condition under this section that the power conferred by section 21(2) of the Child Care Act 1980 (power of local authority to allow a parent, guardian, relative or friend charge and control) shall for such period not exceeding 6 months as the court may specify in the condition—
- (a) not be exercisable ; or
 - (b) not be exercisable except to allow the person to whom the order relates to be under the charge and control of a specified parent, guardian, relative or friend.
- (2) Where—
- (a) the power conferred by subsection (1) above has been exercised ; and
 - (b) before the period specified in the condition has expired the person to whom the care order relates is convicted or found guilty of another offence punishable with imprisonment in the case of a person over 21,
- the court may replace the condition with another condition under this section.
- (3) A court shall not exercise the powers conferred by this section unless the court is of opinion that it is appropriate to exercise those powers because of the seriousness of the offence and that no other method of dealing with the person to whom the care order relates is appropriate; and for the purpose of determining whether any other method of dealing with him is appropriate the court shall obtain and consider information about the circumstances.

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- (4) A court shall not exercise the said powers in respect of a person who is not legally represented in that court unless either—
- (a) he applied for legal aid and the application was refused on the ground that it did not appear his means were such that he required assistance; or
 - (b) having been informed of his right to apply for legal aid and had the opportunity to do so, he refused or failed to apply.
- (5) Before adding a condition under this section to a care order a court shall explain to the person to whom the care order relates the purpose and effect of the condition.
- (6) At any time when a care order includes a condition under this section—
- (a) the person to whom the order relates ;
 - (b) his parent or guardian, acting on his behalf; or
 - (c) the local authority in whose care he is,
- may apply to a juvenile court for the revocation or variation of the condition.
- (7) The local authority may appeal to the Crown Court against the imposition of a condition under this section by a magistrates' court or against the terms of such a condition.
- (8) For the purposes of this section a person is to be treated as legally represented in a court if, but only if, he has the assistance of counsel or a solicitor to represent him in the proceedings in that court at some time after he is convicted or found guilty and before any power conferred by this section is exercised, and in this section " legal aid " means legal aid for the purposes of proceedings in that court, whether the whole proceedings or the proceedings on or in relation to the exercise of the power ; but in the case of a person committed to the Crown Court for sentence or trial, it is immaterial whether he applied for legal aid in the Crown Court to, or was informed of his right to apply by, that court or the court which committed him.”.

Care orders and children in care

23 Criteria for making care orders

In section 7 of the Children and Young Persons Act 1969—

- (a) in subsection (7) (under which a court has power to make a care order where a child is found guilty of homicide or a young person is found guilty of any imprisonable offence) after the word " Subject" there shall be inserted the words " to subsection (7A) of this section and "; and
- (b) the following subsection shall be inserted after that subsection—

“(7A) A court shall not make a care order under subsection (7) of this section in respect of a child or young person unless it is of opinion—

 - (a) that a care order is appropriate because of the seriousness of the offence; and
 - (b) that the child or young person is in need of care or control which he is unlikely to receive unless the court makes a care order.”.

24 Restriction on making care orders in respect of persons not legally represented

The following section shall be inserted after section 7 of the Children and Young Persons Act 1969—

“7A Legal representation.

- (1) A court shall not make a care order under section 7(7) of this Act in respect of a child or young person who is not legally represented in that court unless either—
 - (a) he applied for legal aid and the application was refused on the ground that it did not appear that his means were such that he required assistance; or
 - (b) having been informed of his right to apply for legal aid and had the opportunity to do so, he refused or failed to apply.
- (2) For the purposes of this section a person is to be treated as legally represented in a court if, but only if, he has the assistance of counsel or a solicitor to represent him in the proceedings in that court at some time after he is found guilty and before a care order is made, and in this section " legal aid " means legal aid for the purposes of proceedings in that court, whether the whole proceedings or the proceedings on or in relation to the making of the care order ; but in the case of a person committed to the Crown Court for sentence or trial, it is immaterial whether he applied for legal aid in the Crown Court to, or was informed of his right to apply by, that court or the court which committed him.”.

25 Restriction of liberty of children in care

(1) The following section shall be inserted after section 21 of the Child Care Act 1980—

“21A Use of accommodation for restricting liberty.

- (1) Subject to regulations under subsection (2) (a) below, a child in the care of a local authority may not be placed, and, if placed, may not be kept, in accommodation provided for the purpose of restricting liberty unless it appears—
 - (a) that—
 - (i) he has a history of absconding and is likely to abscond from any other description of accommodation ; and
 - (ii) if he absconds it is likely that his physical, mental or moral welfare will be at risk; or
 - (b) that if he is kept in any other description of accommodation he is likely to injure himself or other persons.
- (2) The Secretary of State may by regulations—
 - (a) specify—
 - (i) exceptional cases where subsection (1) above is not to apply to children committed to the care of a local authority under section 23 of the Children and Young Persons Act 1969 ;
 - (ii) a maximum period beyond which a child may not be kept in such accommodation without the authority of a juvenile court; and

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- (iii) a maximum period for which a juvenile court may authorise a child to be kept in such accommodation ;
 - (b) empower a juvenile court from time to time to authorise a child to be kept in such accommodation for such further period as the regulations may specify ; and
 - (c) provide that the power conferred by virtue of paragraph (b) above shall be exercisable on the application of the local authority in whose care the child is.
- (3) It shall be the duty of a juvenile court before which a child is brought by virtue of this section to determine whether the criteria for keeping a child in accommodation provided for the purpose of restricting liberty are satisfied in his case; and if a court determines that the criteria are satisfied, it shall make an order authorising the child to be kept in such accommodation and specifying the maximum period for which he may be so kept.
- (4) On any adjournment of a hearing under subsection (3) above a juvenile court may make an interim order permitting the keeping of the child to whom the hearing relates during the period of the adjournment in accommodation provided for the purpose of restricting liberty.
- (5) An appeal shall lie to the Crown Court from a decision of a juvenile court under this section.
- (6) A juvenile court shall not exercise the powers conferred by this section in respect of a child who is not legally represented in that court unless either—
- (a) he applied for legal aid and the application was refused on the ground that it did not appear his means were such that he required assistance; or
 - (b) having been informed of his right to apply for legal aid and had the opportunity to do so, he refused or failed to apply.”.
- (2) In the Legal Aid Act 1974—
- (a) in section 28(3)(a) and (6), after " 1969 " there shall be inserted " or under section 21A of the Child Care Act 1980 "; and
 - (b) at the end of section 29(1)(d) there shall be inserted “or
 - (e) where a child is brought before a juvenile court under section 21A of the Child Care Act 1980 and is not (but wishes to be) legally represented before that court.”.

Sanctions against parents and guardians

26 Payment of fines by parents and guardians

The following section shall be substituted for section 55 of the Children and Young Persons Act 1933—

“55 Power to order parent or guardian to pay fine etc.

- (1) Where—
- (a) a child or young person is convicted or found guilty of any offence for the commission of which a fine or costs may be imposed or a

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compensation order may be made under section 35 of the Powers of Criminal Courts Act 1973; and

- (b) the court is of opinion that the case would best be met by the imposition of a fine or costs or the making of such an order, whether with or without any other punishment,

it shall be the duty of the court to order that the fine, compensation or costs awarded be paid by the parent or guardian of the child or young person instead of by the child or young person himself, unless the court is satisfied—

- (i) that the parent or guardian cannot be found; or
- (ii) that it would be unreasonable to make an order for payment, having regard to the circumstances of the case.
- (2) An order under this section may be made against a parent or guardian who, having been required to attend, has failed to do so, but, save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.
- (3) A parent or guardian may appeal to the Crown Court against an order under this section made by a magistrates' court.
- (4) A parent or guardian may appeal to the Court of Appeal against an order made under this section by the Crown Court, as if he had been convicted on indictment and the order were a sentence passed on his conviction.”.

27 Compensation

The following subsections shall be substituted for section 3(6) of the Children and Young Persons Act 1969 (which gives the court power in care proceedings to order a parent or guardian to pay compensation if it is of the opinion that the child or young person brought before it is guilty of an offence)—

“(6) Where in any care proceedings the court finds the offence condition satisfied with respect to the relevant infant, then, whether or not the court makes an order under section 1 of this Act—

- (a) section 35 of the Powers of Criminal Courts Act 1973 (which relates to compensation for personal injury and loss of or damage to property) shall apply as if the finding were a finding of guilty of the offence; and
- (b) it shall be the duty of the court, subject to sub sections (6A) and (6B) of this section, to order that any sum awarded by virtue of this section be paid by the relevant infant's parent or guardian instead of by the relevant infant, unless the court is satisfied—
- (i) that the parent or guardian cannot be found; or
- (ii) that it would be unreasonable to make an order for payment, having regard to the circumstances of the case.

(6A) An order shall not be made in pursuance of the preceding subsection unless the parent or guardian has been given an opportunity of being heard or has been required to attend the proceedings and failed to do so.

(6B) Where the finding that the offence condition is satisfied is made in pursuance of subsection (5) of this section, the powers conferred by subsection (6) of this section shall be exercisable by the court to which the case is remitted instead of by the court which made the finding.”.

28 Increase of limit on amount of recognisance to be taken from parents and guardians

In section 2(13) of the Children and Young Persons Act 1969 (by virtue of which the maximum amount for which the parent or guardian of a child or a young person can be required by an order under section 1 of that Act to enter into a recognisance to take proper care of and exercise proper control over him is £200), for " £200 " there shall be substituted " £500 ".

PART II

PARTIAL SUSPENSION OF SENTENCES, EARLY RELEASE, RELEASE ON LICENCE OR BAIL ETC.

Bail

29 Power of Crown Court to grant bail pending appeal

- (1) In subsection 81 of the Supreme Court Act 1981—
- (a) in subsection (1) (which lists cases in which the Crown Court may grant bail) at the end of paragraph (e) there shall be added—

“or

 - (f) to whom the Crown Court has granted a certificate under section 1(2) or 11(1 A) of the Criminal Appeal Act 1968 or under subsection (1B) below;”;
 - (b) the following subsections shall be inserted after that subsection—

“(1A) The power conferred by subsection (1)(f) does not extend to a case to which section 12 or 15 of the Criminal Appeal Act 1968 (appeal against verdict of not guilty by reason of insanity or against finding of disability) applies.

(1B) A certificate under this subsection is a certificate that a case is fit for appeal on a ground which involves a question of law alone.

(1C) The power conferred by subsection (1)(f) is to be exercised—

 - (a) where the appeal is under section 1 or 9 of the Criminal Appeal Act 1968, by the judge who tried the case ; and
 - (b) where it is under section 10 of that Act, by the judge who passed the sentence.

(1D) The power may only be exercised within twenty-eight days from the date of the conviction appealed against, or in the case of appeal against sentence, from the date on which sentence was passed or, in the case of an order made or treated as made on conviction, from the date of the making of the order.

(1E) The power may not be exercised if the appellant has made an application to the Court of Appeal for bail in respect of the offence or offences to which the appeal relates.

