

*Status: Point in time view as at 28/03/2011.*

*Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1

. . . F1

#### Textual Amendments

**F1** Sch. 1, Sch. 15 paras. 95, 96 repealed by Extradition Act 1989 (c. 33, SIF 48), s. 37, **Sch. 2**

### <sup>F2F2</sup>SCHEDULE 2

#### Textual Amendments

**F2** Sch. 2 repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 136(a), 332, 336, **Sch. 37 Pt. 6**; S.I. 2005/950, **art. 2(1)**, Sch. 1 paras. 6, 27, 44(3) (subject to art. 2(2), Sch. 2 (as amended by S.I. 2005/2122, art. 2))

### SCHEDULE 3

Section 36.

#### REVIEWS OF SENTENCING—SUPPLEMENTARY

- 1 Notice of an application for leave to refer a case to the Court of Appeal under section 36 above shall be given within 28 days from the day on which the sentence, or the last of the sentences, in the case was passed.

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

**C1** Sch. 3 para. 1 modified (25.8.2000) by 2000 c. 6, ss. 155(6)(b)(8), 168(1), Sch. 10 paras. 11, **19**  
Sch. 3 para. 1 modified (E.W.) (24.3.2003) by 2002 c. 29, **ss. 15(5)(b)**, 458(1)  
Sch. 3 para. 1 modified (N.I.) (24.3.2003) by 2002 c. 29, **ss. 165(5)(b)**, 458(1)

- 2 If the registrar of criminal appeals is given notice of a reference or application to the Court of Appeal under section 36 above, he shall—
- take all necessary steps for obtaining a hearing of the reference or application; and
  - obtain and lay before the Court in proper form all documents, exhibits and other things which appear necessary for the proper determination of the reference or application.

*Status: Point in time view as at 28/03/2011.*

*Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

3 Rules of court may enable a person to whose sentencing such a reference or application relates to obtain from the registrar any documents or things, including copies or reproductions of documents, required for the reference or application and may authorise the registrar to make charges for them in accordance with scales and rates fixed from time to time by the Treasury.

4 An application to the Court of Appeal for leave to refer a case to the [<sup>F5</sup>Supreme Court] under section 36(5) above shall be made within the period of 14 days beginning with the date on which the Court of Appeal conclude their review of the case; and an application to the [<sup>F5</sup>Supreme Court] for leave shall be made within the period of 14 days beginning with the date on which the Court of Appeal conclude their review or refuse leave to refer the case to the [<sup>F5</sup>Supreme Court] .

**Textual Amendments**

**F5** Words in [Sch. 3 para. 4](#) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 48\(3\)\(a\)](#); S.I. 2009/1604, [art. 2](#)

5 The time during which a person whose case has been referred for review under section 36 above is in custody pending its review and pending any reference to the [<sup>F6</sup>Supreme Court] under subsection (5) of that section shall be reckoned as part of the term of any sentence to which he is for the time being subject.

**Textual Amendments**

**F6** Words in [Sch. 3 para. 5](#) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 48\(3\)\(a\)](#); S.I. 2009/1604, [art. 2](#)

6 Except as provided by paragraphs 7 and 8 below, a person whose sentencing is the subject of a reference to the Court of Appeal under section 36 above shall be entitled to be present, if he wishes it, on the hearing of the reference, although he may be in custody.

7 A person in custody shall not be entitled to be present—  
 (a) on an application by the Attorney General for leave to refer a case; or  
 (b) on any proceedings preliminary or incidental to a reference,  
 unless the Court of Appeal give him leave to be present.

8 The power of the Court of Appeal to pass sentence on a person may be exercised although he is not present.

9 A person whose sentencing is the subject of a reference to [<sup>F7</sup>the Supreme Court] under section 36(5) above and who is detained pending the hearing of that reference shall not be entitled to be present on the hearing of the reference or of any proceeding preliminary or incidental thereto except where an order of [<sup>F7</sup>the Supreme Court] authorises him to be present, or where the House or the Court of Appeal, as the case may be, give him leave to be present.

**Textual Amendments**

**F7** Words in [Sch. 3 para. 9](#) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 48\(3\)\(b\)](#); S.I. 2009/1604, [art. 2](#)

*Status: Point in time view as at 28/03/2011.*

*Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- 10 The term of any sentence passed by the Court of Appeal or [<sup>F8</sup>Supreme Court] under section 36 above shall, unless they otherwise direct, begin to run from the time when it would have begun to run if passed in the proceeding in relation to which the reference was made.

**Textual Amendments**

- F8** Words in Sch. 3 para. 10 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, {Sch. 9 para. 48(3)c)}; S.I. 2009/1604, art. 2

- 11 Where on a reference to the Court of Appeal under section 36 above or a reference to the [<sup>F9</sup>the Supreme Court] under subsection (5) of that section the person whose sentencing is the subject of the reference appears by counsel for the purpose of presenting any argument to [<sup>F10</sup>the Court of Appeal or the Supreme Court], he shall be entitled to his costs, that is to say to the payment out of central funds of such funds as are reasonably sufficient to compensate him for expenses properly incurred by him for the purpose of being represented on the reference; and any amount recoverable under this paragraph shall be ascertained, as soon as practicable, by the registrar of criminal appeals or, as the case may be, [<sup>F11</sup>under Supreme Court Rules].

**Textual Amendments**

- F9** Words in Sch. 3 para. 11 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, Sch. 9 para. 48(3)(d)(i); S.I. 2009/1604, art. 2
- F10** Words in Sch. 3 para. 11 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, Sch. 9 para. 48(3)(d)(ii); S.I. 2009/1604, art. 2
- F11** Words in Sch. 3 para. 11 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, Sch. 9 para. 48(3)(d)(iii); S.I. 2009/1604, art. 2

- 12 In the application of this Schedule to Northern Ireland—
- (a) any reference to the Attorney General shall be construed as a reference to the Attorney General for Northern Ireland;
  - (b) any reference (except in paragraph 11) to the registrar of criminal appeals shall be construed as a reference to the Master (Queen's Bench and Appeals);
  - (c) the reference in paragraph 11 to central funds shall be construed as a reference to money provided by Parliament;
  - (d) the reference in paragraph 11 to the registrar of criminal appeals shall be construed as a reference to the Master (Taxing Office).

*Status: Point in time view as at 28/03/2011.*

*Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## [<sup>F12</sup>SCHEDULE 4

Section 71.

### CONFISCATION ORDERS

#### Textual Amendments

**F12** Sch. 4 repealed (24.3.2003) by 2002 c. 29, ss. 456, 457, 458, Sch. 11 para. 17(2)(b), **Sch. 12**; S.I. 2003/333, {art. 2(1)} (as amended by S.I. 2003/531)

## <sup>F13F13</sup>PART I

### OFFENCES IN RESPECT OF WHICH MAGISTRATES' COURTS MAY MAKE CONFISCATION ORDERS

#### Textual Amendments

**F13** Sch. 4 repealed (24.3.2003) by 2002 c. 29, ss. 456, 457, 458, Sch. 11 para. 17(2)(b), **Sch. 12**; S.I. 2003/333, {art. 2(1)}

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

**C2** Sch. 4 Pt. I amended by S.I. 1990/1570, **art. 2**  
Sch. 4 Pt. I amended (1.1.1996) by S.I. 1995/3145, **art. 2**  
Sch. 4 Pt. I amended (1.8.1996) by S.I. 1996/1716, **arts.2, 4**

<sup>F13</sup>  
.....

## <sup>F14F14</sup>PART II

### ORDERS VARYING LIST OF OFFENCES]

.....

#### Textual Amendments

**F14** Sch. 4 repealed (24.3.2003) by 2002 c. 29, ss. 456, 457, 458, Sch. 11 para. 17(2)(b), **Sch. 12**; S.I. 2003/333, {art. 2(1)}

## <sup>F15F15</sup>SCHEDULE 5

.....

#### Textual Amendments

**F15** Sch. 5 repealed (21.7.2008) by Statute Law (Repeals) Act 2008 (c. 12), s. 1(1), **Sch. 1 Pt. 3**

*Status: Point in time view as at 28/03/2011.*

*Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## [<sup>F18</sup>SCHEDULE 6]

### Textual Amendments

**F18** Sch. 6 repealed (8.11.1995) by 1995 c. 53, s. 12(1)(7), Sch.

## [<sup>F19</sup>SCHEDULE 7]

### Textual Amendments

**F19** Sch. 7 repealed (8.11.1995) by 1995 c. 53, s. 12(1)(7), Sch.

## SCHEDULE 8

Section 123.

### CUSTODIAL SENTENCES FOR YOUNG OFFENDERS

#### PART I

#### AMENDMENTS

##### *General*

- 1 In any enactment for a reference to a detention centre or to a youth custody centre or to both there shall be substituted a reference to a young offender institution.
- 2 In any enactment except—
  - (a) section 21 of the <sup>M6</sup>Firearms Act 1968;
  - (b) Schedule 1 to the <sup>M7</sup>Juries Act 1974;
  - (c) section 5 of the <sup>M8</sup>Rehabilitation of Offenders Act 1974; and
  - (d) section 17(3) of the <sup>M9</sup>Criminal Justice Act 1982,for a reference (however expressed) to a detention centre order or to a sentence of youth custody or to both there shall be substituted a reference to a sentence of detention in a young offender institution.

