



# Criminal Justice Act 1982

## 1982 CHAPTER 48

### 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 <sup>M1</sup>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) ..... F1

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#### Textual Amendments

**F1** S. 57(2) repealed by Prisons (Scotland) Act 1989 (c. 45, SIF 39:1), s. 45(2), **Sch. 3**

#### Marginal Citations

**M1** 1952 c. 52.

### *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 <sup>M2</sup>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 <sup>M3</sup>Imprisonment (Temporary Provisions) Act 1980.

#### Marginal Citations

**M2** 1980 c. 43.

**M3** 1980 c. 57.

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

- (1) In section 81 of the <sup>M4</sup>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 time and place which the magistrates’

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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.”.

(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 (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),

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) ..... F2

**Textual Amendments**

F2 S. 60(4) repealed by [Legal Aid Act 1988 \(c. 34, SIF 77:1\)](#), s. 45, [Sch. 6](#)

**Marginal Citations**

M4 1981 c. 54

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*Committal on written statements*

**61 Legal representation in case of committal on written statements.**

In section 6(2)(a) of the <sup>M5</sup>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)”.

**Marginal Citations**  
M5 1980 c. 43.

*Requirement of social inquiry reports*

<sup>F3</sup>**62** .....

**Textual Amendments**  
F3 S. 62 repealed (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 101(2), Sch.13; S.I. 1992/333, art. 2(2), Sch.2

*Deferment of sentence*

<sup>F4</sup>**63** .....

**Textual Amendments**  
F4 S. 63 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

*Persons recommended for deportation*

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

Schedule 3 to the <sup>M6</sup>Immigration Act 1971 shall be amended in accordance with Schedule 10 to this Act.

**Marginal Citations**  
M6 1971 c. 77.

*Probation and after-care.*

<sup>F5</sup>**65** .....

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**Textual Amendments**

**F5** S. 65 repealed (5.2.1994) by 1993 c. 47, ss. 32(3), 33(2), **Sch.4**.

**66 Right of appeal of probationer etc.**

(1) The following subsection shall be inserted after subsection (1) of section 50 of the <sup>M7</sup>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 <sup>M8</sup>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.”.

<sup>F6</sup>(3) .....

**Textual Amendments**

**F6** S. 66(3) repealed (30.9.1998) by 1998 c. 37, s. 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(3)(p)**

**Marginal Citations**

**M7** 1968 c. 19.

**M8** 1980 c. 43.

*Compensation*

<sup>F7</sup>**67** .....

**Textual Amendments**

**F7** S. 67 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

*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

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(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.**

<sup>F8</sup>(1) .....

(2) ..... <sup>F9</sup>

**Textual Amendments**

- F8** S. 69(1) repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)
- F9** S. 69(2) repealed by **Armed Forces Act 1986** (c. 21, SIF 7:1), s. 16(2), **Sch. 2**

*Vagrancy*

**70 Vagrancy offences.**

- (1) Where a person is convicted—
- (a) under section 3 or 4 of the <sup>M9</sup>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.

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

- C1** S. 70(1) amended (31.10.1991) by **Criminal Justice Act 1991** (c. 53, SIF 39:1), s. 26(5); S.I. 1991/2208, art. 2(4), **Sch.3**.

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**Marginal Citations**

**M9** 1824 c. 83.

*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 <sup>M10</sup>Street Offences Act 1959—

“(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.

**Marginal Citations**

**M10** 1959 c. 57.

*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 [<sup>F10</sup>(subject to sections 55 and 56 of the Youth Justice and Criminal Evidence Act 1999)] 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.

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**Textual Amendments**

**F10** Words in s. 72(1) inserted (24.7.2002) by 1999 c. 23, ss. 67, 68(3) Sch. 4 para. 10 (with Sch. 7 para. 5(2)); S.I. 2002/1739, art. 2(f)

*Recall of witnesses*

**73 Recall of witnesses.**

(1) After section 148 of the <sup>M11</sup>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.”.

**Marginal Citations**

**M11** 1975 c. 21.

*Interpretation*

**74, 75. Construction of references to “statutory maximum”.**

F11

**Textual Amendments**

**F11** Ss. 74, 75 repealed by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 170, Sch. 8 para. 16, Sch. 16

*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.



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## 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;

...  
F12

...  
F12

section 76;

section 77, so far as it relates to paragraph 20 of Schedule 14;

section 78, so far as it relates to the <sup>M12</sup>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.

### **Textual Amendments**

**F12** Words repealed by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 170, Sch. 8 para. 16, **Sch. 16**

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

**C2** [S. 80\(2\)](#): power of appointment partly exercised by (E.W.) [S.I. 1982/1857](#), 1983/182 and by (S.) [S.I. 1983/24](#), 1983/758 (Act now wholly in force so far as relating to E.W. and S. with the exception of the repeal in Sch. 16 of s. 38(5)(c)(d) of [Criminal Justice Act 1961 \(c. 39\)](#) which relate principally to sentences in the Channel Islands and the Isle of Man

### **Marginal Citations**

**M12** [1980 c. 57](#).

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## 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;
  - ... <sup>F13</sup>
  - ... <sup>F14</sup>
- (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).

[<sup>F15</sup>(4A) Section 74(3) above extends to Northern Ireland only]

- (5) The following provisions of this Act extend to England and Wales, Scotland and Northern Ireland—
  - ... <sup>F16</sup>
  - section 47(2);
  - section 49;
  - section 50;
  - section 64 (including Schedule 10);
  - section 68(2) (including Schedule 13);
  - [<sup>F17</sup>section 75;]
  - 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 <sup>M13</sup>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 <sup>M14</sup>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.

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- (10) Section 78 above, so far as it relates to any enactment contained in—
- (a) the <sup>M15</sup>Army Act 1955;
  - (b) the <sup>M16</sup>Air Force Act 1955;
  - (c) the <sup>M17</sup>Naval Discipline Act 1957; or
  - (d) the <sup>M18</sup>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 <sup>M19</sup>Criminal Law Act 1977;
  - (b) sections 32 and 143 of the <sup>M20</sup>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.
- <sup>F18</sup>(13) . . . . .
- (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 <sup>M21</sup>Criminal Justice Act 1961.

**Subordinate Legislation Made**

**P1** S. 81: power previously exercised by S.I. 1983/1897, 1983/1898, 1984/1690, 1986/1884

**Textual Amendments**

- F13** Words repealed by Airports Act 1986 (c. 31, SIF 9), s. 83(5), **Sch. 6 Pt. I**
- F14** Words repealed by S.I. 1984/703 (N.I. 3), art. 19(1)(2), **Sch. 6 para. 29(a)**, Sch. 1
- F15** S. 81(4A) inserted by S.I. 1984/703 (N.I. 3), art. 19(1), **Sch. 6 para. 29(b)**
- F16** Words repealed by Airports Act 1986 (c. 31, SIF 9), s. 83(5), **Sch. 6**
- F17** Words inserted by S.I. 1984/703 (N.I. 3), art. 19(1), **Sch. 6 para. 29(c)**
- F18** S. 81(13) repealed (1.1.1996) by 1995 c. 21, ss. 314(1), 316(2), **Sch.12** (with s. 312(1), Sch. 14 para. 1)

**Marginal Citations**

- M13** 1981 c. 22.
- M14** 1899 c. 19.
- M15** 1955 c. 18.
- M16** 1955 c. 19.
- M17** 1957 c. 53.

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**M18** 1976 c. 52.

**M19** 1977 c. 45.

**M20** 1980 c. 43.

**M21** 1961 c. 39.

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