- (1F) It shall be a condition of bail granted in the exercise of the power that, unless a notice of appeal has previously been lodged in accordance with sub section (1) of section 18 of the Criminal Appeal Act 1968—
- (a) such a notice shall be so lodged within the period specified in subsection (2) of that section; and
 - (b) not later than 14 days from the end of that period, the appellant shall lodge with the Crown Court a certificate from the registrar of criminal appeals that a notice of appeal was given within that period.
- (1G) If the Crown Court grants bail to a person in the exercise of the power, it may direct him to appear
- (a) if a notice of appeal is lodged within the period specified in section 18(2) of the Criminal Appeal Act 1968 at such time and place as the Court of Appeal may require ; and
 - (b) if no such notice is lodged within that period, at such time and place as the Crown Court may require.”.
- (2) In the Criminal Appeal Act 1968—
- (a) in section 11—
 - (i) in subsection (1), for the word " An " there shall be substituted the words " Subject to subsection (1A) below, an "; and
 - (ii) the following subsection shall be inserted after that subsection—

“(1A) If the judge who passed the sentence grants a certificate that the case is fit for appeal under section 9 or 10 of this Act, an appeal lies under this section without the leave of the Court of Appeal.”;
 - (b) the following section shall be substituted for section 19—

“19 Bail

- (1) The Court of Appeal may, if they think fit.—
 - (a) grant an appellant bail pending the determination of his appeal; or
 - (b) revoke bail granted to an appellant by the Crown Court under paragraph (f) of section 81(1) of the Supreme Court Act 1981; or
 - (c) vary the conditions of bail granted to an appellant in the exercise of the power conferred by that paragraph.
- (2) The powers conferred by subsection (1) above may be exercised—
 - (a) on the application of an appellant; or
 - (b) if it appears to the registrar of criminal appeals of the Court of Appeal (hereafter referred to as " the registrar ") that any of them ought to be exercised, on a reference to the court by him.”;
- (c) the following paragraph shall be substituted for section 31(2)(e)—

“(e) to exercise the powers conferred by section 19 of this Act;”.

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- (3) The following subsection shall be inserted after section 30(7) of the Legal Aid Act 1974—

“(7A) Where a certificate that a case is fit for appeal has been issued under the Criminal Appeal Act 1968 or under section 81(1B) of the Supreme Court Act 1981, legal aid which may be ordered to be given by a legal aid order under section 28(7) above shall include legal aid for the purposes of an application for the grant of bail by the Crown Court.”.

Suspended sentences

30 Prison sentence partly served and partly suspended

- (1) Section 47 of the Criminal Law Act 1977 (which gives a court sentencing an offender to imprisonment for not less than six months and not more than two years power to suspend part of the sentence) shall have effect subject to the following amendments.
- (2) In subsection (1), for the word " Where " there shall be substituted the words " Subject to subsection (1A) below, where ".
- (3) In the said subsection (1), for the word " six " there shall be substituted the word " three ".
- (4) The following subsections shall be inserted after that subsection—
- “(1A) A court shall not make an order under this section unless the case appears to the court to be one in which an order under section 22 of the Powers of Criminal Courts Act 1973 (sentences wholly suspended) would be inappropriate.
- (1B) Subsection (1A) above is without prejudice to section 20 of the Powers of Criminal Courts Act 1973 (restriction on imposing sentences of imprisonment on persons who have not previously served prison sentences).”.
- (5) In subsection (2), for the words from the beginning to " that", there shall be substituted the words " The part of the sentence to be served in prison shall be not less than twenty-eight days and the part to be held in suspense shall be not less than one-quarter of the whole term, and the offender shall not be required to serve the latter ".
- (6) In subsection (3), for the words " subsection (4)", there shall be substituted the words " subsections (4) and (4A) ".
- (7) The following subsection shall be inserted after subsection (4)—
- “(4A) If an order restoring part of a sentence has been made under subsection (3) above, no order restoring any further part of it may be made.”.
- (8) The following subsections shall be added after subsection (8)—
- “(9) The Secretary of State may by order made by statutory instrument vary—
- (a) the minimum term of imprisonment for the time being specified in subsection (1) above ;
 - (b) the minimum part of the sentence to be served in prison for the time being specified in subsection (2) above.

(10) An order made by virtue of subsection (9) (b) above may provide that the minimum part of the sentence to be served in prison shall be a specified length of time or a specified fraction of the whole sentence.

(11) An order shall not be made under subsection (9) above unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.”.

31 Activation of suspended sentence

In section 23(1) of the Powers of Criminal Courts Act 1973, the words " which have arisen since the suspended sentence was passed " shall be omitted.

Early release

32 Early release of prisoners

(1) The Secretary of State may order that persons of any class specified in the order who are serving a sentence of imprisonment, other than—

- (a) imprisonment for life ; or
- (b) imprisonment to which they were sentenced—
 - (i) for an excluded offence ;
 - (ii) for attempting to commit such an offence ;
 - (iii) for conspiracy to commit such an offence; or
 - (iv) for aiding or abetting, counselling, procuring or inciting the commission of such an offence,

shall be released from prison at such time earlier (but not more than six months earlier) than they would otherwise be so released as may be fixed by the order; but the Secretary of State shall not make an order under this section unless he is satisfied that it is necessary to do so in order to make the best use of the places available for detention.

(2) In this section " excluded offence " means—

- (a) an offence (whether at common law or under any enactment) specified in Part I of Schedule 1 to this Act; and
- (b) an offence under an enactment specified in Part II of that Schedule; and
- (c) an offence specified in Part III of that Schedule.

(3) No person may be released under this section if—

- (a) he is subject to more than one sentence of imprisonment ; and
- (b) at least one of the terms that he has to serve is for an offence mentioned in subsection (1)(b)(i), (ii), (iii) or (iv) above.

(4) An order under this section—

- (a) may define a class of persons in any way ;
- (b) may relate to one or more specified prisons, or to prisons of a specified class (however defined), or to prisons generally; and
- (c) may make the time at which a person of any specified class is to be released depend on any circumstances whatever.

Status: This is the original version (as it was originally enacted).

- (5) Where a person who is to be released from prison in pursuance of an order under this section is a person serving a sentence of imprisonment in respect of whom an extended sentence certificate (within the meaning of the Powers of Criminal Courts Act 1973) was issued when the sentence was passed, his release shall be a release on licence under section 60 of the Criminal Justice Act 1967, irrespective of whether at the time of his release he could have been released on licence under that section by virtue of subsection (3) thereof.
- (6) Where a person not within subsection (5) above is released from prison in pursuance of an order under this section, his sentence shall expire on his release.
- (7) Subsections (1), (4) and (6) above shall apply in relation to any institution to which the Prison Act 1952 applies and to persons detained in any such institutions other than persons serving sentences of custody for life, as they apply in relation to prisons and persons serving such sentences of imprisonment as are mentioned in subsection (1) above.
- (8) An order under this section shall be made by statutory instrument.
- (9) No order under this section shall be made unless—
 - (a) a draft of the order has been laid before Parliament and approved by resolution of each House of Parliament ; or
 - (b) the expedited procedure conditions are satisfied.
- (10) The expedited procedure conditions are satisfied if—
 - (a) the order does not provide for the release of any persons before one month earlier than they would otherwise be released; and
 - (b) it is declared in the order that it appears to the Secretary of State that by reason of urgency it is necessary to make the order without a draft having been so approved.
- (11) Every such order (except such an order of which a draft has been so approved)—
 - (a) shall be laid before Parliament; and
 - (b) shall cease to have effect at the expiry of a period of 40 days beginning with the date on which it was made unless, before the expiry of that period, the order has been approved by resolution of each House of Parliament, but without prejudice to anything previously done or to the making of a new order.
- (12) In reckoning for the purposes of subsection (11) above any period of 40 days, no account shall be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days.
- (13) An order under this section shall not remain in force after the expiration of 6 months beginning with the date on which it is made, but without prejudice to the power of the Secretary of State to revoke it or to make a further order under this section.
- (14) Section 5 of the Imprisonment (Temporary Provisions) Act 1980 (which is superseded by this section) shall cease to have effect.

Release on licence

33 Power to alter minimum period for eligibility for release on licence

In the Criminal Justice Act 1967—

- (a) in section 60 (release of persons serving determinate sentences)—
 - (i) in subsection (1), for the words " twelve months thereof " there shall be substituted the words " the specified period "; and
 - (ii) the following subsections shall be inserted after that subsection—
 - “(1A) In subsection (1) of this section " the specified period " means twelve months or such period, not more than twelve months, as the Secretary of State may by order provide.
 - (1B) An order under subsection (1A) of this section may make such incidental or supplementary provision (including provision amending enactments) as the Secretary of State considers appropriate.”;
- (b) the following subsection shall be inserted after section 100(2)—
 - “(2A) An order shall not be made under section 60(1 A) of this Act unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.”; and
- (c) in section 106(2) (provisions extending to Scotland) the following paragraph shall be inserted after paragraph (e)—
 - “(ee) section 100 ;”.

Computation of sentences

34 Reduction of sentence of imprisonment by periods spent in custody

In section 67(1) of the Criminal Justice Act 1967 (computation of sentences of imprisonment passed in England and Wales) after the word " arose" there shall be inserted the words " or by reason of his having been so committed and having been concurrently detained otherwise than by order of a court ".

PART III

FINES ETC.

Abolition of enhanced penalties

35 Abolition of enhanced penalties on subsequent conviction of summary offences under Acts of Parliament

- (1) Subject to subsection (3) below, this section applies where under an Act a person convicted of a summary offence—
 - (a) is liable to a fine or maximum fine of one amount in the case of a first conviction and of a different amount in the case of a second or subsequent conviction; or

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- (b) is liable to imprisonment for a longer term in the case of a second or subsequent conviction ; or
 - (c) is only liable to imprisonment in the case of a second or subsequent conviction.
- (2) Where this section applies, a person guilty of such an offence shall be liable on summary conviction—
- (a) to a fine or, as the case may be, a maximum fine of an amount not exceeding the greatest amount;
 - (b) to imprisonment for a term not exceeding the longest or only term, to which he would have been liable before this section came into force if his conviction had satisfied the conditions required for the imposition of a fine or maximum fine of that amount or imprisonment for that term.
- (3) This section does not apply to offences under—
- (a) sections 33 to 36 of the Sexual Offences Act 1956 (brothel-keeping and prostitution); or
 - (b) section 1(2) of the Street Offences Act 1959 (loitering and soliciting for the purpose of prostitution).

36 Abolition of enhanced penalties under subordinate instruments

- (1) This section applies where an Act (however framed or worded) confers power by subordinate instrument to make a person, as regards any summary offence (whether or not created by the instrument), liable on conviction—
- (a) to a fine or maximum fine of one amount in the case of a first conviction and of a different amount in the case of a second or subsequent conviction; or
 - (b) to imprisonment for a longer term in the case of a second or subsequent conviction ; or
 - (c) to imprisonment only in the case of a second or subsequent conviction.
- (2) Any such Act shall have effect as if it conferred power by subordinate instrument to make a person liable—
- (a) to a fine or, as the case may be, a maximum fine of an amount not exceeding the greatest amount;
 - (b) to imprisonment for a term not exceeding the longest or only term, to which he would have been liable before this section came into force if his conviction had satisfied the conditions required for the imposition of a fine or maximum fine of that amount or imprisonment for that term.

Introduction of standard scale of fines

37 The standard scale of fines for summary offences

- (1) There shall be a standard scale of fines for summary offences, which shall be known as " the standard scale ".
- (2) The scale at the commencement of this section is shown below.

<i>Level on the scale</i>	<i>Amount of fine</i>
1	£25

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<i>Level on the scale</i>	<i>Amount of fine</i>
2	£50
3	£200
4	£500
5	£1,000

- (3) Where any enactment (whether contained in an Act passed before or after this Act) provides—
- that a person convicted of a summary offence shall be liable on conviction to a fine or a maximum fine by reference to a specified level on the standard scale; or
 - confers power by subordinate instrument to make a person liable on conviction of a summary offence (whether or not created by the instrument) to a fine or maximum fine by reference to a specified level on the standard scale,
- it is to be construed as referring to the standard scale for which this section provides as that standard scale has effect from time to time by virtue either of this section or of an order under section 143 of the Magistrates' Courts Act 1980.