### Marginal Citations

**M6** 1968 c. 27.  
**M7** 1974 c. 23.  
**M8** 1974 c. 53.  
**M9** 1982 c. 48.

- 3 (1) In any enactment except—

*Status: Point in time view as at 28/03/2011.*

*Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) Part II of Schedule 1 to the <sup>M10</sup>Juries Act 1974;
- (b) section 5 of the <sup>M11</sup>Rehabilitation of Offenders Act 1974; and
- (c) sections <sup>F20</sup> . . . 17(3) of the <sup>M12</sup>Criminal Justice Act 1982,

for a reference to a sentence of Borstal training there shall be substituted a reference to a sentence of detention in a young offender institution.

- (2) In any enactment for a reference to a Borstal institution there shall be substituted a reference to a young offender institution.

**Textual Amendments**

**F20** Words in Sch. 8 para. 3(1)(c) 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.

**Marginal Citations**

**M10** 1974 c. 23.  
**M11** 1974 c. 53.  
**M12** 1982 c. 48.

*Army Act 1955 (c. 18)*

*Air Force Act 1955 (c. 19)*

*Naval Discipline Act 1957 (c. 53)*

- 4 In subsection (6) –
  - (a) of section 71AA of the Army Act 1955 and the Air Force Act 1955; and
  - (b) of section 43AA of the Naval Discipline Act 1957,
 (each of which is concerned with the making of custodial orders against young Service offenders) the following paragraph shall be substituted for paragraph (a)—
  - “(a) where the offender is in or removed to England or Wales, any institution in which a person sentenced to detention in a young offender institution could be detained, section 1C of the Criminal Justice Act 1982 having effect in relation to the offender as it has effect in relation to an offender sentenced to detention in a young offender institution;”
- 5 In sub-paragraph (6) of paragraph 10—
  - (a) of Schedule 5A to the Army Act 1955 and the Air Force Act 1955; and
  - (b) of Schedule 4A to the Naval Discipline Act 1957,
 (each of which is concerned with the making of custodial orders against young civilian offenders) the following paragraph shall be substituted for paragraph (a)—
  - “(a) where the offender is removed to England or Wales, any institution in which a person sentenced to detention in a young offender institution could be detained, section 1C of the Criminal Justice Act 1982 having effect in relation to the offender as it has effect in relation to an offender sentenced to detention in a young offender institution;”

*Status: Point in time view as at 28/03/2011.*

*Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

*Firearms Act 1968 (c. 27)*

- 6 In section 21(1) and (2) of the Firearms Act 1968 (possession of firearms by persons previously convicted of crime) after the words “youth custody” there shall be inserted the words “or detention in a young offender institution”.

*Employment Agencies Act 1973 (c. 35)*

- 7 In section 13(7)(a)(ii) of the <sup>M13</sup> Employment Agencies Act 1973 for the words from “prison” to “institution”, in the second place where it occurs, there shall be substituted the words “custodial sentence passed by a criminal court in the United Kingdom, the Channel Islands or the Isle of Man”.

**Marginal Citations**

**M13** 1973 c. 35.

*Juries Act 1974 (c. 23)*

- 8 <sup>F21</sup> .....

**Textual Amendments**

**F21** Sch. 8 para. 8 repealed (5.4.2004) by Criminal Justice Act 2003 (c. 44), ss. 332, 336, Sch. 37 Pt. 10; S.I. 2004/829, art. 2(2)(I)(iv) (subject to art. 2(3)-(6))

*Rehabilitation of Offenders Act 1974 (c. 53)*

- 9 In section 5 of the <sup>M14</sup> Rehabilitation of Offenders Act 1974 (rehabilitation periods) the words “detention in a young offender institution” shall be inserted—
- (a) in subsection (1)(b), after the words “youth custody”; and
  - (b) in subsection (2), in Table A, after the word “imprisonment”, in both places where it occurs.

**Marginal Citations**

**M14** 1974 c. 53.

*Criminal Justice Act 1982 (c. 48)*

- 10 The following paragraph shall be inserted after paragraph (b) of section 17(3) of the Criminal Justice Act 1982 (restrictions on making attendance centre orders)—
- “(bb) to detention in a young offender institution”.

*Status: Point in time view as at 28/03/2011.*

*Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F22F22 **PART II**

TRANSITIONAL PROVISIONS

**Textual Amendments**

**F22** Sch. 8 Pt. 2 repealed (21.7.2008) by Statute Law (Repeals) Act 2008 (c. 12), s. 1(1), Sch. 1 Pt. 3

11

F23

**Textual Amendments**

**F23** Sch. 8 Pt. 2 repealed (21.7.2008) by Statute Law (Repeals) Act 2008 (c. 12), s. 1(1), Sch. 1 Pt. 3

12

F24

**Textual Amendments**

**F24** Sch. 8 Pt. 2 repealed (21.7.2008) by Statute Law (Repeals) Act 2008 (c. 12), s. 1(1), Sch. 1 Pt. 3

13

F25

**Textual Amendments**

**F25** Sch. 8 Pt. 2 repealed (21.7.2008) by Statute Law (Repeals) Act 2008 (c. 12), s. 1(1), Sch. 1 Pt. 3

14

F26

**Textual Amendments**

**F26** Sch. 8 Pt. 2 repealed (21.7.2008) by Statute Law (Repeals) Act 2008 (c. 12), s. 1(1), Sch. 1 Pt. 3

15

F27

**Textual Amendments**

**F27** Sch. 8 Pt. 2 repealed (21.7.2008) by Statute Law (Repeals) Act 2008 (c. 12), s. 1(1), Sch. 1 Pt. 3



*Status: Point in time view as at 28/03/2011.*

*Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

16

F28

**Textual Amendments**

**F28** Sch. 8 Pt. 2 repealed (21.7.2008) by Statute Law (Repeals) Act 2008 (c. 12), s. 1(1), Sch. 1 Pt. 3

SCHEDULE 9

Section 124.

DETENTION OF YOUNG OFFENDERS IN SCOTLAND

PART I

AMENDMENTS

1

F29

**Textual Amendments**

**F29** Sch. 9 para. 1 repealed by Prisons (Scotland) Act 1989 (c. 45, SIF 39:1), s. 45(2), Sch. 3

*Army Act 1955 (c. 18)*

*Air Force Act 1955 (c. 19)*

*Naval Discipline Act 1957 (c. 53)*

2

In subsection (6)—

- (a) of section 71AA of the Army Act 1955 and the Air Force Act 1955; and
- (b) of section 43AA of the Naval Discipline Act 1957,

(each of which is concerned with the making of custodial orders against young Service offenders) the following paragraph shall be substituted for paragraph (b)—

“(b) where the offender is in or removed to Scotland, a young offenders institution;”.

3

In sub-paragraph (6) of paragraph 10—

- (a) of Schedule 5A to the Army Act 1955 and the Air Force Act 1955; and
- (b) of Schedule 4A to the Naval Discipline Act 1957,

(each of which is concerned with the making of custodial orders against young civilian offenders) the following paragraph shall be substituted for paragraph (b)—

“(b) where the offender is removed to Scotland, a young offenders institution;”.

*Status: Point in time view as at 28/03/2011.*

*Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

*Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55)*

- 4 In paragraph (b) of Part II (Persons Disqualified) of Schedule I to the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 in sub-paragraph (i) for the words “or detention” there shall be substituted the words “detention or youth custody”.

*Criminal Justice (Scotland) Act 1980 (c. 62)*

- 5 In section 41(2)(b)(ii) of the Criminal Justice (Scotland) Act 1980 after the words “detention in a” there shall be inserted the words “young offender institution or.”.

## PART II

### TRANSITIONAL PROVISIONS

- 6 An Offender who was ordered to be detained in a detention centre on a date before the commencement of section 124(1) of this Act shall, if the order has not expired at the commencement of that section, be treated for all purposes of detention, release and supervision as if he had been sentenced to detention for the like term in a young offenders institution.

- 7 A person who at the commencement of section 124 of this Act is detained in a detention centre by virtue of a custodial order—

- (a) under section 71 AA of the <sup>M15</sup> Army Act 1955, section 71AA of the <sup>M16</sup> Air Force Act 1955 or section 43AA of the Naval Discipline Act 1957; or
- (b) under paragraph 10 of Schedule 5A to the Army Act 1955, Schedule 5A to the Air Force Act 1955 or Schedule 4A to the <sup>M17</sup> Naval Discipline Act 1957,

shall be detained in such young offenders institution as the Secretary of State may direct, and any enactment applying to persons detained in young offenders institutions shall apply to a person so detained under this paragraph.

**Marginal Citations**

- M15** 1955 c. 18.  
**M16** 1955 c. 19.  
**M17** 1957 c. 53

- 8 Section 5 of the <sup>M18</sup> Rehabilitation of Offenders Act 1974 (rehabilitation periods) shall continue to apply as regards any person who, before the commencement of section 124(1) of this Act, had served a sentence of detention in a detention centre as if the said section 124(1) had not been commenced.

**Marginal Citations**

- M18** 1974 c. 53.

*Status: Point in time view as at 28/03/2011.*

*Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F30 SCHEDULE 10

Textual Amendments

F30 Sch. 10 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

F36 SCHEDULE 11

Textual Amendments

F36 Sch. 11 repealed (5.2.1994) by 1993 c. 47, ss. 32, 33(3), Sch. 4 (Sch. 11 para. 8 expressed to be repealed (11.9.1998) by 1998 c. 18, ss. 54(3), 55(2), Sch. 5).

SCHEDULE 12

Section 133.

ASSESSORS OF COMPENSATION FOR MISCARRIAGES OF JUSTICE

- 1 A person may only be appointed to be an assessor for the purposes of section 133 above if he is—
- [F37(a) a person who has a 7 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;
  - (b) an advocate or solicitor in Scotland;
  - (c) a member of the Bar of Northern Ireland or [F38solicitor of the Court of Judicature of Northern Ireland] of at least 7 years' standing;
  - (d) a person who holds or has held judicial office in any part of the United Kingdom; or
  - (e) a member (whether the chairman or not) of the Criminal Injuries Compensation Board.

Textual Amendments

F37 Sch. 12 para. 1(a)–(c) substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 71(2), Sch. 10, para. 72(1)

F38 Words in Sch. 12 para. 2 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59, 148, Sch. 11 para. 5; S.I. 2009/1604, art. 2(d)

- 2 A person shall hold and vacate office as an assessor in accordance with the terms of his appointment.
- 3 A person shall vacate office as an assessor—
- (a) if he ceases to be qualified for appointment as an assessor; or
  - (b) on attaining the age of 72;

*Status: Point in time view as at 28/03/2011.*

*Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

unless the Secretary of State considers that it is in the interests of the efficient operation of section 133 above that he should continue to hold office.

4 A person may at any time resign his office as an assessor by giving the Secretary of State notice in writing to that effect.

5 Subject to paragraph 6 below, the Secretary of State may at any time remove a person from office as an assessor if satisfied that—

- (a) he has been convicted of a criminal offence;
- (b) he has become bankrupt or has had his estate sequestrated or has made an arrangement with, or granted a trust deed for, his creditors;
- (c) he is incapacitated by physical or mental illness; or
- (d) he is otherwise unable or unfit to perform his duties.

[<sup>F396</sup> (1) The exercise of the power conferred by paragraph 5 is subject to the following provisions of this paragraph.

(2) In the case of a person who qualifies for appointment under—

- (a) paragraph (1)(a), or
- (b) paragraph (1)(d) by virtue of holding or having held judicial office in England and Wales,

that power shall only be exercisable with the consent of the Lord Chancellor, which may only be given with the concurrence of the Lord Chief Justice of England and Wales.

(3) In the case of a person who qualifies for appointment under—

- (a) paragraph (1)(b), or
- (b) paragraph (1)(d) by virtue of holding or having held judicial office in Scotland,

that power shall only be exercisable with the consent of the Lord President of the Court of Session.

(4) In the case of a person who qualifies for appointment under—

- (a) paragraph (1)(c), or
- (b) paragraph (1)(d) by virtue of holding or having held judicial office in Northern Ireland,

that power shall only be exercisable with the consent of the Lord Chancellor, which may only be given with the concurrence of the Lord Chief Justice of Northern Ireland.]

#### Textual Amendments

**F39** Sch. 12 para. 6 substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15(1), 148(1), [Sch. 4 para. 196](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 paras. 10, 11(r)

7 An assessor shall be paid such remuneration and allowances as the Secretary of State may, with the approval of the Treasury, determine.

*Status: Point in time view as at 28/03/2011.*

*Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULE 13

Section 146.

### EVIDENCE BEFORE [F40SERVICE COURTS].

#### Textual Amendments

- F40** Sch. 13: words in title substituted (28.3.2009 for certain purposes and 31.10.2009 insofar as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 16 para. 115\(2\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

#### Interpretation

- 1 In this Schedule—
- “procedural instruments” means—
- [F41(a) Court Martial rules within the meaning of the [Armed Forces Act 2006](#);
- (b) SCC rules within the meaning of that Act; and
- (c) rules under section 49 of the [Court Martial Appeals Act 1968](#);
- “Service courts” means—
- [F42(a) the [Court Martial](#);
- (b) the [Service Civilian Court](#); and
- (c) the [Court Martial Appeal Court](#).]

#### Textual Amendments

- F41** Words in [Sch. 13 para. 1](#) substituted (28.3.2009 for certain purposes and 31.10.2009 insofar as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 16 para. 115\(3\)\(a\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F42** Words in [Sch. 13 para. 1](#) substituted (28.3.2009 for certain purposes and 31.10.2009 insofar as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 16 para. 115\(3\)\(b\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

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

- C3** [Sch. 13 para. 1](#) applied (2.10.2000) by S.I. 2000/2372, [Rule 27\(1\)\(e\)](#)  
[Sch. 13 para. 1](#) applied (2.10.2000) by S.I. 2000/2370, [Rule 27\(1\)\(f\)](#)

#### First-hand hearsay

- 2 [F43 .....

#### Textual Amendments

- F43** [Sch. 13 para. 2](#) repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 136(b), 332, 336, [Sch. 37 Pt. 6](#); S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 paras. 6, 27, 44\(3\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#) (as amended by S.I. 2005/2122, [art. 2](#)))

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

- C4** [Sch. 13 para. 2](#) applied (2.10.2000) by S.I. 2000/2372, [Rule 27\(1\)\(e\)](#)  
[Sch. 13 para. 2](#) applied by S.I. 2000/2370, [Rule 27\(1\)\(f\)](#)

*Status: Point in time view as at 28/03/2011.*

*Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Documentary evidence

3 F44 .....

#### Textual Amendments

**F44** Sch. 13 para. 3 repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 136(b), 332, 336, **Sch. 37 Pt. 6**; S.I. 2005/950, **art. 2(1)**, Sch. 1 paras. 6, 27, 44(3) (subject to art. 2(2), Sch. 2 (as amended by S.I. 2005/2122, art. 2))

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

**C5** Sch. 13 para. 3 applied (2.10.2000) by S.I. 2000/2372, **Rule 27(1)(e)**  
Sch. 13 para. 3 applied (2.10.2000) by S.I. 2000/2370, **Rule 27(1)(f)**

4 F45 .....

#### Textual Amendments

**F45** Sch. 13 para. 4 repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 136(b), 332, 336, **Sch. 37 Pt. 6**; S.I. 2005/950, **art. 2(1)**, Sch. 1 paras. 6, 27, 44(3) (subject to art. 2(2), Sch. 2 (as amended by S.I. 2005/2122, art. 2))

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

**C6** Sch. 13 para. 4 applied (2.10.2000) by S.I. 2000/2372, **Rule 27(1)(e)**  
Sch. 13 para. 4 applied (2.10.2000) by S.I. 2000/2370, **Rule 27(1)(f)**

5 F46 .....

#### Textual Amendments

**F46** Sch. 13 para. 5 repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 136(b), 332, 336, **Sch. 37 Pt. 6**; S.I. 2005/950, **art. 2(1)**, Sch. 1 paras. 6, 27, 44(3) (subject to art. 2(2), Sch. 2 (as amended by S.I. 2005/2122, art. 2))

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

**C7** Sch. 13 para. 5 applied (2.10.2000) by S.I. 2000/2372, **Rule 27(1)(e)**  
Sch. 13 para. 5 applied (2.10.2000) by S.I. 2000/2370, **Rule 27(1)(f)**

### Letters of request etc.

- 6 (1) [<sup>F47</sup>No application shall be made under [<sup>F48</sup>section 7 of the Crime (International Co-operation) Act 2003] in relation to any offence which is or is to be the subject of proceedings before a Service court], but the Secretary of State may by order make provision as to [<sup>F49</sup>requests for assistance in obtaining outside the United Kingdom evidence] for such proceedings.
- (2) An order under this paragraph may make different provision for different classes of case.
- (3) The power to make an order under this paragraph shall be exercisable by statutory instrument and a statutory instrument containing any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*Status: Point in time view as at 28/03/2011.*

*Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (4) Without prejudice to the generality of any enactment conferring power to make procedural instruments, procedural instruments may make such provision as appears to the authority making them to be necessary or expedient in relation to [<sup>F50</sup> requests for assistance in obtaining evidence] for proceedings before a Service court.