Increase of fines

38 General increase of fines for summary offences under Acts of Parliament

- (1) Subject to subsection (5) below and to section 39(1) below, this section applies to any enactment contained in an Act passed before this Act (however framed or worded) which, as regards any summary offence created not later than 29th July 1977 (the date of the passing of the Criminal Law Act 1977), makes a person liable on conviction to a fine or maximum fine which—
- is less than £1,000 ; and
 - was not altered by section 30 or 31 of the Criminal Law Act 1977 ; and
 - has not been altered since 29th July 1977 or has only been altered since that date by section 35 above.
- (2) Subject to subsection (7) below, where an enactment to which this section applies provides on conviction of a summary offence for a fine or maximum fine in respect of a specified quantity or a specified number of things, that fine or maximum fine shall be treated for the purposes of this section as being the fine or maximum fine for the offence.
- (3) Where an enactment to which this section applies provides for different fines or maximum fines in relation to different circumstances or persons of different descriptions, they are to be treated separately for the purposes of this section.
- (4) An enactment in which section 31(6) and (7) of the Criminal Law Act 1977 (pre-1949 enactments) produced the same fine or maximum fine for different convictions shall be treated for the purposes of this section as if there were omitted from it so much of it as before 29th July 1977 had the effect that a person guilty of an offence under it was liable on summary conviction to a fine or maximum fine less than the highest fine or maximum fine to which he would have been liable if his conviction had satisfied the conditions required for the imposition of the highest fine or maximum fine.

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- (5) This section shall not affect so much of any enactment as (in whatever words) makes a person liable on summary conviction to a fine or maximum fine for each period of a specified length during which a continuing offence is continued.
- (6) The fine or maximum fine for an offence under an enactment to which this section applies shall be increased to the amount at the appropriate level on the standard scale unless it is an enactment in relation to which section 39(2) below provides for some other increase.
- (7) Where an enactment to which this section applies provides on conviction of a summary offence for a fine or maximum fine in respect of a specified quantity or a specified number of things but also specifies an alternative fine or maximum fine, subsection (6) above shall have effect to increase—
- (a) the alternative fine ; and
 - (b) any amount that the enactment specifies as the maximum which a fine under it may not exceed,
- as well as the fine or maximum fine which it has effect to increase by virtue of subsection (2) above.
- (8) Subject to subsection (9) below, the appropriate level on the standard scale for the purposes of subsections (6) and (7) above is the level on that scale next above the amount of the fine or maximum fine that falls to be increased.
- (9) If the amount of the fine or maximum fine that falls to be increased is £400 or more but less than £500, the appropriate level is £1,000.
- (10) Where section 35 above applies, the amount of the fine or maximum fine that falls to be increased is to be taken to be the fine or maximum fine to which a person is liable by virtue of that section.

39 Special cases

- (1) Section 38 above does not apply—
- (a) to any enactment specified in Schedule 2 to this Act; or
 - (b) to the following enactments—
 - (i) sections 40(5) and 44(1) of the Road Traffic Act 1972;
 - (ii) any enactment specified in the Schedule to the London Transport Act 1977 or in Schedule 1 to the British Railways Act 1977 to the extent that the enactment was amended by section 12(1) of the former Act or section 13(1) of the latter;
 - (iii) any enactment specified in Part I of Schedule 2 to the City of London (Various Powers) Act 1977.
- (2) The enactments specified in column 2 of Schedule 3 to this Act, which relate to the maximum fines for the offences mentioned (and broadly described) in column 1 of that Schedule, shall have effect as if the maximum fine that may be imposed on conviction of any offence so mentioned were a fine not exceeding the amount specified in column 4 of that Schedule instead of a fine not exceeding the amount specified in column 3.
- (3) The enactments specified in column 2 of Schedule 4 to this Act, which relate to certain maximum fines that may be imposed on a person otherwise than on conviction of an offence, their broad effect being described in column 1 of that Schedule, shall have effect as if the maximum fine that may be imposed were a fine not exceeding the

amount specified in column 4 of that Schedule instead of a fine not exceeding the amount specified in column 3.

40 General increase of fines under subordinate instruments

- (1) Subject to subsection (4) below, this section applies to any enactment contained in an Act passed before this Act (however framed or worded) which confers a power, created not later than 29th July 1977, by subordinate instrument to make a person, as regards any summary offence (whether or not created by the instrument), liable on conviction to a fine or maximum fine which—
 - (a) is less than £1,000 ; and
 - (b) was not altered by section 31 of the Criminal Law Act 1977,if the fine or maximum fine to which a person may be made liable by virtue of the enactment has not been altered since 29th July 1977 or has only been altered since that date by section 36 above.
- (2) Subject to subsection (7) below, where an enactment to which this section applies confers a power by subordinate instrument to make a person, as regards a summary offence, liable on conviction to a fine or maximum fine in respect of a specified quantity or a specified number of things, that fine or maximum fine shall be treated for the purposes of this section as being the fine or maximum fine to which a person may be made liable by virtue of the enactment.
- (3) Where an enactment to which this section applies confers a power to provide for different fines or maximum fines in relation to different circumstances or persons of different descriptions, the amounts specified as those fines or maximum fines are to be treated separately for the purposes of this section.
- (4) This section shall not affect so much of any enactment as (in whatever words) confers power by subordinate instrument to make a person liable on conviction to a fine or maximum fine for each period of a specified length during which a continuing offence is continued.
- (5) Subject to subsection (6) below, the fine or maximum fine to which a person may be made liable by virtue of an enactment to which this section applies shall be increased to the amount at the appropriate level on the standard scale.
- (6) Subsection (5) above does not apply—
 - (a) to section 67(3) of the Transport Act 1962 (byelaws for railways and railway shipping services);
 - (b) to section 25(2) of the London Transport Act 1969 (byelaws for road transport premises);
 - (c) to the enactments specified in Part II of Schedule 2 to the City of London (Various Powers) Act 1977; or
 - (d) to the enactments specified in Schedule 2 to the British Railways Act 1977.
- (7) Where an enactment to which this section applies confers a power by subordinate instrument to make a person, as regards a summary offence, liable on conviction to a fine or maximum fine in respect of a specified quantity or a specified number of things but also confers a power by subordinate instrument to make a person, as regards such an offence, liable on conviction to an alternative fine or maximum fine, subsection (5) above shall have effect to increase—
 - (a) the alternative fine ; and

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- (b) any amount that the enactment specifies as the maximum fine for which a subordinate instrument made in the exercise of the power conferred by it may provide,
- as well as the fine or maximum fine which it has effect to increase by virtue of subsection (2) above.
- (8) Subject to subsection (9) below, the appropriate level on the standard scale for the purposes of subsections (5) and (7) above is the level on that scale next above the amount that falls to be increased.
- (9) If the amount that falls to be increased is £400 or more but less than £500, the appropriate level is £1,000.
- (10) Where section 36 above applies, the amount that falls to be increased is the fine or maximum fine to which a person may be made liable by virtue of that section.

41 Emergency regulations

In section 2(3) of the Emergency Powers Act 1920 for " of one hundred pounds" there shall be substituted " not exceeding level 5 on the standard scale, as defined in section 75 of the Criminal Justice Act 1982, or not exceeding a lesser amount ".

42 Orders relating to spread of pests

The following subsections shall be substituted for section 3(4) of the Plant Health Act 1967 (control of spread of pests in Great Britain)—

- “(4) An order made by a competent authority under this section may provide that a person guilty of an offence against the order shall be liable on summary conviction to a fine of an amount not exceeding level 5 on the standard scale, as defined in section 75 of the Criminal Justice Act 1982, or not exceeding a lesser amount.
- (4A) An order so made for preventing the spread in Great Britain of the Colorado beetle (*Leptinotarsa decemlineata* (Say)) may provide that a person guilty of an offence against the order relating to the keeping of living specimens of the beetle (in any stage of existence), or to the distribution in any manner of such specimens, shall be liable on summary conviction to imprisonment for not more than three months, as well as, or as an alternative to, a fine under subsection (4) above.”.

43 Byelaws relating to the burning of straw or stubble

Any byelaws relating to the burning of straw or stubble made by a local authority under section 235 of the Local Government Act 1972 (byelaws for good rule and government and suppression of nuisances) may provide that persons contravening the byelaws shall be liable on summary conviction to a fine not exceeding £1,000 and, in the case of a continuing offence, a further fine not exceeding £5 for each day during which the offence continues after the conviction thereof; and any such byelaw in force at the coming into force of this section which specifies £200 or any smaller sum as the maximum fine which may be imposed on summary conviction of an offence under any such byelaw shall have effect as if it specified £1,000 instead (but with no change by virtue of this section in the maximum daily fine, if any, for which it provides).

44 Byelaws for British Airports Authority aerodromes

The following subsections shall be substituted for section 9(3) of the Airports Authority Act 1975 (by virtue of which the maximum fine that byelaws made by the British Airports Authority in respect of aerodromes owned or managed by it may specify for a contravention of the byelaws is £100)—

“(3) Any person contravening any byelaws made under this section shall be liable on summary conviction to a fine not exceeding such amount as, subject to subsection (3A) below, may be specified by the byelaws in relation to the contravention.

(3A) The maximum fines that byelaws may specify by virtue of subsection (3) above are fines of an amount at level 4 on the standard scale, as defined in section 75 of the Criminal Justice Act 1982, or of a lower amount.”.

45 Byelaws for other aerodromes

In section 40 of the Civil Aviation Act 1982—

(a) the following subsections shall be substituted for subsection (1) (fines for contravention of byelaws relating to aerodromes of Secretary of State, Civil Aviation Authority, local authorities and other persons)—

“(1) Any person contravening any byelaws made under sections 27, 29, 32 or 33 above shall be liable on summary conviction to a fine not exceeding such amount as, subject to subsection (1A) below, may be specified by the byelaws in question in relation to the contravention.

(1A) The maximum fines that byelaws may specify by virtue of subsection (1) above are fines of an amount at level 4 on the standard scale, as defined in section 75 of the Criminal Justice Act 1982, or of a lower amount.”; and

(b) the following subsection shall be added after subsection (2)—

“(3) For the purposes of subsection (1A) above, in its application to byelaws made under section 29 above—

(a) section 37 of the Criminal Justice Act 1982 (the standard scale of fines for summary offences); and

(b) an order under section 143 of the Magistrates' Courts Act 1980 which alters the sum specified in section 37(2) of the Criminal Justice Act 1982,

shall extend to Northern Ireland.”.

Application of standard scale to existing enactments

46 Conversion of references to amounts to references to levels on scale

(1) Where—

(a) either—

(i) a relevant enactment makes a person liable to a fine or maximum fine on conviction of a summary offence; or

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- (ii) a relevant enactment confers power by subordinate instrument to make a person liable to a fine or maximum fine on conviction of a summary offence (whether or not created by the instrument); and
 - (b) the amount of the fine or maximum fine for the offence is, whether by virtue of this Part of this Act or not, an amount shown in the second column of the standard scale,

a reference to the level in the first column of the standard scale corresponding to that amount shall be substituted for the reference in the enactment to the amount of the fine or maximum fine.
- (2) Where a relevant enactment confers a power such as is mentioned in subsection (UteMii) above, the power shall be construed as a power to make a person liable to a fine or, as the case may be, a maximum fine not exceeding the amount corresponding to the level on the standard scale to which the enactment refers by virtue of subsection (1) above or not exceeding a lesser amount.
- (3) If an order under section 143 of the Magistrates' Courts Act 1980 alters the sums specified in section 37(2) above, the second reference to the standard scale in subsection (1) above is to be construed as a reference to that scale as it has effect by virtue of the order.
- (4) In this section " relevant enactment" means—
 - (a) any enactment contained in an Act passed before this Act except—
 - (i) an enactment mentioned in Schedule 2 to the Companies Act 1980;
 - (ii) an enactment contained in the Companies Act 1981 ;
 - (b) any enactment contained in this Act;
 - (c) any enactment contained in an Act passed on the same day as this Act; and
 - (d) any enactment contained in an Act passed after this Act but in the same Session as this Act.
- (5) This section shall not affect so much of any enactment as (in whatever words) makes a person liable on summary conviction to a maximum fine not exceeding a specified amount for each period of a specified length during which a continuing offence is continued.