**Textual Amendments**

- F47** Words in Sch. 13 para. 6(1) substituted (10.6.1991) by Criminal Justice (International Co-operation) Act 1990 (c. 5, SIF 39:1), s. 31(1), **Sch. 4 para. 6(3)**; S.I. 1991/1072, art. 2(a), **Schedule Pt. I**
- F48** Words in Sch. 13 para. 6(1) substituted (26.4.2004) by Crime (International Co-operation) Act 2003 (c. 32), ss. 91, 94, **Sch. 5 para. 16(a)(i)**; S.I. 2004/786, **art. 3(2)** (with S.I. 2004/787, art. 3(3))
- F49** Words in Sch. 13 para. 6(1) substituted (26.4.2004) by Crime (International Co-operation) Act 2003 (c. 32), ss. 91, 94, **Sch. 5 para. 16(a)(ii)**; S.I. 2004/786, **art. 3(2)** (with S.I. 2004/787, art. 3(3))
- F50** Words in Sch. 13 para. 6(4) substituted (26.4.2004) by Crime (International Co-operation) Act 2003 (c. 32), ss. 91, 94, **Sch. 5 para. 16(b)**; S.I. 2004/786, **art. 3(2)** (with S.I. 2004/787, art. 3(3))

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

- C8** Sch. 13 para. 6 applied (2.10.2000) by S.I. 2000/2372, **Rule 27(1)(e)**  
Sch. 13 para. 6 applied (2.10.2000) by S.I. 2000/2370, **Rule 27(1)(f)**

*Form of evidence and glossaries*

7 <sup>F51</sup> .....

**Textual Amendments**

- F51** Sch. 13 para. 7 repealed (28.3.2009 for certain purposes and otherwise prosp.) by Armed Forces Act 2006 (c. 52), ss. 378, 383, Sch. 16 para. 115(4), **Sch. 17**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059)

*Use of television links*

- 8 (1) The Secretary of State may by order direct that section 32(1) to (3) above shall have effect in relation—
- (a) to proceedings before Service courts; or
  - (b) to proceedings or proceedings of specified descriptions before Service courts in specified places.
- (2) If an order is made under this paragraph—
- (a) subsection (1) of section 32 above shall have effect in relation to any court to which the order applies with the substitution of the following paragraph for paragraph (a)—
    - “(a) the witness is not in the country where the court is sitting;  
or”
  - (b) <sup>F52</sup> .....
- (3) An order under this paragraph may provide that section 32(1), <sup>F53</sup> . . . or (3) above shall have effect in relation to any court to which the order applies subject to such

*Status: Point in time view as at 28/03/2011.*

*Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

modifications as may be specified in the order, in addition to the modifications for which sub-paragraph (2) above provides.

- (4) The power to make an order conferred by this paragraph shall be exercisable by statutory instrument and a statutory instrument containing any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Without prejudice to the generality of any enactment conferring power to make procedural instruments, procedural instruments may make such provision as appears to the authority making them to be necessary or expedient for the purposes of section 32(1) to (3) above in their application to proceedings such as are mentioned in sub-paragraph (1) above by virtue of an order under that sub-paragraph.
- (6) In this paragraph “modifications” includes additions, omissions and amendments.

**Textual Amendments**

- F52** Sch. 13 para. 8(2)(b) and word preceding it repealed (6.12.2006) by 1999 c. 23, ss. 67, 68(3), Sch. 6 (with Sch. 7 para. 5(2)); S.I. 2006/2885, **art. 2(b)(vii)(cc)**
- F53** Word in Sch. 13 para. 8(3) repealed (6.12.2006) by 1999 c. 23, ss. 67, 68(3), Sch.6 (with Sch. 7 para. 5(2)); S.I. 2006/2885, **art. 2(b)(vii)(cc)**

*F54 Video recordings of evidence*

**Textual Amendments**

- F54** Sch. 13 paras. 9, 10 added (1.10.1996) by 1996 c. 46, s.7; S.I. 1996/2474, **art.2.**

9                    F55 ..... ]

**Textual Amendments**

- F55** Sch. 13 para. 9 repealed (28.3.2009 for certain purposes and otherwise prosp.) by **Armed Forces Act 2006** (c. 52), ss. 378, 383, Sch. 16 para. 115(4), **Sch. 17**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059)

*F56 Cross -examination of children*

**Textual Amendments**

- F56** Sch. 13 paras. 9, 10 added (1.10.1996) by 1996 c. 46, s.7; S.I. 1996/2474, **art.2.**

10                    F57 .....

**Textual Amendments**

- F57** Sch. 13 para. 10 repealed (28.3.2009 for certain purposes and otherwise prosp.) by **Armed Forces Act 2006** (c. 52), ss. 378, 383, Sch. 16 para. 115(4), **Sch. 17**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059)



*Status: Point in time view as at 28/03/2011.*

**Changes to legislation:** *Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

<sup>F58</sup>SCHEDULE 14

**Textual Amendments**

**F58** Sch. 14 repealed by S.I. 1989/1341 (N.I. 12), art. 90(2), Sch. 7 Pt. I

SCHEDULE 15

Section 170.

MINOR AND CONSEQUENTIAL AMENDMENTS

*Criminal Law Act 1826 (c. 64)*

- 1 Section 30 of the Criminal Law Act 1826 (which enables a court to order payment of compensation to relatives of a man killed in endeavouring to make an arrest) shall cease to have effect.

*Offences against the Person Act 1861 (c. 100)*

- 2 The Offences against the Person Act 1861 shall be amended as follows.
- 3 There shall be omitted from section 44 (certificates as to cases of assault or battery) the word "such", in the first place where it occurs, and the words "under either of the last two preceding sections,".
- 4 In section 45 (bars to further proceedings) for the words "in either of the last three preceding sections mentioned" there shall be substituted the words "is mentioned in section 44 of this Act".

*Bankruptcy Act 1914 (c. 59)*

- 5 Section 28 of the Bankruptcy Act 1914 (effect of order of discharge) shall have effect as if amounts payable under confiscation orders were debts excepted under subsection (1)(a) of that section.

*Land Registration Act 1925 (c. 21)*

- 6 <sup>F59</sup> .....

**Textual Amendments**

**F59** Sch. 15 para. 6 repealed (13.10.2003) by 2002 c. 9, ss. 135, 136, Sch. 13 (with s. 129, Sch. 12 para. 1); S.I. 2003/1725, art. 2(1) (subject to art. 2(2))

- 7 <sup>F60</sup> .....

*Status: Point in time view as at 28/03/2011.*

*Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Textual Amendments

**F60** Sch. 15 para. 7 repealed (13.10.2003) by 2002 c. 9, ss. 135, 136, Sch. 13 (with s. 129, Sch. 12 para. 1); S.I. 2003/1725, art. 2(1) (subject to art. 2(2))

### *Children and Young Persons Act 1933 (c. 12)*

8 In Schedule 1 to the Children and Young Persons Act 1933 (offences against children and young persons with respect to which special provisions of the Act apply) after the third paragraph there shall be inserted the following paragraph—

“Common assault, or battery.”.

9 References in that Act to the offences mentioned in Schedule 1 to the Act shall include offences under Part I of the <sup>M25</sup>Child Abduction Act 1984.

### Marginal Citations

**M25** 1984 c. 37.

### *Administration of Justice (Miscellaneous Provisions) Act 1933 (c. 36)*

10 The following paragraph shall be substituted for paragraph (iA) of the proviso to subsection (2) of section 2 of the Administration of Justice (Miscellaneous Provisions) Act 1933 (procedures for indictment of offenders)—

“(iA) in a case to which paragraph (aa) above applies, the bill of indictment may include, either in substitution for or in addition to any count charging an offence specified in the notice of transfer, any counts founded on material that accompanied the copy of that notice which, in pursuance of regulations under section 5(9) of the Criminal Justice Act 1987, was given to the person charged, being counts which may lawfully be joined in the same indictment;”.

### *Prison Act 1952 (c. 52)*

11 The following paragraph shall be inserted after paragraph (a) of subsection (1) of section 43 of the Prison Act 1952—

“(aa) young offender institutions, that is to say places for the detention of offenders sentenced to detention in a young offender institution;”.

12 In subsection (3) of that section, for the word “or” there shall be substituted the words “and a person aged 17 years or over may be detained in such a centre”.

### *Visiting Forces Act 1952 (c. 67)*

13 In section 5 of the Visiting Forces Act 1952 (custody of offenders against United Kingdom law)—

(a) for each of the references in subsections (2) and (4) to section 43 of the Magistrates’ <sup>M26</sup>Courts Act 1980 there shall be substituted references to Part IV of the Police and Criminal <sup>M27</sup>Evidence Act 1984; and

*Status: Point in time view as at 28/03/2011.*

*Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) the following subsection shall be substituted for subsection (3)—

“(3) In the application of subsection (2) of this section to Scotland,—

- (a) for the first reference to Part IV of the Police and Criminal Evidence Act 1984 there shall be substituted a reference to section 32(3) of the Criminal Procedure (Scotland) Act 1975; and
- (b) for the words “in accordance with the said Part IV, be released on bail or” there shall be substituted the words “if not liberated under section 294(2) of that Act, be”.

**Marginal Citations**

**M26** 1980 c. 43.

**M27** 1984 c. 60.

14 (1) In subsection (1) of section 12 of that Act, in the definition of “visiting force”, after the words “United Kingdom”, in the first place where they occur, there shall be inserted the words “(including United Kingdom territorial waters), or in any place to which subsection (1A) below applies,”.

(2) The following subsection shall be inserted after that subsection—

“(1A) This subsection applies to any place on, under or above an installation in a designated area within the meaning of section 1(7) of the Continental Shelf Act 1964 or any waters within 500 metres of such an installation.”.

15 —In paragraphs 1(a) and 2(a) of the Schedule, after the word “rape,” there shall be inserted the word “ , torture”.

*Backing of Warrants (Republic of Ireland) Act 1965 (c. 45)*

16 In paragraph 4 of the Schedule to the Backing of Warrants (Republic of Ireland) Act 1965 (powers as to costs and legal aid) for the words from “section 1” to “central funds)” there shall be substituted the words “sections 16(1) and 17(1) of the <sup>M28</sup>Prosecution of Offences Act 1985”.

**Marginal Citations**

**M28** 1985 c. 23.

*Criminal Justice Act 1967 (c. 80)*

17 The Criminal Justice Act 1967 shall be amended as follows.

[<sup>F61</sup>18 In section 62—

- (a) in subsection (10) (subsequent release of prisoner whose licence has been revoked) for the words “one year” there shall be substituted the words “the specified period”; and
- (b) the following subsection shall be inserted after that subsection—

“(10A) In subsection (10) above “the specified period” has the same meaning as in section 60(1) above.”.]

*Status: Point in time view as at 28/03/2011.*

*Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

**F61** Sch. 15 para. 18 repealed (S.) by Prisons (Scotland) Act 1989 (c. 45, SIF 39:1), s. 45(2), Sch. 3

- 19 In subsection (6) of section 67 (computation of sentences) for “(1)” there shall be substituted “(1A)”.

#### *Criminal Appeal Act 1968 (c. 19)*

- 20 The Criminal Appeal Act 1968 shall be amended as follows.
- 21 Section 9 shall be renumbered so as to become section 9(1); and at the end of the resulting subsection (1) there shall be added the following subsection—
- “(2) A person who on conviction on indictment has also been convicted of a summary offence under section 41 of the Criminal Justice Act 1988 (power of Crown Court to deal with summary offence where person committed for either way offence) may appeal to the Court of Appeal against any sentence passed on him for the summary offence (whether on his conviction or in subsequent proceedings) under subsection (7) of that section.”

- 22 <sup>F62</sup>(1) . . . . .

- (2) In subsection (4) of that section, after the word “section” there shall be inserted the words “and section 11 of this Act”.

#### Textual Amendments

**F62** Sch. 15 para. 22(1) 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.

- 23 (1) In subsection (2) of section 11 (supplementary provisions as to appeal against sentence) after “9” there shall be inserted “(1)”.

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

“(2A) Where following conviction on indictment a person has been convicted under section 41 of the Criminal Justice Act 1988 of a summary offence an appeal or application for leave to appeal against any sentence for the offence triable either way shall be treated also as an appeal or application in respect of any sentence for the summary offence and an appeal or application for leave to appeal against any sentence for the summary offence shall be treated also as an appeal or application in respect of the offence triable either way.

“(2B) If the appellant or applicant was convicted on indictment of two or more offences triable either way, the references to the offence triable either way in subsection (2A) above are to be construed, in relation to any summary offence of which he was convicted under section 41 of the Criminal Justice Act 1988 following the conviction on indictment, as references to the offence triable either way specified in the notice relating to that summary offence which was given under subsection (2) of that section.”

- 24 The following subsection shall be substituted for subsection (4) of that section—

*Status: Point in time view as at 28/03/2011.*

*Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

“(4) The power of the Court of Appeal under subsection (3) of this section to pass a sentence which the court below had power to pass for an offence shall, notwithstanding that the court below made no order under section 23(1) of the Powers of Criminal Courts Act 1973 or section 47(4) of the Criminal Law Act 1977 in respect of a suspended or partly suspended sentence previously passed on the appellant for another offence, include power to deal with him in respect of that sentence where the court below made no order in respect of it.”.

25 The following section shall be inserted after section 18—

**“18A Appeals in cases of contempt of court.**

- (1) A person who wishes to appeal under section 13 of the Administration of Justice Act 1960 from any order or decision of the Crown Court in the exercise of jurisdiction to punish for contempt of court shall give notice of appeal in such manner as may be directed by rules of court.
- (2) Notice of appeal shall be given within twenty-eight days from the date of the order or decision appealed against.
- (3) The time for giving notice under this section may be extended, either before or after its expiry, by the Court of Appeal.”.

26 In subsection (1) of section 19 (bail)—

- (a) in paragraph (b), the words “or paragraph (a) above” shall be inserted after “1981”; and
- (b) in paragraph (c), the words “either of those paragraphs” shall be substituted for the words “that paragraph”.

27 In section 29(2)(b) (circumstances in which there may not be a direction that time spent in custody is not to be reckoned as part of any sentence) for the words “under section 1 of this Act” there shall be substituted the words “under—

- (i) section 1 or 11(1A) of this Act; or
- (ii) section 81(1B) of the Supreme Court Act 1981”.

28 The following section shall be substituted for section 30—

**“30 Restitution of property.**

- (1) The operation of an order for the restitution of property to a person made by the Crown Court shall, unless the Court direct to the contrary in any case in which, in their opinion, the title to the property is not in dispute, be suspended until (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of an appeal on which the order could be varied or set aside, and provision may be made by rules of court for the custody of any property in the meantime.
- (2) The Court of Appeal may by order annul or vary any order made by the court of trial for the restitution of property to any person, although the conviction is not quashed; and the order, if annulled, shall not take effect and, if varied, shall take effect as so varied.
- (3) Where the House of Lords restores a conviction, it may make any order for the restitution of property which the court of trial could have made.”

*Status: Point in time view as at 28/03/2011.*

*Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

29 The following shall be substituted for the words in section 31 from the beginning of subsection (1) to “powers” in subsection (2)—

“(1) There may be exercised by a single judge in the same manner as by the Court of Appeal and subject to the same provisions—

- (a) the powers of the Court of Appeal under this Part of this Act specified in subsection (2) below;
- (b) the power to give directions under section 4(4) of the Sexual Offences (Amendment) Act 1976; and
- (c) the powers to make orders for the payment of costs under sections 16 to 18 of the Prosecution of Offences Act 1985 in proceedings under this Part of this Act.

(2) The powers mentioned in subsection (1) (a) above”.

30 The following subsection shall be inserted after subsection (2A) of that section—

“(2B) The power of the Court of Appeal to grant leave to appeal under section 159 of the Criminal Justice Act 1988 may be exercised by a single judge in the same manner as it may be exercised by the Court”.

31 The following shall be substituted in the first subsection of section 44 for the words from the beginning to “judge”, in the first place where it occurs—

“(1) There may be exercised by a single judge—

- (a) the powers of the Court of Appeal under this Part of this Act—
  - (i) to extend the time for making an application for leave to appeal;
  - (ii) to make an order for or in relation to bail; and
  - (iii) to give leave for a person to be present at the hearing of any proceedings preliminary or incidental to an appeal; and
- (b) their powers to make orders for the payment of costs under sections 16 and 17 of the Prosecution of Offences Act 1985 in proceedings under this Part of this Act.”.

32 F63 .....

**Textual Amendments**  
**F63** Sch. 15 para. 32 repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 332, 336, Sch. 37 Pt. 6; S.I. 2005/950, art. 2(1), Sch. 1 paras. 27, 44(3) (subject to art. 2(2), Sch. 2 (as amended by S.I. 2005/2122, art. 2))

*Theft Act 1968 (c. 60)*

F64 33 .....

**Textual Amendments**  
**F64** Sch. 15 para. 33 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

*Status: Point in time view as at 28/03/2011.*

*Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

34 ..... F65

**Textual Amendments**

**F65** Sch. 15 paras. 34, 54, 55, 57, 81, 83–88 repealed by Extradition Act 1989 (c. 33, SIF 48), s. 37, **Sch. 2**

*Children and Young Persons Act 1969 (c. 54)*

- 35 In subsection (1) of section 20A of the Children and Young Persons Act 1969 (power of court to add condition as to charge and control of offender in care), at the end of the first paragraph (b) there shall be inserted the words “or
- (c) by virtue of section 15(1) of this Act in a case where—
- (i) the supervision order for which the care order was substituted was made under section 7(7) of this Act; and
  - (ii) the offence in respect of which the supervision order was made was punishable with imprisonment in the case of a person over 21.”.

- 36 In section 29 of that Act (recognisance on release of arrested child or young person) the words “he or” shall cease to have effect.

*Tribunals and Inquiries Act 1971 (c. 62)*

F66 37 .....