47 Provisions supplementary to sections 35 to 46

- (1) In sections 35 to 40 and 46 above " fine " includes a pecuniary penalty but does not include a pecuniary forfeiture or pecuniary compensation.
- (2) Nothing in any provision contained in sections 35 to 46 above shall affect the punishment for an offence committed before that provision comes into force.

Power to alter maximum fines etc.

48 Power to alter sums

- (1) In section 143 of the Magistrates' Courts Act 1980 (power to alter sums specified in certain provisions)—
 - (a) the following subsection shall be substituted for subsection (1)—

Status: This is the original version (as it was originally enacted).

- “(1) If it appears to the Secretary of State that there has been a change in the value of money since the relevant date, he may by order substitute for the sum or sums for the time being specified in any provision mentioned in subsection (2) below such other sum or sums as appear to him justified by the change.”;
- (b) in subsection (2)—
- (i) the following paragraph shall be inserted after paragraph (a)—
- “(aa) section 24(3) and (4) above;”;
- (ii) the following paragraphs shall be inserted after paragraph (c)—
- “(ca) section 34(3)(b) above;
(cb) section 36 above;”;
- (iii) the following paragraphs shall be added after paragraph (e)—
- “(f) any provision mentioned in Schedule 6A to this Act;
(g) paragraph 11 (2) of Schedule 5A to the Army Act 1955 and to the Air Force Act 1955 (compensation orders);
(h) paragraph 14(1) of that Schedule and paragraph 14(1) of Schedule 4A to the Naval Discipline Act 1957 (recognizance from parents and guardians);
(i) section 2(13) of the Children and Young Persons Act 1969 (recognizance from parents and guardians);
(j) the Table in section 31(3A) of the Powers of Criminal Courts Act 1973 ;
(k) section 8(1)(b) of the Armed Forces Act 1976 (maximum fine awarded by Standing Civilian Courts);
(l) paragraph 22(1) of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (various offences relating to sex establishments) ;
(m) paragraph 23(2) of that Schedule (permitting persons under 18 to enter sex establishments and employing persons known to be under that age in the business of sex establishments) ;
(n) section 7 (4) (a) of the Cinematograph (Amendment) Act 1982 (using premises without licence);
(o) section 37(2) of the Criminal Justice Act 1982.”;
- (c) the following subsection shall be substituted for subsection (3)—
- “(3) In subsection (1) above " the relevant date " means—
- (a) in relation to the first order under this section, 29th July 1977 ;
and
(b) in relation to each subsequent order, the date of the previous order.”; and
- (d) in subsection (5), for the words " Criminal Law Act 1977 " there shall be substituted the words " Criminal Justice Act 1982 ".
- (2) The Schedule set out in Schedule 5 to this Act shall be inserted after Schedule 6 to that Act

*Shipping and oil pollution***49 Fines for certain offences under Merchant Shipping Acts and Prevention of Oil Pollution Act 1971**

(1) Where a provision of the Merchant Shipping Acts 1894 to 1979 or the Prevention of Oil Pollution Act 1971—

- (a) makes a person guilty of an offence triable either summarily or on indictment liable on summary conviction to a fine not exceeding £1,000 ; or
- (b) confers power by subordinate instrument to make a person liable to a fine not exceeding £1,000 on summary conviction of an offence triable either summarily or on indictment,

the reference to £1,000 shall be construed as a reference to the statutory maximum.

(2) In section 20 of the Merchant Shipping Act 1979 (prevention of pollution from ships etc.)—

- (a) the following paragraphs shall be substituted for paragraph (f) of subsection (3)—

“(f) that a contravention of a provision made by or under the Order shall be an offence punishable on summary conviction by a fine not exceeding the statutory maximum and on conviction on indictment by imprisonment for a term not exceeding two years and a fine;

(fa) that any such contravention shall be an offence punishable only on summary conviction by a maximum fine of an amount not exceeding level 5 on the standard scale, as defined in section 75 of the Criminal Justice Act 1982, or such less amount as is prescribed by the Order;”

- (b) in the words following paragraph (g), " neither paragraph (f) nor paragraph (fa) shall" shall be substituted for " paragraph (f) shall not " ;

- (c) the following subsection shall be inserted after subsection (3)—

“(3A) Section 74 of the Criminal Justice Act 1982 (construction of references to " statutory maximum ") shall have effect for the purposes of paragraph (f) of the preceding subsection as if that paragraph were contained in that Act.”; and

- (d) the following subsections shall be added after subsection (6)—

“(7) For the purposes of subsection (3)(f) of this section—

- (a) section 32 of the Magistrates' Courts Act 1980 (by virtue of which there is a prescribed sum as the statutory maximum fine on summary conviction of an offence triable either summarily or on indictment);
- (b) an order under section 143 of that Act (which alters the definition of " the prescribed sum " in section 32(9)); and
- (c) section 74 of the Criminal Justice Act 1982 (construction of references to " statutory maximum "),

shall extend to Northern Ireland.

- (8) For the purposes of subsection (3)(b) of this section—

Status: This is the original version (as it was originally enacted).

- (a) section 37 of the Criminal Justice Act 1982 (the standard scale of fines for summary offences); and
 - (b) an order under section 143 of the Magistrates' Courts Act 1980 which alters the sums specified in section 37(2) of the Criminal Justice Act 1982,
shall extend to Northern Ireland.”.
- (3) In section 21 of that Act (safety and health on ships)—
- (a) in subsection (6)—
 - (i) the following paragraphs shall be substituted for paragraph (b)—
 - “(b) that a contravention of the regulations shall be an offence punishable on summary conviction by a fine not exceeding the statutory maximum and on conviction on indictment by imprisonment for a term not exceeding two years and a fine;
 - (ba) that any such contravention shall be an offence punishable only on summary conviction by a maximum fine of an amount not exceeding level 5 on the standard scale, as defined in section 75 of the Criminal Justice Act 1982, or such less amount as is prescribed by the regulations;
 - (bb) that, in such cases as are prescribed by the regulations, such persons as are so prescribed shall each be guilty of an offence created by virtue of paragraph (b) or (ba) of this subsection ;”;
 - (ii) the following paragraph shall be substituted for paragraph (c)—
 - “(c) that, notwithstanding anything in paragraph (b) or (ba) of this subsection, a person convicted summarily of an offence under the regulations of a kind which is stated by the regulations to correspond to an offence which is triable either summarily or on indictment under an enactment specified in the regulations which authorises or authorised a fine on summary conviction of a maximum amount exceeding the statutory maximum shall be liable to a fine not exceeding that maximum amount.”;
 - (b) the following subsections shall be added after that subsection—
 - “(7) For the purposes of subsection (6)(b) and (c) above—
 - (a) section 32 of the Magistrates' Courts Act 1980 (by virtue of which there is a prescribed sum as the statutory maximum fine on summary conviction of an offence triable either summarily or on indictment);
 - (b) an order under section 143 of that Act (which alters the definition of " the prescribed sum " in section 32(9)); and
 - (c) section 74 of the Criminal Justice Act 1982 (construction of references to " statutory maximum "),shall extend to Northern Ireland.
- (8) For the purposes of subsection (6) (ba) above—

Status: This is the original version (as it was originally enacted).

- (a) section 37 of the Criminal Justice Act 1982 (the standard scale of fines for summary offences); and
 - (b) an order under section 143 of the Magistrates' Courts Act 1980 which alters the sums specified in section 37(2) of the Criminal Justice Act 1982,
- shall extend to Northern Ireland.”.

- (4) The paragraphs substituted for section 20(3)(f) of the Merchant Shipping Act 1979 by subsection (2) above, together with the words substituted by paragraph (b) of that subsection and the paragraphs substituted for section 21(6)(b) and (c) of that Act by subsection (3) above shall be deemed always to have had effect.

50 Fines for offences against regulations relating to wireless telegraphy apparatus on foreign ships and aircraft

- (1) In section 6 of the Wireless Telegraphy Act 1949—
- (a) in subsection (2), for the words from "such", in the second place where it occurs, to "regulations", in the fourth place where it occurs, there shall be substituted the words "a maximum fine for each offence of an amount not exceeding level 5 on the standard scale, as defined in section 75 of the Criminal Justice Act 1982, or of a lesser amount"; and
 - (b) the following subsection shall be added after subsection (3)—
- “(4) For the purposes of subsection (2) of this section—
- (a) section 37 of the Criminal Justice Act 1982 (the standard scale of fines for summary offences); and
 - (b) an order under section 143 of the Magistrates' Courts Act 1980 which alters the sums specified in section 37(2) of the Criminal Justice Act 1982,
- shall extend to Northern Ireland.”.
- (2) Nothing in this section shall affect the punishment for an offence committed before this section comes into operation.

Fine enforcement

51 Variation of instalments and means inquiries

- (1) The following section shall be inserted after section 85 of the Magistrates' Courts Act 1980—

“85A Variation of instalments of sum adjudged to be paid by conviction.

Where under section 75 above a magistrates' court orders that a sum adjudged to be paid by a conviction shall be paid by instalments, the court, on an application made by the person liable to pay that sum, shall have power to vary that order by varying the number of instalments payable, the amount of any instalment payable, and the date on which any instalment becomes payable.”.

- (2) In section 86 of that Act (power of magistrates* court to fix day for appearance of offender at means inquiry etc.)—

- (a) the following subsections shall be substituted for subsection (1)—
- “(1) A magistrates' court which has exercised in relation to a sum adjudged to be paid by a conviction either of the powers conferred by section 75(1) above shall have power, either then or later, to fix a day on which, if the relevant condition is satisfied, the offender must appear in person before the court for either or both of the following purposes, namely—
- (a) to enable an inquiry into his means to be made under section 82 above ;
- (b) to enable a hearing required by subsection (5) of the said section 82 to be held.
- (1A) Where the power which the court has exercised is the power to allow time for payment of a sum (" the adjudged sum "), the relevant condition is satisfied if any part of that sum remains unpaid on the day fixed by the court.
- (1B) Where the power which the court has exercised is the power to order payment by instalments, the relevant condition is satisfied if an instalment which has fallen due remains unpaid on the day fixed by the court.”;
- and
- (b) the following paragraph shall be substituted for subsection (4) (a)—
- “(a) the relevant condition is satisfied ; and”.

52 Reciprocal execution in England and Wales and Northern Ireland of warrants of commitment for non-payment of sum adjudged to be paid by conviction

After section 38A of the Criminal Law Act 1977 there shall be inserted the following section—

“38B Further provision for execution of warrants of commitment; for non-payment of sum adjudged to be paid by conviction in England and Wales or Northern Ireland.

- (1) Subject to subsection (6) below, a person against whom there has been issued in England and Wales a warrant committing him to prison in default of payment of a sum adjudged to be paid by a conviction may be arrested in Northern Ireland by any member of the Royal Ulster Constabulary or the Royal Ulster Constabulary Reserve in like manner as if the warrant were a warrant committing him to prison in default of payment of a sum adjudged to be paid by a conviction in Northern Ireland ; and Article 158(4) and (5) of the Magistrates' Courts (Northern Ireland) Order 1981 (execution without possession of the warrant and execution on Sunday) shall apply to the execution in Northern Ireland of any such warrant which has been issued in England and Wales as they apply in relation to the execution of a warrant for arrest.
- (2) Subject to subsection (6) below, a person against whom there has been issued in Northern Ireland a warrant committing him to prison in default of payment of a sum adjudged to be paid by a conviction may be arrested in England and Wales by any constable acting within his police area in like manner as if the

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warrant were a warrant committing him to prison in default of payment of a sum adjudged to be paid by a conviction in England and Wales.

- (3) A person arrested by virtue of subsection (1) or (2) above under a warrant of commitment may be detained under it in any prison in the part of the United Kingdom in which he was arrested; and while so detained he shall be treated for all purposes as if he were detained under a warrant of commitment issued in that part of the United Kingdom.
- (4) A warrant of commitment issued by a court in Northern Ireland may be executed in England and Wales by virtue of this section whether or not it has been endorsed under section 27 of the Petty Sessions (Ireland) Act 1851.
- (5) In this section—
 " part of the United Kingdom " means England and Wales or Northern Ireland;
 "prison" means—
 (a) in the case of a person who is under the age of 21 years arrested in England and Wales, any place in which he could be detained under section 12(10) of the Criminal Justice Act 1982 ; and
 (b) in the case of a person under that age arrested in Northern Ireland, a young offenders centre; and
 " sum adjudged to be paid by a conviction" has the meaning given by section 150(3) of the Magistrates' Courts Act 1980 or, in Northern Ireland, Article 2(5) of the Magistrates' Courts (Northern Ireland) Order 1981.
- (6) This section shall not apply to the arrest of persons under the age of 17 years.”.

PART IV

PROVISIONS APPLICABLE TO SCOTLAND ONLY

53 Power to alter certain fines and other sums

Section 289D of the Criminal Procedure (Scotland) Act 1975 (power of the Secretary of State to alter certain sums) shall be amended as follows—

- (a) for subsection (1), substitute the following subsections—

“(1) If it appears to the Secretary of State that there has been a change in the value of money since the relevant date, he may by order substitute for the sum or sums for the time being specified in the provisions mentioned in subsection (1A) below such other sum or sums as appear to him justified by the change.

(1A) The provisions referred to in subsection (1) above are—

- (a) section 289B(6) of this Act;
- (b) section 289G(2) of this Act;
- (c) section 407(1A) of this Act;
- (d) section 435(e) of this Act;
- (e) section 453(3) of this Act;

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- (f) section 7 (4) (a) of the Cinematograph (Amendment) Act 1982;
- (g) paragraph 19(3) of Schedule 2 to the Civic Government (Scotland) Act 1982.

(1B) In subsection (1) above 'the relevant date' means—

- (a) in relation to the first order made under that subsection, 29th July 1977 (the date of the passing of the Criminal Law Act 1977); and
 - (b) in relation to each subsequent order, the date of the previous order.”;
- (b) in subsection (2), leave out the words " or (3A) " ;
 - (c) in subsection (3), for the words " Criminal Law Act 1977 " substitute " Criminal Justice Act 1982 ";
 - (d) subsection (3A) is repealed.

54 **Revision of penalties for summary offences and of certain other sums**

After section 289D of the Criminal Procedure (Scotland) Act 1975 there shall be inserted the following new sections—

“289E Penalties for first and subsequent convictions of summary offences to be the same.

- (1) Subject to subsections (2) to (4) and (6) below, this section applies where any Act—
 - (a) makes a person liable on conviction of an offence triable only summarily to a penalty or a maximum penalty ; or
 - (b) confers a power by subordinate instrument to make a person liable on conviction of an offence triable only summarily (whether or not created by the instrument) to a penalty or a maximum penaltywhich is different in the case of a second or subsequent conviction from the penalty or maximum penalty provided or for which provision may be made in the case of a first conviction.
- (2) Where the penalty or maximum penalty for an offence to which section 457A(1) (b) of this Act applies has not been altered by any enactment passed or made after 29th July 1977 (the date of the passing of the Criminal Law Act 1977), this section applies as if the amount referred to in subsection (5)(a) below were the greatest amount to which a person would have been liable on any conviction immediately before that date.
- (3) Where any Act—
 - (a) provides or confers a power to provide for a penalty or a maximum penalty which would, but for the operation of section 289C(5) of this Act, be different in the case of a second or subsequent conviction from the penalty or maximum penalty provided for or for which provision may be made in the case of a first conviction ; and
 - (b) otherwise fulfils the conditions of subsection (1) above;this section applies to that penalty or maximum penalty as if the amount referred to in subsection (5) (a) below were the greatest amount to which a person would

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have been liable or could have been made liable on any conviction immediately before the commencement of the said section 289C.

- (4) This section does not apply to—
- (a) section 290 of this Act (imprisonment for certain offences);
 - (b) section 78 of the Criminal Justice (Scotland) Act 1980 (vandalism); or
 - (c) an enactment mentioned in Schedule 7D to this Act.
- (5) Where this section applies the maximum penalty to which a person is or may be made liable by or under the Act in the case of any conviction shall be either or both of—
- (a) a fine not exceeding the greatest amount;
 - (b) imprisonment for a term not exceeding the longest term (if any)
- to which an offender would have been liable or could have been made liable on any conviction (whether the first or a second or subsequent conviction) by or under the Act immediately before the commencement of this section.
- (6) This section does not affect the penalty which may be imposed in respect of an offence committed before it comes into force.

289F Increase of fines for certain summary offences.

- (1) Subject to subsections (2) to (7) and (9) below, this section applies where any Act passed on or before 29th July 1977 (the date of the passing of the Criminal Law Act 1977)—
- (a) makes a person liable on conviction of an offence triable only summarily to a fine or a maximum fine which is less than £1,000 ; or
 - (b) confers a power by subordinate instrument to make a person liable on conviction of an offence triable only summarily (whether or not created by the instrument) to a fine or a maximum fine which is less than £1,000, or a fine or a maximum fine which shall not exceed an amount of less than £1,000,
- and the fine or maximum fine which may be imposed or, as the case may be, for which the subordinate instrument may provide has not been altered by—
- (i) section 289A of this Act;
 - (ii) section 289C of this Act (except where section 289E(3) of this Act applies);
 - (iii) section 30(3) of the Criminal Law Act 1977;
 - (iv) an enactment passed or made after 29th July 1977 and before the commencement of this section.
- (2) In the case of an offence to which section 457A(1)(6) of this Act applies, paragraphs (i) to (iii) of subsection (1) above do not apply and the fine or the maximum fine referred to in subsection (8) below is the fine or the maximum fine for the offence immediately before 29th July 1977 as amended, where applicable, by section 289E of this Act.
- (3) This section also applies where any enactment—
- (a) is contained in a consolidation Act passed after 29th July 1977 and before the commencement of this section; and
 - (b) otherwise fulfils the conditions of subsection (1) above as amended by subsection (2) above where it applies ; and

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- (c) is a re-enactment (with or without modification) of an enactment passed on or before that date.
- (4) Subject to subsection (9) below, where an Act provides or confers a power to provide for, on conviction of an offence triable only summarily, a fine or a maximum fine in respect of a specified quantity or a specified number of things, that fine or maximum fine is the fine or, as the case may be, the maximum fine for the purposes of this section.
- (5) Where an Act to which this section applies provides or confers a power to provide different fines or maximum fines in relation to different circumstances or persons of different descriptions, such fines or maximum fines are to be treated separately for the purposes of this section.
- (6) This section also applies where the penalties or maximum penalties provided or for which provision may be made by or under any Act on first and on second or subsequent conviction of an offence have been made the same by operation of section 289E of this Act; and in that case the fine or the maximum fine referred to in subsection (8) below is the maximum fine to which a person is or may be made liable by virtue of that section.
- (7) This section does not apply in the case of—
- (a) so much of any Act as (in whatever words) makes a person liable or provides for a person to be made liable to a fine or a maximum fine for each period of a specified length during which a continuing offence is committed;
 - (b) section 67(3) of the Transport Act 1962 ;
 - (c) sections 40(5) and 44(1) of the Road Traffic Act 1972;
 - (d) an enactment mentioned in Schedule 1 to the British Railways Act 1977 to the extent that the enactment was amended by section 13(1) of that Act;
 - (e) an enactment mentioned in Schedule 7D to this Act or in Schedule 2 to the Criminal Justice Act 1982.
- (8) Where this section applies, the fine or, as the case may be, the maximum fine to which a person is or may be made liable by or under the Act shall be increased to the amount shown in column 2 of the Table below opposite the band in column 1 within which the fine or the maximum fine referred to in subsection (1) above falls.

<i>Column 1</i>	<i>Column 2</i>
<i>Fine or maximum fine</i>	<i>Increased amount</i>
Under £25	£25
Under £50 but not less than £25	£50
Under £200 but not less than £50	£200
Under £400 but not less than £200	£500
Under £1,000 but not less than £400	£1,000

- (9) Where an Act to which this section applies provides or confers a power to provide for, on conviction of an offence triable only summarily, a fine or a

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maximum fine in respect of a specified quantity or a specified number of things but also provides or confers a power to provide for an alternative fine or maximum fine as regards the offence, subsection (8) above shall have effect to increase—

- (a) the alternative fine ; and
 - (b) any amount that the Act provides or confers a power to provide for as the maximum which a fine as regards the offence may not exceed,
- as well as the fine or maximum fine which it has effect to increase by virtue of subsection (4) above.

- (10) This section does not affect the penalty which may be imposed in respect of an offence committed before it comes into force.

289G The standard scale: amendment of enactments.

- (1) There shall be a standard scale of fines for offences triable only summarily, which shall be known as " the standard scale " .
- (2) The standard scale is as follows—

STANDARD SCALE

<i>Level</i>	<i>Amount</i>
1	£25
2	£50
3	£200
4	£500
5	£1,000.

- (3) Any reference in any enactment (whether passed or made before or after the passing of the Criminal Justice Act 1982) to a specified level on the standard scale shall be construed as referring to the amount which corresponds to that level on the standard scale referred to in subsection (2) above.
- (4) Subject to subsection (8) below, where—
- (a) an enactment to which subsection (5) below applies either—
 - (i) makes a person liable on conviction of an offence triable only summarily (whether created by that enactment or otherwise) to a fine or a maximum fine; or
 - (ii) confers a power by subordinate instrument to make a person liable on conviction of an offence triable only summarily (whether or not created by the instrument) to a fine or a maximum fine; and
 - (b) the amount of the fine or the maximum fine is, whether by virtue of that enactment or otherwise, an amount shown in the second column of the standard scale,

for the reference in the enactment to the amount of the fine or maximum fine there shall be substituted a reference to the level on the standard scale shown in

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the first column thereof as corresponding to the amount in the second column thereof referred to in paragraph (b) above.

- (5) This subsection applies to an enactment in any Act (including this Act) passed before the commencement of this section.
- (6) Subject to subsection (7) below, where an Act provides or confers a power to provide for, on conviction of an offence triable only summarily, a fine or a maximum fine in respect of a specified quantity or a specified number of things, that fine or maximum fine is the fine or, as the case may be, the maximum fine for the purposes of this section.
- (7) Where an Act provides or confers a power to provide for, on conviction of an offence triable only summarily, a fine or a maximum fine in respect of a specified quantity or a specified number of things but also provides or confers a power to provide for an alternative fine or maximum fine as regards the offence, the fine or the maximum fine for the purposes of this section is—
 - (a) the alternative fine ; and
 - (b) any amount that the Act provides or confers a power to provide for as the maximum which a fine as regards the offence may not exceed,as well as the fine or maximum fine referred to in subsection (6) above.
- (8) Subsection (4) above does not apply to—
 - (a) an enactment mentioned in Schedule 2 to the Companies Act 1980 ;
 - (b) the Companies Act 1981; or
 - (c) so much of any Act as (in whatever words) makes a person liable or provides for a person to be made liable to a fine or a maximum fine for each period of a specified length during which a continuing offence is committed.
- (9) Where an enactment to which subsection (5) above applies confers a power such as is mentioned in subsection (4)(a)(ii) above, the power shall be construed as a power to make a person liable to a fine or, as the case may be, a maximum fine of the amount corresponding to the level on the standard scale to which the enactment refers by virtue of subsection (4) above or of a lesser amount.

289H Schedule 7D.

- (1) The enactments specified in column 1 of Schedule 7D to this Act, which relate to the penalties or the maximum penalties for the offences mentioned in those enactments, shall be amended in accordance with the amendments specified in column 2 of that Schedule, which have the effect of altering the penalties on summary conviction of the said offences and placing the fines on a level on the standard scale; and in that Schedule column 3 shows the penalties or, as the case may be, maximum penalties in force immediately before the commencement of this section and column 4 shows the penalties or, as the case may be, maximum penalties resulting from the amendments.
- (2) Subsection (1) above does not affect the penalty which may be imposed in respect of an offence committed before it comes into force.”.