**Textual Amendments**

**F66** Sch. 15 para. 37 repealed (1.10.1992) by Tribunals and Inquiries Act 1992 (c. 53), ss. 18(2), 19(2), **Sch. 4 Pt.I.**

*Powers of Criminal Courts Act 1973 (c. 62)*

F67 38 .....

**Textual Amendments**

**F67** Sch. 15 para. 38 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F68 39 .....

**Textual Amendments**

**F68** Sch. 15 para. 39 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F69 40 .....

*Status: Point in time view as at 28/03/2011.*

*Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Textual Amendments**

**F69** Sch. 15 para. 40 repealed (30.9.1998) by 1998 c. 37, ss. 106, 120(2), Sch. 7, para. 39, **Sch.10**; S.I. 1998/2327, **art.2** ( as amended by S.I. 1998/2412 and S.I. 1998/2906).

<sup>F70</sup>41 .....

**Textual Amendments**

**F70** Sch. 15 para. 41 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

<sup>F71</sup>42 .....

**Textual Amendments**

**F71** Sch. 15 para. 42 repealed (5.2.1994) by 1993 c. 47, ss. 32, 33(3), **Sch.4**

*Legal Aid Act 1974 (c. 4)*

43 In section 28(7A) of the Legal Aid Act 1974 for the words “the person charged” there shall be substituted “a person to whom the notice relates”.

*Juries Act 1974 (c. 23)*

44 In subsection (1) of section 3 of the Juries Act 1974 (electoral register as basis of jury selection) for “sixty five” there shall be substituted “seventy”.

45 In section 6(1) of that Act (summoning of jury in exceptional circumstances) for the word “refusals” there shall be substituted the word “excusals”.

46 In section 20(4) of that Act (offences) after the word “excusal” there shall be inserted the words “or deferral”.

*Rehabilitation of Offenders Act 1974 (c. 53)*

47 In section 1(2)(a) of the Rehabilitation of Offenders Act 1974 (failure to pay fines etc. not to prevent a person from becoming rehabilitated) the reference to a fine or other sum adjudged to be paid by or imposed on a conviction does not include a reference to an amount payable under a confiscation order.

*Criminal Procedure (Scotland) Act 1975 (c. 21)*

48 In each of sections 171 and 368 of the Criminal Procedure (Scotland) Act 1975 (which make provision as to the presumption and determination of the ages of children) in subsection (3) for the words “and (d)” there shall be substituted the words “(d) and (e)”.

49 In section 289G of that Act (which creates the standard scale and amends certain enactments accordingly) in subsection (13) (inserted by section 66 of the <sup>M29</sup>Criminal Justice (Scotland) Act 1987)—

(a) after the word “is” there shall be inserted “(a)”;



*Status: Point in time view as at 28/03/2011.*

*Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (b) for the words from "1987" there shall be substituted—
- “(b) under any instrument (however framed or worded) made by virtue of such an enactment,
- a power to provide by subordinate instrument that a person, as regards any summary offence (whether or not created by the instrument) shall be liable on conviction to a fine, a person may be so made liable to a fine not exceeding a specified level on the standard scale.”

**Marginal Citations**

**M29** 1987 c. 41.

- 50 In Schedule 1 to that Act (which lists offences against children under the age of 17 years to which special provisions apply) after paragraph (a) there shall be inserted the following paragraph—
- “(aa) any offence under section 80(7) of the Criminal Justice (Scotland) Act 1980 (commission of a homosexual act in certain circumstances).”
- 51 In the said Schedule 1 after paragraph (d) there shall be inserted the following paragraph—
- “(e) any offence involving the use of lewd, indecent or libidinous practice or behaviour towards a child under the age of 17 years.”

*Bail Act 1976 (c. 63)*

<sup>F72</sup>52 .....

**Textual Amendments**

**F72** Sch. 15 para. 52 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

*Sexual Offences (Amendment) Act 1976 (c. 82)*

- 53 (1) The Sexual Offences (Amendment) Act 1976 shall have effect subject to the following amendments (which relate to Northern Ireland).
- (2) In section 5(1)(b), for the word “both” there shall be substituted the word “all”.
- (3) In section 7(6), for the words from “(including” to “6(4)(b))” there shall be substituted the words “and to such a publication or broadcast or inclusion in a cable programme in Northern Ireland as is mentioned in section 4(1) as adapted by section 5(1)(b)”.

54, 55. ....<sup>F73</sup>

*Status: Point in time view as at 28/03/2011.*

*Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Textual Amendments**

**F73** Sch. 15 paras. 34, 54, 55, 57, 81, 83–88 repealed by [Extradition Act 1989 \(c. 33, SIF 48\)](#), s. 37, [Sch. 2](#)

*Judicature (Northern Ireland) Act 1978 (c. 23)*

56 In section 49(6) of the Judicature (Northern Ireland) Act 1978 (variation of sentences) after the word “appeal)” there shall be inserted the words “and for the purposes of paragraph 1 of Schedule 3 to the Criminal Justice Act 1988 (time limit for notice of an application for leave to refer a case under section 36 of that Act.)”.

57 ..... <sup>F74</sup>

**Textual Amendments**

**F74** Sch. 15 paras. 34, 54, 55, 57, 81, 83–88 repealed by [Extradition Act 1989 \(c. 33, SIF 48\)](#), s. 37, [Sch. 2](#)

*Interpretation Act 1978 (c. 30)*

58 In Schedule 1 to the Interpretation Act 1978—

(a) after the definition of “Sheriff” there shall be inserted—

““The standard scale”, with reference to a fine or penalty for an offence triable only summarily,—

- (a) in relation to England and Wales, has the meaning given by section 37 of the Criminal Justice Act 1982;
- (b) in relation to Scotland, has the meaning given by section 289G of the Criminal Procedure (Scotland) Act 1975;
- (c) in relation to Northern Ireland, has the meaning given by Article 5 of the Fines and Penalties (Northern Ireland) Order 1984.”;

(b) after the definition of “Statutory declaration” there shall be inserted—

““Statutory maximum”, with reference to a fine or penalty on summary conviction for an offence,—

- (a) in relation to England and Wales, means the prescribed sum within the meaning of section 32 of the Magistrates’ Courts Act 1980;
- (b) in relation to Scotland, means the prescribed sum within the meaning of section 289B(6) of the Criminal Procedure (Scotland) Act 1975; and
- (c) in relation to Northern Ireland, means the prescribed sum within the meaning of Article 4 of the Fines and Penalties (Northern Ireland) Order 1984.”.

59 In the definition of “offence triable either way” in that Schedule, after the word “offence”, in the second place where it occurs, there shall be inserted the words “,

*Status: Point in time view as at 28/03/2011.*

*Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

other than an offence triable on indictment only by virtue of Part V of the Criminal Justice Act 1988".

*Protection of Children Act 1978 (c. 37)*

60 The Protection of Children Act 1978 shall be amended as follows.

61 (1) In subsection (1) of section 4 (entry, search and seizure) for the words from "are" to the end there shall be substituted the words "is an indecent photograph of a child".

(2) In subsection (2) of that section the words from "taken" to the end shall cease to have effect.

62 <sup>F75</sup> .....

**Textual Amendments**

**F75** Sch. 15 para. 62 repealed (1.4.2008) by Police and Justice Act 2006 (c. 48), ss. 52, 53, Sch. 15 Pt. 4; S.I. 2008/790, art. 2(e)

*Justices of the Peace Act 1979 (c. 55)*

<sup>F76</sup>63 .....

**Textual Amendments**

**F76** Sch. 15 para. 63 repealed (19.6.1997) by 1997c. 25, ss. 73(3), 74(1), Sch. 6 Pt.I (with Sch. 4 para. 27).

*Child Care Act 1980 (c. 5)*

64 In section 73(1)(b) of the Child Care Act 1980 (places of safety etc.) for the words "section 38(7)" there shall be substituted the words "section 38(6)".

*Magistrates' Courts Act 1980 (c. 43)*

65 The Magistrates' Courts Act 1980 shall be amended as follows.

66 In section 6(5) (display of notice of committal or discharge) for the words from "section" to the end there shall be substituted the words "section 4 of the <sup>M30</sup>Sexual Offences (Amendment) Act 1976 (anonymity of complainant in rape etc. cases)".

**Marginal Citations**

**M30** 1976 c. 82.

67 In subsection (1) of section 37 (committal to Crown Court for sentence), for the words "nor more than 16" there shall be substituted the words "but under 17".

[<sup>F77</sup>68 At the end of subsection (8) of section 102 (written statement before examining justices) there shall be added the words "and section 40 of the Criminal Justice Act 1988 (power to join in indictment count for common assault etc.) shall be given a corresponding construction".]

*Status: Point in time view as at 28/03/2011.*

*Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Textual Amendments

**F77** Sch. 15, para. 68 repealed (4.7.1996 with effect as mentioned in the note at the end of Sch. 5 para. 10 of the repealing Act) by 1996 c. 25, ss. 47, 80, Sch. 1, **Sch. 5 para.10** (with s. 78(1)); S.I. 1997/683, **art. 1(2)**.

69 (1) In subsection (3A) of section 128 (remand in custody without accused being brought before court)—

- (a) after the word “custody” there shall be inserted the words “and the remand was not a remand under section 128A below for a period exceeding 8 clear days,”; and
- (b) after the word “him” there shall be inserted the words “(otherwise than in the exercise of the power conferred by that section)”.

(2) In subsection (6) of that section (which lists the cases in which a magistrates’ court may remand a person for a period exceeding 8 clear days) for the word “section”, in the first place where it occurs, there shall be substituted the words “sections 128A and”.

70 The following subsection shall be inserted after subsection (2) of section 133 (limit on length of imprisonment or youth custody where consecutive terms are imposed)

“(2A) In relation to the imposition of terms of detention in a young offender institution subsection (2) above shall have effect as if the reference to an offence triable either way were a reference to such an offence or an offence triable only on indictment.”.

### *Criminal Appeal (Northern Ireland) Act 1980 (c. 47)*

71 The Criminal Appeal (Northern Ireland) Act 1980 shall be amended as follows.

72 The following subsection shall be substituted for subsection (4) of section 10 (supplementary provisions as to appeals against sentence)—

“(4) The power of the Court under section 4(2) of this Act or subsection (3) above to pass a sentence which the Crown Court has power to pass for an offence shall, notwithstanding that the Crown Court made no order under section 19(1) of the Treatment of Offenders Act (Northern Ireland) 1968 in respect of a suspended sentence or order for detention previously passed or made on or in relation to the appellant for another offence, include power to deal with the appellant in respect of that sentence or order for detention where the Crown Court made no order in respect of it.”.

73 The following section shall be inserted after section 16—

#### “16A Appeals in cases of contempt of court.

- (1) Subject to subsection (2) below, a person who wishes to appeal under section 44 of the 1978 c. 23.Judicature (Northern Ireland) Act 1978 from any order or decision of the Crown Court in the exercise of jurisdiction to punish for contempt of court shall give notice of appeal in the prescribed manner within twenty-eight days from the date of the order or decision appealed against.

*Status: Point in time view as at 28/03/2011.*

*Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) The time for giving notice under this section may be extended either before or after its expiry by the Court.”.

74 The following section shall be substituted for section 17—

**“17 Bail.**

(1) The Court of Appeal may, if it thinks fit—

- (a) grant an appellant bail pending the determination of his appeal; or
- (b) vary the conditions of bail granted to an appellant in the exercise of the power conferred by paragraph (a) above; or
- (c) revoke bail granted to an appellant under paragraph (a) above.

(2) The powers conferred by subsection (1) above may be exercised—

- (a) on the application of the appellant; or
- (b) if it appears to the Master that any of them ought to be exercised, on a reference to the court by him.”.

75 The following section shall be substituted for section 18—

**“18 Groundless appeals or applications for leave to appeal.**

If it appears to the Master that a notice of appeal or of application for leave to appeal under this Part of this Act does not show any substantial ground of appeal, he may refer the appeal or application for leave to the Court of Appeal for summary determination; and the Court may then, if it considers that the appeal or application for leave is frivolous or vexatious, and can be determined without adjourning the proceedings for a full hearing, dismiss the appeal or application for leave summarily without calling on any one to attend the hearing or to appear for the Crown thereon.”.

76 (1) In section 44(1) (constitution of Court of Appeal on appeals or references), after the word “Act” there shall be inserted the words “or section 36 of the Criminal Justice Act 1988”.

(2) In section 44(4)(b) (judge of the Court of Appeal not to hear or determine applications relating to reference under section 14 or 15 where he was the trial judge), after the word “Act” there shall be inserted the words “or section 36 of the Criminal Justice Act 1988.”.

77 The following paragraph shall be substituted for section 45(2)(d)—

“(d) to exercise the powers conferred by section 17 of this Act;”.

78 The following subsection shall be inserted after section 45(3)—

“(3A) The power of the Court of Appeal to grant leave to appeal under section 159 of the Criminal Justice Act 1988 may be exercised by a single judge in the same manner as it may be exercised by the Court.”.

*Supreme Court Act 1981 (c. 54)*

F7879 .....

*Status: Point in time view as at 28/03/2011.*

*Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Textual Amendments**

**F78** Sch. 15 para. 79 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

80 The following paragraph shall be inserted after subsection (4)(a) of section 55 of [F79the Supreme Court Act 1981] (constitution of criminal division of Court of Appeal)—  
“(aa) reviewing sentencing under Part IV of the Criminal Justice Act 1988;”.

**Textual Amendments**

**F79** Words in Sch. 15 para. 80 substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), Sch. 9 para. 114

81 ..... F80

**Textual Amendments**

**F80** Sch. 15 paras. 34, 54, 55, 57, 81, 83–88 repealed by Extradition Act 1989 (c. 33, SIF 48), s. 37, Sch. 2

*Civil Jurisdiction and Judgments Act 1982 (c. 27)*

82 In section 18(4A) of the Civil Jurisdiction and Judgments Act 1982 (exception from provisions regulating the enforcement of UK judgments in other parts of the United Kingdom in respect of the enforcement in Scotland of High Court orders made under the M31Drug Trafficking Offences Act 1986), after “1986” there shall be inserted the words “or Part VI of the Criminal Justice Act 1988 (confiscation of the proceeds of offences)”.

**Marginal Citations**

**M31** 1986 c. 32.

83, 84. .... F81

**Textual Amendments**

**F81** Sch. 15 paras. 34, 54, 55, 57, 81, 83–88 repealed by Extradition Act 1989 (c. 33, SIF 48), s. 37, Sch. 2

85–88. .... F82

*Status: Point in time view as at 28/03/2011.*

*Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Textual Amendments**

**F82** Sch. 15 paras. 34, 54, 55, 57, 81, 83–88 repealed by Extradition Act 1989 (c. 33, SIF 48), s. 37, Sch. 2

*Civic Government (Scotland) Act 1982 (c. 45)*

89 In subsection (7) of section 52 of the Civic Government (Scotland) Act 1982 after the word “thereof” there shall be inserted the words “and in Part III of the Social Work (Scotland) Act 1968 (children in need of compulsory measures of care)”.

*Criminal Justice Act 1982 (c. 48)*

90 At the end of section 15(11) of the Criminal Justice Act 1982 (offence of failing to comply with supervision requirements) there shall be added (but not as part of paragraph (b)) the words “but not liable to be dealt with in any other way”.

91 At the end of part II of Schedule 1 to that Act there shall be added—

“CRIMINAL JUSTICE ACT 1988 (c. 33)

30 Section 134 (torture).”

92—94. . . . . F83

**Textual Amendments**

**F83** Sch. 15 paras. 92–94 repealed by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), ss. 3, 5, Sch. 1, Sch. 4 paras. 1, 2

95, 96. . . . . F84

**Textual Amendments**

**F84** Sch. 1, Sch. 15 paras. 95, 96 repealed by Extradition Act 1989 (c. 33, SIF 48), s. 37, Sch. 2

*Police and Criminal Evidence Act 1984 (c. 60)*

97 The Police and Criminal Evidence Act 1984 shall be amended as follows.

98 F85 . . . . .

**Textual Amendments**

**F85** Sch. 15 para. 98 repealed (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 174, 178, Sch. 17 Pt. 2; S.I. 2005/1521, art. 3(1)(cc)(ee)(i) (subject to art. 3(4)(5))

99 In section 55(1) (intimate searches) for the words “such a search” there shall be substituted the words “an intimate search”.

*Status: Point in time view as at 28/03/2011.*

*Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- 100 In section 65, in the definition of “intimate samples”, for the word “orifice” there shall be substituted the word “orifices”.
- 101 In section 120 (extent) the second of the two subsections numbered as subsection (9) shall be re-numbered as subsection (9A).
- 102 <sup>F86</sup> .....

#### Textual Amendments

**F86** Sch. 15 para. 102 repealed (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 174, 178, Sch. 17 Pt. 2; S.I. 2005/1521, art. 3(1)(cc)(ee)(i) (subject to art. 3(4)(5))

#### *Prosecution of Offences Act 1985 (c. 23)*

- 103 The following paragraph shall be inserted after subsection (4)(a) of section 16 of the Prosecution of Offences Act 1985 (defence costs)—
- “(aa) directs under section 8(1B) of the Criminal Appeal Act 1968 the entry of a judgment and verdict of acquittal;”.
- 104 In subsection (11) of section 22 of that Act (power of Secretary of State to set time limits in relation to preliminary steps of criminal proceedings), at the end of paragraph (b) of the definition of “custody of the Crown Court” there shall be added “or
- (c) section 5(3)(a) of the Criminal Justice Act 1987 (custody after transfer order in fraud case);”

#### *Local Government Act 1985 (c. 51)*

- <sup>F87</sup>105 .....