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55 Mode of trial of, and penalties for, certain offences

- (1) In Part III of the Criminal Procedure (Scotland), Act 1975, before section 458 there shall be inserted the following new section—

“457A Mode of trial of certain offences.

- (1) An offence created by statute shall be triable only summarily if—
- (a) the enactment creating the offence or any other enactment expressly so provides (in whatever words); or
 - (b) subject to subsections (2) and (3)(a) below, the offence was created by an Act passed on or before 29th July 1977 (the date of passing of the Criminal Law Act 1977) and the penalty or maximum penalty in force immediately before that date, on any conviction of that offence, did not include any of the following—
 - (i) a fine exceeding £400;
 - (ii) imprisonment for a period exceeding 3 months;
 - (iii) a fine exceeding £50 in respect of a specified quantity or number of things, or in respect of a specified period during which a continuing offence is committed:

Provided that, in the application of paragraph (b)(ii) above, no regard shall be paid to the fact that section 290 of this Act permits the imposition of imprisonment for a period exceeding 3 months in certain circumstances.

- (2) An offence created by statute which is triable only on indictment shall continue only to be so triable.
- (3) An offence created by statute shall be triable either on indictment or summarily if—
- (a) the enactment creating the offence or any other enactment expressly so provides (in whatever words); or
 - (b) it is an offence to which neither subsection (1) nor subsection (2) above applies.
- (4) An offence which may under any enactment (including an enactment in this Act or passed after this Act) be tried only summarily, being an offence which, if it had been triable on indictment, could competently have been libelled as an additional or alternative charge in the indictment, may (the provisions of this or any other enactment notwithstanding) be so libelled, and tried accordingly :

Provided that the penalty which may be imposed for that offence in that case shall not exceed that which is competent on summary conviction.”.

- (2) For section 289B of the said Act of 1975 there shall be substituted the following section—

“289B Penalties on summary conviction for offences triable either summarily or on indictment.

- (1) Where an offence created by a relevant enactment may be tried either on indictment or summarily, the penalty or maximum penalty on summary conviction shall, to the extent that it included, immediately before the commencement of section 55 of the Criminal Justice Act 1982, a penalty or

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maximum penalty mentioned in column 1 of the Table below, be amended so as to substitute as a maximum penalty the corresponding penalty set forth in column 2 thereof (unless provision is expressly made by any enactment for a larger penalty or maximum penalty on summary conviction)—

<i>Column 1</i>	<i>Column 2</i>
<i>Penalty or maximum penalty at commencement of section 55 of Criminal Justice Act 1982</i>	<i>New maximum penalty</i>
1. Fine (other than a fine specified in paragraph 3 below, or a fine in respect of each period of a specified length during which a continuing offence is committed).	1. Fine not exceeding the prescribed sum.
2. Imprisonment for a period exceeding 3 months.	2. Imprisonment for a period not exceeding 3 months.
3. Fine in respect of a specified quantity or number of things.	3. Fine not exceeding the prescribed sum in respect of each such quantity or number.
4. Fine exceeding £100 in respect of each period of a specified length during which a continuing offence is committed.	4. Fine not exceeding £100 in respect of each such period.

- (2) Where, by virtue of a relevant enactment, a person summarily convicted of any offence to which subsection (1) above relates would, apart from this section, be liable to a fine or a maximum fine of one amount in the case of a first conviction and of a different amount in the case of a second or subsequent conviction, subsection (1) above shall apply irrespective of whether the conviction is a first, second or subsequent one.
- (3) Where, as regards any offence to which subsection (1) above relates, there is under any enactment (in whatever words) a power by subordinate instrument to restrict the amount of the fine or maximum fine which on summary conviction can be imposed in respect of that offence—
 - (a) subsection (1) above shall not affect that power or override any restriction imposed in exercise of that power ; and
 - (b) the amount to which that fine or maximum fine may be restricted in exercise of that power shall be any amount less than the fine or maximum fine which could be imposed on summary conviction in respect of the offence apart from any restriction so imposed.
- (4) Where there is under a relevant enactment (in whatever words) a power by subordinate instrument to create a criminal offence, the maximum fine which may in the exercise of that power be authorised on summary conviction in respect of such an offence, when that offence may be tried either on indictment or summarily, shall by virtue of this subsection be the prescribed sum unless some larger maximum fine can be authorised on summary conviction in respect of such an offence by virtue of an enactment other than this subsection.
- (5) Subsection (1) above is without prejudice to section 290 of this Act (6 months' imprisonment competent for certain offences).

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- (6) In this section—
- 'the prescribed sum' means £1,000 or such sum as is for the time being substituted in this definition by an order in force under section 289D(1) of this Act;
- 'relevant enactment' means an enactment contained in the Criminal Law Act 1977 or in any Act (including this Act) passed before, or in the same session as, that Act.
- (7) Subsection (4) above shall not affect so much of any enactment as (in whatever words) provides for a person to be made liable, on summary conviction, to a fine or a maximum fine for each period of a specified length during which a continuing offence is committed.
- (8) Where an enactment to which subsection (4) above applies provides for a person to be made liable to a penalty or maximum penalty on summary conviction of an offence triable either on indictment or summarily which includes a fine or a maximum fine in respect of a specified quantity or a specified number of things, that subsection shall apply to that fine or maximum fine.
- (9) Schedule 7B to this Act shall have effect for the purpose of altering the penalties or maximum penalties available on summary conviction of the offences therein mentioned; and subsection (1) above shall not apply on summary conviction of any of the offences mentioned in paragraph 1(2) of the said Schedule 7B.”.
- (3) Section 289C of the said Act of 1975 (increase of fines for certain summary offences) shall be amended as follows—
- (a) for subsection (4) there shall be substituted the following subsection—
- “(4) This subsection applies to any pre-1949 enactment (however framed or worded) which—
- (a) as regards any summary offence makes a person liable on conviction thereof to a fine of, or not exceeding, a specified amount less than £50 which has not been altered since the end of 1948 (and is not altered by this Act); or
- (b) confers power by subordinate instrument to make a person as regards any summary offence (whether or not created by the instrument), liable on conviction thereof to a fine of, or a maximum fine of, less than £50 which has not been altered since the end of 1948 (and is not altered by this Act):
- Provided that this subsection does not apply to any offence to which section 457A(1)(b) of this Act applies (offences triable only summarily other than by virtue of express provision).”;
- (b) for subsection (7) there shall be substituted the following subsections—
- “(7) Subsection (4) above does not apply to so much of any enactment as (in whatever words) makes a person liable or provides for a person to be made liable, on summary conviction, to a fine or a maximum fine for each period of a specified length during which a continuing offence is committed.

Status: This is the original version (as it was originally enacted).

- (7A) Where an enactment to which subsection (4) above applies provides or confers a power to provide for, on conviction of an offence triable only summarily, a fine or a maximum fine in respect of a specified quantity or a specified number of things, 'the specified amount' for the purposes of subsection (5) above is the fine or maximum fine so provided or for which provision may be made.”.
- (4) In section 289D of the said Act of 1975 (power to alter sums specified in certain provisions), after the word "the" at the beginning of each of paragraphs (a) and (b) of subsection (3) there shall be inserted the words "fine or".
- (5) Subsections (2) to (4) above do not apply in relation to any offence committed before they come into force.

56 Schedules 7A to 7D to the Criminal Procedure (Scotland) Act 1975 and

- (1) It is hereby declared that Schedules 7 A to 7C to the Criminal Procedure (Scotland) Act 1975 have effect notwithstanding the repeal by Schedule 8 to the Criminal Justice (Scotland) Act 1980 of paragraphs 11 to 13 of Schedule 11 to the Criminal Law Act 1977 and have had effect at all times since the coming into force of the said Schedule 8.
- (2) After Schedule 7C to the Criminal Procedure (Scotland) Act 1975 there shall be inserted the Schedule set out in Schedule 6. to this Act, which shall form Schedule 7D to the said Act of 1975.
- (3) The enactments specified in column 1 of Schedule 7 to this Act are amended so as to substitute for references to certain sums references to levels on the standard scale corresponding to amounts equal to, or greater than, those sums; and in that Schedule—
- (a) column 1 specifies the enactments to be amended ;
 - (b) column 2 specifies the amendments ;
 - (c) column 3 shows the sums presently referred to in the said enactments; and
 - (d) column 4 shows the new sums (corresponding to the appropriate levels on the standard scale as they are fixed at the date of commencement of this section.
- (4) The amendments provided for in Schedule 7 to this Act, other than paragraph 4 thereof, do not affect the penalty which may be imposed in respect of an act or omission occurring before that Schedule comes into force.
- (5) The amendment provided for in paragraph 4 of Schedule 7. to this Act shall not apply in relation to proceedings commenced before the coming into force of that provision; and for the purpose of this subsection, proceedings shall be taken to have been commenced on the day on which the petition or complaint is served on the accused.

PART V

MISCELLANEOUS

The Chief Inspectors of Prisons

57 Her Majesty's Chief Inspectors of Prisons

(1) The following shall be inserted after section 5 of the Prison Act 1952—

“5A Appointment and functions of Her Majesty's Chief Inspector of Prisons.

- (1) Her Majesty may appoint a person to be Chief Inspector of Prisons.
- (2) It shall be the duty of the Chief Inspector to inspect or arrange for the inspection of prisons in England and Wales and to report to the Secretary of State on them.
- (3) The Chief Inspector shall in particular report to the Secretary of State on the treatment of prisoners and conditions in prisons.
- (4) The Secretary of State may refer specific matters connected with prisons in England and Wales and prisoners in them to the Chief Inspector and direct him to report on them.
- (5) The Chief Inspector shall in each year submit to the Secretary of State a report in such form as the Secretary of State may direct, and the Secretary of State shall lay a copy of that report before Parliament.
- (6) The Chief Inspector shall be paid such salary and allowances as the Secretary of State may with the consent of the Treasury determine.”.

(2) The following shall be inserted after section 6 of the Prisons (Scotland) Act 1952—

“6A Appointment and functions of Her Majesty's Chief Inspector of Prisons for Scotland.

- (1) Her Majesty may appoint a person to be Chief Inspector of Prisons for Scotland.
- (2) It shall be the duty of the Chief Inspector to inspect or arrange for the inspection of prisons in Scotland and to report to the Secretary of State on them.
- (3) The Chief Inspector shall in particular report to the Secretary of State on the treatment of prisoners and conditions in prisons.
- (4) The Secretary of State may refer specific matters connected with prisons in Scotland and prisoners in them to the Chief Inspector and direct him to report on them.
- (5) The Chief Inspector shall in each year submit to the Secretary of State a report in such form as the Secretary of State may direct, and the Secretary of State shall lay a copy of that report before Parliament.

(6) The Chief Inspector shall be paid such salary and allowances as the Secretary of State may with the consent of the Treasury determine.

(7) In this section references to prisons include legalised police cells within the meaning of section 14(1) of this Act.”.

Courts-martial etc.

58 Courts-martial and Standing Civilian Courts

Schedule 8 shall have effect in relation to offenders who come before courts-martial and Standing Civilian Courts.

Persons remanded in custody

59 Remand in custody in absence of accused

(1) The Magistrates' Courts Act 1980 shall have effect subject to the amendments specified in Schedule 9 to this Act, being amendments to modify the requirement that a person may not be remanded in custody without being brought before the court.

(2) Nothing in this section shall affect the operation of section 2 of the Imprisonment (Temporary Provisions) Act 1980.

60 Applications to Crown Court for bail by persons remanded in custody

(1) In section 81 of the Supreme Court Act 1981—

(a) in subsection (1) (which lists cases in which the Crown Court may grant bail) at the end of paragraph (f) there shall be added “or

(g) who has been remanded in custody by a magistrates' court on adjourning a case under—

(i) section 5 (adjournment of inquiry into offence);

(ii) section 10 (adjournment of trial);

(iii) section 18 (initial procedure on information against adult for offence triable either way); or

(iv) section 30 (remand for medical examination),

of the Magistrates' Courts Act 1980;”;

(b) the following subsections shall be inserted after that subsection—

“(1H) Where the Crown Court grants a person bail under subsection (1)(g) it may direct him to appear at a time and place which the magistrates' court could have directed and the recognizance of any surety shall be conditioned accordingly.

(1J) The Crown Court may only grant bail to a person under subsection (1)(g) if the magistrates' court which remanded him in custody has certified under section 5(6A) of the Bail Act 1976 that it heard full argument on his application for bail before it refused the application.”.

Status: This is the original version (as it was originally enacted).

(2) In subsection (6)(a) of section 5 of the Bail Act 1976 (supplementary provisions about decisions on bail) after the word " Court", in the first place where it occurs, there shall be inserted the words " or if it issues a certificate under subsection (6A) below ".

(3) The following subsections shall be inserted after that subsection—

“(6A) Where in criminal proceedings—

(a) a magistrates' court remands a person in custody under any of the following provisions of the Magistrates' Courts Act 1980—

(i) section 5 (adournment of inquiry into offence);

(ii) section 10 (adjournment of trial);

(iii) section 18 (initial procedure on information against adult for offence triable either way); or

(iv) section 30 (remand for medical examination),

after hearing full argument on an application for bail from him ; and

(b) either—

(i) it has not previously heard such argument on an application for bail from him in those proceedings; or

(ii) it has previously heard full argument from him on such an application but it is satisfied that there has been a change in his circumstances or that new considerations have been placed before it,

it shall be the duty of the court to issue a certificate in the prescribed form that they heard full argument on his application for bail before they refused the application,

(6B) Where the court issues a certificate under subsection (6A) above in a case to which paragraph (b)(ii) of that subsection applies, it shall state in the certificate the nature of the change of circumstances or the new considerations which caused it to hear a further fully argued bail application.

(6C) Where a court issues a certificate under subsection (6A) above it shall cause the person to whom it refuses bail to be given a copy of the certificate.”.

(4) In section 30 of the Legal Aid Act 1974 (scope of legal aid) the following subsections shall be inserted after subsection (1)—

“(1A) Legal aid which may be ordered to be given to any person for the purposes of any proceedings by a legal aid order under section 28(2) above, whether or not in the circumstances mentioned in section 29(1)(c) above, shall include, in the event—

(a) of his being remanded in custody in those proceedings ; and

(b) of the court issuing a certificate under section 5(6A) of the Bail Act 1976 (refusal of fully argued bail application),

legal aid for the purpose of proceedings in connection with an application for bail to the Crown Court.

(1B) Notwithstanding anything in subsection (1) above, legal aid in connection with an application for bail to the Crown Court shall not include representation by counsel except in a case where by virtue of subsection (2) (a) below legal aid ordered to be given for the purposes of the proceedings before the magistrates' court included representation by counsel.”.

Committal on written statements

61 Legal representation in case of committal on written statements

In section 6(2)(a) of the Magistrates' Courts Act 1980 for the words " is not represented by counsel or a solicitor " there shall be substituted the words " has no solicitor acting for him in the case (whether present in court or not) " .

Requirement of social inquiry reports

62 Social inquiry reports on persons who have not previously served prison sentences

The following section shall be inserted after section 20 of the Powers of Criminal Courts Act 1973—

“20A Social inquiry report for purposes of s. 20.

- (1) Subject to subsection (2) below, the court shall in every case obtain a social inquiry report for the purpose of determining under section 20(1) above whether there is any appropriate method of dealing with an offender other than imprisonment.
- (2) Subsection (1) above does not apply if, in the circumstances of the case, the court is of the opinion that it is unnecessary to obtain a social inquiry report.
- (3) Where a magistrates' court passes a sentence of imprisonment on a person of or over 21 years of age on whom such a sentence has not previously been passed by a court in any part of the United Kingdom without obtaining a social inquiry report, it shall state in open court the reason for its opinion that it was unnecessary to obtain such a report.
- (4) A magistrates' court shall cause a reason stated under subsection (3) above to be specified, in the warrant of commitment and to be entered in the register.
- (5) No sentence shall be invalidated by the failure of a court to comply with subsection (1) above, but any other court on appeal from that court shall obtain a social inquiry report if none was obtained by the court below, unless it is of the opinion that in the circumstances of the case it is unnecessary to do so.
- (6) In determining whether it should deal with the appellant otherwise than by passing a sentence of imprisonment on him the court hearing the appeal shall consider any social inquiry report obtained by it or by the court below.
- (7) In this section " social inquiry report" means a report about a person and his circumstances made by a probation officer.”

*Deferment of sentence***63 Deferment of sentence**

Section 1 of the Powers of Criminal Courts Act 1973 (which gives a court sentencing an offender the power to defer passing sentence on him) shall have effect subject to the following amendments—

- (a) in subsection (1), for the words from " to have" to " sentence " there shall be substituted the words " or any other court to which it falls to deal with him to have regard, in dealing with him ";
- (b) the words ", subject to subsection (8A) below," shall be inserted after the word " and " in subsection (2);
- (c) the words " deal with " shall be substituted—
 - (i) for the words " pass sentence on " in subsection (4);
 - (ii) for the words " pass sentence on " in subsection (4A); and
 - (iii) for the word " sentence " in the second place where it occurs! in subsection (5); and
- (d) the following subsections shall be substituted for subsection (8)—

“(8) The power of a court under this section to deal with an offender in a case where the passing of sentence has been deferred thereunder—

- (a) includes power to deal with him in any way in which the court which deferred passing sentence could have dealt with him; and
- (b) without prejudice to the generality of the foregoing, in the case of a magistrates' court, includes the power conferred by section 37 or 38 of the Magistrates' Courts Act 1980 to commit him to the Crown Court for sentence.

(8A) Where, in a case where the passing of sentence on an offender in respect of one or more offences has been deferred under this section, a magistrates' court deals with him by committing him to the Crown Court under section 37 or 38 of the Act of 1980, the power of the Crown Court to deal with him includes the same power to defer passing sentence on him as if he had just been convicted of the offence or offences on indictment before the court.”.

*Persons recommended for deportation***64 Persons recommended by courts for deportation**

Schedule 3 to the Immigration Act 1971 shall be amended in accordance with Schedule 10 to this Act.

*Probation and after-care***65 Probation and after-care**

- (1) The designations " probation and after-care area ", " probation and after-care committee" and " probation and after-care service " are hereby changed to " probation

area ", " probation committee " and " probation service " respectively and the new designations shall be substituted for the former designations in every enactment relating to any such area or committee or that service.

- (2) The amendments specified in Schedule 11 to this Act, being amendments relating to probation and after-care and the duties and powers of probation committees, shall have effect.

66 Right of appeal of probationer etc.

- (1) The following subsection shall be inserted after subsection (1) of section 50 of the Criminal Appeal Act 1968 (meaning of " sentence ")—

“(1A) Section 13 of the Powers of Criminal Courts Act 1973 (under which a conviction of an offence for which a probation order or an order for conditional or absolute discharge is made is deemed not to be a conviction except for certain purposes) shall not prevent an appeal under this Act, whether against conviction or otherwise.”.

- (2) The following subsection shall be inserted after subsection (1) of section 108 of the Magistrates' Courts Act 1980 (right of appeal to the Crown Court)—

“(1A) Section 13 of the Powers of Criminal Courts Act 1973 (under which a conviction of an offence for which a probation order or an order for conditional or absolute discharge is made is deemed not to be a conviction except for certain purposes) shall not prevent an appeal under this section, whether against conviction or otherwise.”.

- (3) In the Powers of Criminal Courts Act 1973—

- (a) the following subsection shall be inserted after subsection (1) of section 11 (substitution of conditional discharge for probation)—

“(1A) No application may be made under subsection (1) above while an appeal against the probation order is pending.”; and

- (b) in Schedule 1 (discharge and amendment of probation orders)—

- (i) the following sub-paragraph shall be inserted after paragraphs 1(1) and 3(1)—

“(1A) No application may be made under sub-paragraph (1) above while an appeal against the probation order is pending.”;

- (ii) the following sub-paragraph shall be inserted after paragraph 2(1)—

“(1A) No order may be made under sub-paragraph (1) above while an appeal against the probation order is pending.”;

- (iii) in paragraph 4, for the word " Where " there shall be substituted the words " Subject to paragraph 4A below, where ";

- (iv) the following paragraph shall be inserted after that paragraph—

“4A No application may be made under paragraph 4 above while an appeal against the probation order is pending.”.

Compensation

67 Compensation orders

In section 35 of the Powers of Criminal Courts Act 1973 (which gives a court power to make a compensation order in addition to dealing with an offender in any other way)—

(a) the following subsections shall be substituted for subsection (1)—

“(1) Subject to the provisions of this Part of this Act and to section 40 of the Magistrates' Courts Act 1980 (which imposes a monetary limit on the powers of a magistrates' court under this section), a court by or before which a person is convicted of an offence, instead of or in addition to dealing with him in any other way, may, on application or otherwise, make an order (in this Act referred to as "a compensation order") requiring him to pay compensation for any personal injury, loss or damage resulting from that offence or any other offence which is taken into consideration by the court in determining sentence.

(1A) Compensation under subsection (1) above shall be of such amount as the court considers appropriate, having regard to any evidence and to any representations that are made by or on behalf of the accused or the prosecutor.”; and

(b) the following subsection shall be inserted after subsection (4)—

“(4A) Where the court considers—

(a) that it would be appropriate both to impose a fine and to make a compensation order; but

(b) that the offender has insufficient means to pay both an appropriate fine and appropriate compensation,

the court shall give preference to compensation (though it may impose a fine as well).”.

Community service

68 Community service orders

(1) Schedule 12 to this Act shall have effect with respect—

(a) to the powers of courts in England and Wales in relation to community service orders ; and

(b) to arrangements for persons in England and Wales to perform work under such orders.

(2) Schedule 13 to this Act shall have effect for the purpose of the enforcement in one part of the United Kingdom of community service orders made in another part.

Imprisonment for fine defaulters etc.

69 Maximum periods of imprisonment for defaulting on fines etc.

(1) In section 31 of the Powers of Criminal Courts Act 1973—

(a) the following subsections shall be substituted for subsections (2) to (4)—

Status: This is the original version (as it was originally enacted).

“(2) Subject to the provisions of this section, if the Crown Court imposes a fine on any person or forfeits his recognizance, the court shall make an order fixing a term of imprisonment or of detention under section 9 of the Criminal Justice Act 1982 (detention of persons aged 17 to 20 for default) which he is to undergo if any sum which he is liable to pay is not duly paid or recovered.

(3) No person shall on the occasion when a fine is imposed on him or his recognizance is forfeited by the Crown Court be committed to prison or detained in pursuance of an order under subsection (2) above unless—

- (a) in the case of an offence punishable with imprisonment, he appears to the court to have sufficient means to pay the sum forthwith ;
- (b) it appears to the court that he is unlikely to remain long enough at a place of abode in the United Kingdom to enable payment of the sum to be enforced by other methods; or
- (c) on the occasion when the order is made the court sentences him to immediate imprisonment, custody for life, youth custody or detention in a detention centre for that or another offence, or sentences him as aforesaid for an offence in addition to forfeiting his recognizance, or he is already serving a sentence of custody for life or a term—
 - (i) of imprisonment;
 - (ii) of youth custody ;
 - (iii) of detention in a detention centre; or
 - (iv) of detention under section 9 of the Criminal Justice Act 1982.

(3A) Subject to subsections (3B) and (3C) below, the periods set out in the second column of the following Table shall be the maximum periods of imprisonment or detention under subsection (2) above applicable respectively to the amounts set out opposite thereto.

TABLE

An amount not exceeding £25	7 days
An amount exceeding £25 but not exceeding £50	14 days
An amount exceeding £50 but not exceeding £200	30 days
An amount exceeding £200 but not exceeding £500	60 days
An amount exceeding £500 but not exceeding £1,000	90 days
An amount exceeding £1,000 but not exceeding £2,500	6 months

Status: This is the original version (as it was originally enacted).

An amount exceeding £2,500 but not exceeding £5,000	9 months
An amount exceeding £5,000	12 months

- (3B) Where the amount due at the time imprisonment or detention is imposed is so much of a fine or forfeited recognizance as remains due after part payment, then, subject to subsection (3C) below, the maximum period applicable to the amount shall be the period applicable to the whole sum reduced by such number of days as bears to the total number of days therein the same proportion as the part paid bears to the total sum.
- (3C) In calculating the reduction required under subsection (3B) above any fraction of a day shall be left out of account and the maximum period shall not be reduced to less than five days.
- (4) Where any person liable for the payment of a fine or a sum due under a recognizance to which this section applies is sentenced by the court to, or is serving or otherwise liable to serve, a term of imprisonment or youth custody or a term of detention under section 4 or 9 of the Criminal Justice Act 1982, the court may order that any term of imprisonment or detention fixed under subsection (2) above shall not begin to run until after the end of the first-mentioned term.”; and
- (b) the following subsections shall be substituted for subsections (7) and (8)—
- “(7) Any term fixed under subsection (2) above as respects a fine imposed in pursuance of such an enactment, that is to say a fine which the magistrates' court could have imposed, shall not exceed the period applicable to that fine (if imposed by the magistrates' court) under section 149(1) of the Customs and Excise Management Act 1979.
- (8) This section shall not apply to a fine imposed by the Crown Court on appeal against a decision of a magistrates' court, but subsections (2) to (3C) above shall apply in relation to a fine imposed or recognizance forfeited by the criminal division of the Court of Appeal, or by the House of Lords on appeal from that division, as they apply in relation to a fine imposed or recognizance forfeited by the Crown Court, and the references to the Crown Court in subsections (2) and (3) above shall be construed accordingly.”.
- (2) The following subsection shall be substituted—
- (a) for section 71B(2) of the Army Act 1955 and the Air Force Act 1955 ; and
- (b) for section 43B(2) of the Naval Discipline Act 1957 ;—
- “(2) Subject to subsections (4) and (5) below, the periods set out in the second column of the following Table shall be the maximum periods of further imprisonment or detention applicable respectively to fines of the amounts set out opposite thereto.

TABLE

An amount not exceeding £25	7 days
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An amount exceeding £25 but not exceeding £50	14 days
An amount exceeding £50 but not exceeding £200	30 days
An amount exceeding £200 but not exceeding £500	60 days
An amount exceeding £500 but not exceeding £1,000	90 days
An amount exceeding £1,000 but not exceeding £2,500	6 months
An amount exceeding £2,500 but not exceeding £5,000	9 months
An amount exceeding £5,000	12 months”.

Vagrancy

70 Vagrancy offences

- (1) Where a person is convicted—
- (a) under section 3 or 4 of the Vagrancy Act 1824, of wandering abroad, or placing himself in any public place, street, highway, court, or passage, to beg or gather alms ; or
 - (b) under section 4 of that Act.—
 - (i) of wandering abroad and lodging in any barn or outhouse, or in any deserted or unoccupied building, or in the open air, or under a tent, or in any cart or waggon, and not giving a good account of himself; or
 - (ii) of wandering abroad, and endeavouring by the exposure of wounds and deformities to obtain or gather alms,
- the court shall not have power to sentence him to imprisonment but shall have the same power to fine him as if this section had not been enacted.
- (2) If a person deemed a rogue and vagabond by virtue of section 4 of the Vagrancy Act 1824 is thereafter guilty of an offence mentioned in subsection (1) above, he shall be convicted of that offence under section 4 of that Act and accordingly—
- (a) shall not be deemed an incorrigible rogue; and
 - (b) shall not be committed to the Crown Court,
- by reason only of that conviction.
- (3) This section applies to offences committed before as well as after it comes into effect.

Loitering and soliciting

71 Abolition of imprisonment for loitering and soliciting for purposes of prostitution

- (1) The following subsection shall be substituted for section 1(2) of the Street Offences Act 1959—

Status: This is the original version (as it was originally enacted).

“(2) A person guilty of an offence under this section shall be liable on summary conviction to a fine of an amount not exceeding level 2 on the standard scale, as defined in section 75 of the Criminal Justice Act 1982, or, for an offence committed after a previous conviction, to a fine of an amount not exceeding level 3 on that scale.”.

- (2) The subsection substituted by subsection (1) above for section 1(2) of the Street Offences Act 1959 shall have effect in relation to offences committed before as well as after this section comes into force.

Unsworn statements

72 **Abolition of right of accused to make unsworn statement**

- (1) Subject to subsections (2) and (3) below, in any criminal proceedings the accused shall not be entitled to make a statement without being sworn, and accordingly, if he gives evidence, he shall do so on oath and be liable to cross-examination; but this section shall not affect the right of the accused, if not represented by counsel or a solicitor, to address the court or jury otherwise than on oath on any matter on which, if he were so represented, counsel or a solicitor could address the court or jury on his behalf.
- (2) Nothing in subsection (1) above shall prevent the accused making a statement without being sworn—
- (a) if it is one which he is required by law to make personally; or
 - (b) if he makes it by way of mitigation before the court passes sentence upon him.
- (3) Nothing in this section applies—
- (a) to a trial; or
 - (b) to proceedings before a magistrates' court acting as examining justices, which began before the commencement of this section.

Recall of witnesses

73 **Recall of witnesses**

- (1) After section 148 of the Criminal Procedure (Scotland) Act 1975 there shall be inserted the following new section—

“148A Recall of witnesses.

In any trial, on the motion of either party, the presiding judge may permit a witness who has been examined to be recalled.”.

- (2) After section 349 of the said Act of 1975 there shall be inserted the following new section—

“349A Recall of witnesses.

In any trial, on the motion of either party, the presiding judge may permit a witness who has been examined to be recalled.”.

Interpretation

74 Construction of references to " statutory maximum 75. Construction of references to " the standard scale "

- (1) In any enactment (whether contained in an Act passed before or after this Act) " statutory maximum ", in relation to a fine on summary conviction for an offence in England and Wales, means the prescribed sum within the meaning of section 32 of the Magistrates' Courts Act 1980 (£1,000 or another sum fixed by order under section 143 of that Act to take account of changes in the value of money).
- (2) In any provision of this Act or of any enactment passed or made after the passing of this Act (including any provision inserted in an earlier enactment by such a provision) " statutory maximum ", in relation to a fine on summary conviction in Scotland of an offence triable either summarily or on indictment, means the prescribed sum within the meaning of section 289B(6) of the Criminal Procedure (Scotland) Act 1975 (£1,000 or another sum fixed by order under section 289D(1) of that Act to take account of changes in the value of money).

75 Construction of references to " the standard scale ".

In any enactment (whether contained in an Act passed before or after this Act) " the standard scale "—

- (a) in relation to England and Wales, has the meaning given by section 37 of this Act;
- (b) in relation to Scotland, has the meaning given by section 289G of the Criminal Procedure (Scotland) Act 1975.

Supplementary

76 Financial provision

There shall be defrayed out of money provided by Parliament any increase attributable to the provisions of this Act in the sums payable out of such money under any other Act.

77 Minor and consequential amendments

The enactments specified in Schedules 14 and 15 to this Act shall have effect subject to the amendments there specified (being minor amendments and amendments consequential on the foregoing provisions of this Act).

78 Repeals

The enactments specified in Schedule 16 to this Act (which include enactments already obsolete or unnecessary) are repealed to the extent specified in the third column of that Schedule.

79 Transitional

The transitional provisions in Schedule 17 to this Act shall have effect.

80 Commencement

- (1) The following provisions of this Act shall come into force on the day this Act is passed, namely—
- section 32;
 - section 33 ;
 - section 57;
 - section 74 ;
 - section 75;
 - section 76;
 - section 77, so far as it relates to paragraph 20 of Schedule 14;
 - section 78, so far as it relates to the Imprisonment (Temporary Provisions) Act 1980;
 - section 79, so far as it relates to paragraph 15 of Schedule 17;
 - this section; and
 - section 81.
- (2) Subject to subsection (1) above, this Act shall come into operation on such day as the Secretary of State may by order made by statutory instrument appoint, and different days may be so appointed for different provisions and for different purposes.

81 Citation and extent

- (1) This Act may be cited as the Criminal Justice Act 1982.
- (2) Subject to the following provisions of this section, this Act extends to England and Wales only.
- (3) The following provisions of this Act extend to England and Wales and Scotland—
- section 33 ;
 - section 41 ;
 - section 42 ;
 - section 44 ;
 - section 75.
- (4) The following provisions of this Act extend to Scotland only—
- Part IV (including Schedules 6 and 7);
 - section 57(2);
 - section 73;
 - section 74(2).
- (5) The following provisions of this Act extend to England and Wales, Scotland and Northern Ireland—
- section 45 ;
 - section 47(2);
 - section 49;
 - section 50;
 - section 64 (including Schedule 10);
 - section 68(2) (including Schedule 13);
 - section 76;

section 80;
this section.

- (6) Section 52 above extends to England and Wales and Northern Ireland.
- (7) Sections 77 and 78 above extend to any part of the United Kingdom in so far as they amend or repeal any enactment which extends to that Part, except that—
- (a) section 78, so far as it relates to the Animal Health Act 1981, extends to England and Wales only ; and
 - (b) the following provisions—
 - (i) section 77, so far as it relates to paragraph 2 of Schedule 15 ; and
 - (ii) section 78, so far as it relates to the Electric Lighting (Clauses) Act 1899,
extend to Scotland only.
- (8) Section 79 above extends to Scotland only, so far as it relates to paragraph 18 of Schedule 17.
- (9) Section 58 above (including Schedule 8), so far as it relates to any enactment, extends to any place to which that enactment extends.
- (10) Section 78 above, so far as it relates to any enactment contained in—
- (a) the Army Act 1955 ;
 - (b) the Air Force Act 1955 ;
 - (c) the Naval Discipline Act 1957 ; or
 - (d) the Armed Forces Act 1976,
- extends to any place to which that enactment extends.
- (11) Her Majesty may by Order in Council direct that all or any of the enactments specified in subsection (12) below shall extend, subject to such modifications as may be specified in the Order, to the Isle of Man or any of the Channel Islands.
- (12) The enactments mentioned in subsection (11) above are—
- (a) section 32(1) of the Criminal Law Act 1977 ;
 - (b) sections 32 and 143 of the Magistrates' Courts Act 1980 ; and
 - (c) in this Act—
 - (i) sections 35 to 38 ;
 - (ii) section 39 (including Schedules 2 and 3);
 - (iii) section 40;
 - (iv) sections 46 and 47 ;
 - (v) section 50;
 - (vi) section 64 (including Schedule 10);
 - (vii) section 74(1); and
 - (viii) section 75.
- (13) Her Majesty may by Order in Council provide that section 50 above shall extend, subject to such modification as may be specified in the Order.—
- (a) so far as it relates to section 20 of the Merchant Shipping Act 1979, to any of the Channel Islands, the Isle of Man or any colony and any country or place outside Her Majesty's dominions in which Her Majesty has jurisdiction in right of the Government of the United Kingdom; and

Status: This is the original version (as it was originally enacted).

- (b) so far as it relates to section 21 of that Act, to any country such as is mentioned in section 15 of the said Act of 1979.
- (14) Section 77 above extends to the Isle of Man and the Channel Islands, so far as it relates to paragraphs 11 to 16 of Schedule 14.
- (15) Section 78 above extends to the Isle of Man and the Channel Islands, so far as it relates to section 32(2)(a), (c) and (e) of the Criminal Justice Act 1961.