#### Textual Amendments

**F87** Sch. 15 para. 105 repealed (5.2.1994) by 1993 c. 47, ss. 32, 33(3), Sch.4

#### *Bankruptcy (Scotland) Act 1985 (c. 66)*

- 106 The Bankruptcy (Scotland) Act 1985 shall be amended as follows.
- 107 In section 5(4) (interpretation) after “1987” there shall be added the words “, by section 71(9)(a) of the Criminal Justice Act 1988”.
- 108 In section 7(1) (constitution of apparent insolvency)—
- (a) after the words “Drug Trafficking Offences Act 1986” there shall be inserted the words “or by section 78(2) of the Criminal Justice Act 1988”;
- (b) after the words “(Scotland) Act 1987” there shall be inserted the words “, by section 71(9)(a) of the said Act of 1988”; and
- (c) after the words “Act of 1987” there shall be inserted the words “, by section 77(1) of the said Act of 1988”.
- 109 Section 55(2) (discharge of debtor not to release him from liabilities in respect of fines etc.) shall have effect as if the reference to a fine included a reference to a confiscation order.



*Status: Point in time view as at 28/03/2011.*

*Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

*Insolvency Act 1986 (c. 45)*

- 110 Section 281(4) of the Insolvency Act 1986 (discharge of debtor not to release him from liabilities in respect of fines etc.) shall have effect as if the reference to a fine included a reference to a confiscation order.

*Criminal Justice Act 1987 (c. 38)*

*Criminal Justice (Scotland) Act 1987 (c. 41)*

- 111 The following paragraph shall be substituted for subsection (6)(j) of section 3 of the Criminal Justice Act 1987 and subsection (5)(k) of section 54 of the Criminal Justice (Scotland) Act 1987 (each of which sections relates to disclosure of information)—

“(0) a person appointed by the Bank of England under section 41 of the Banking Act 1987 to carry out an investigation and make a report;”.

*Criminal Justice Act 1987 (c. 38)*

- 112 The Criminal Justice Act 1987 shall be amended as follows.
- 113 (1) In subsection (2) of section 2 (Director’s investigation powers), for the words from “attend” to the end there shall be substituted the words “answer questions or otherwise furnish information with respect to any matter relevant to the investigation at a specified place and either at a specified time or forthwith”.
- (2) In subsection (3) of that section—
- (a) for the words “a specified time and place” there shall be substituted the words “such place as may be specified in the notice and either forthwith or at such time as may be so specified;” and
- (b) for the word “class” there shall be substituted the word “description”.
- [<sup>F88</sup>114(1) In subsection (1) of section 11, for the words from “a report” to “containing” there shall be inserted the words “a report of proceedings to which this section applies which contains”.
- (2) The following subsection shall be inserted after that subsection—
- “(1A) This section applies—
- (a) to an application under section 6(1) above; and
- (b) to a preparatory hearing and any appeal or application for leave to appeal relating to such a hearing.”
- (3) The following subsection shall be substituted for subsection (2)—
- “(2) An order that subsection (1) above shall not apply to reports—
- (a) of an application under section 6(1) above;
- (b) of a preparatory hearing;
- (c) of an appeal to the Court of Appeal under section 9(11) above; or
- (d) of an application for leave to appeal under that subsection,
- may be made—
- (i) in a case falling within paragraph (a), (b) or (d) above, by the judge dealing with the matter; and

*Status: Point in time view as at 28/03/2011.*

*Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(ii) in a case falling within paragraph (c) above, by the Court of Appeal.”.

(4) The following subsection shall be inserted after subsection (9)—

“(9A) In subsection (9) above “engaged” means engaged under a contract of service or a contract for services.”

(5) In subsection (15) the following definition shall be added after the definition of “publish”—

““relevant time” means a time when events giving rise to the charges to which the proceedings relate occurred.”.]

#### Textual Amendments

**F88** [Sch. 15, para. 114](#) repealed (E.W.N.I)(4.7.1996 with effect as mentioned in the note at the end of Sch. 5 para. 12 of the repealing Act) by [1996 c. 25, ss. 72, 80, Sch. 3, Sch. 5 para.12](#) (with [s. 78\(1\)](#)); [S.I. 1997/1019, art.2](#).

115 In section 13(1), for the words “operates only so as to make for Northern Ireland provision corresponding to” there shall be substituted the words “is made only for purposes corresponding to those of”.

116 In paragraph 6(1) of Schedule 1, for “(4)” there shall be substituted “(5)”.

#### *Criminal Justice (Scotland) Act 1987 (c. 41)*

117 (1) Section 52 of the Criminal Justice (Scotland) Act 1987 (Powers of investigation in relation to serious or complex fraud) shall be amended as follows.

(2) In subsection (1) for the words from “attend” to the end there shall be substituted the words “answer questions or otherwise furnish information with respect to any matter relevant to the investigation at a specified place and either at a specified time or forthwith.”:

(3) In subsection (2)—

(a) for the words “a specified time and place” there shall be substituted the words “such place as may be specified in the notice and either forthwith or at such time as may be so specified,”; and

(b) for the word “class” there shall be substituted the word “description”.

(4) In subsection (5) after the word “him” there shall be inserted “(a)” and at the end of the subsection there shall be added the words “; or

(b) in a prosecution for some other offence where in giving evidence he makes a statement inconsistent with it.”.

#### *The Public Order (Northern Ireland) Order 1987 S.I. 1987 No. 463 (N.I.7)*

118 (1) In Article 24(2) of the Public Order (Northern Ireland) Order 1987, for the words “or Part IV” there shall be substituted the words “Part IV or section 139 of the Criminal Justice Act 1988”.

(2) In Article 26(1) of that Order, for the words “or 22(1)” there shall be substituted the words “22(1) or section 139 of the Criminal Justice Act 1988”.

*Status: Point in time view as at 28/03/2011.*

*Changes to legislation: Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) In Article 26(2) (c) of that Order, after the words “Article 22(1)” there shall be inserted the words “or section 139 of the Criminal Justice Act 1988”, and after the word “weapon” there shall be inserted the words “or article, as the case may be,”.

## SCHEDULE 16

Section 170.

### REPEALS

#### Extent Information

- E1** The extent of any repeal of an enactment in Sch. 16 is the same as that of the enactment repealed, subject to the Notes at the end of the Schedule

#### Commencement Information

- II** Sch. 16 partly in force; Sch. 16 in force at Royal Assent so far as relating to specified repeals see s. 171(5); Sch. 16 in force so far as relating to further specified repeals at 29.9.1988 see s. 171(6); Sch. 16 in force so far as relating to further specified repeals: at 1.10.1988 by S.I. 1988/1408; at 12.10.1988 by S.I. 1988/1676; at 1.11.1988 by S.I. 1988/1817; at 5.1.1989 by S.I. 1988/2073; at 23.1.1989 by S.I. 1989/50; at 3.4.1989 by S.I. 1989/264; at 31.7.1989 by S.I. 1989/1085; at 1.1.2000 by S.I. 1999/3425

7 Geo. 4. c. 24.	Criminal Law Act 1826.	Section 30.
24 & 25 Vict. c. 100.	Offences against the Person Act 1861.	Sections 42 and 43.  In section 44, the word “such, in the first place where it occurs, and the words “under either of the last two preceding sections.  Section 46.  In section 47, the words from “and to the end.
6 & 7 Geo. 5. c. 64.	Prevention of Corruption Act 1916.	Sections 1 and 3.
15 & 16 Geo. 5. c. 86.	Criminal Justice Act 1925.	Section 39.
23 & 24 Geo. 5. c. 12.	Children and Young Persons Act 1933.	Section 1(5) and (6).  In section 38(1), the proviso.  In Schedule 1, in the third paragraph, the words “forty-two, forty-three.
1 Edw. 8. & 1 Geo. 6. c. 37.	Children and Young Persons (Scotland) Act 1937.	Section 12(5) and (6).

---

*Status: Point in time view as at 28/03/2011.*

**Changes to legislation:** *Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

---

15 & 16 Geo. 6. and 1 Eliz. 2. c. 52.	Prison Act 1952.	Section 43(1)(b) and (c).
1952 c. 61.	Prisons (Scotland) Act 1952.	In section 31(1), paragraph (b).  In section 31(3), the words “detention centre”.  In section 31(4), the words “detention centres wherever they occur”.  In section 34, the words “or a detention centre”.  In section 35(1), the words “detention centres”.  In section 37(1), the words “or detention centre”.  In section 37(2), the words “or detention centre wherever they occur”.
9 & 10 Eliz. 2. c. 39. 1967 c. 68.	Criminal Justice Act 1961. Fugitive Offenders Act 1967.	Section 2.  In section 8(1) and (2), the words “to custody”.  In section 11(1), the words “in respect of a person in custody thereunder”.  In section 16(1), the words “(except for purposes of the references to the United Kingdom in section 3).  Schedule 1.
1967 c. 80.	Criminal Justice Act 1967.	Section 49.  In Schedule 3, Part I, the entry relating to the Prevention of Corruption Act 1906.
1968 c. 19.	Criminal Appeal Act 1968.	In section 7(1), the words “and do so only by reason of evidence received or available to be received by them under section 23 of this Act”.  Section 10(3)(d).  Section 42.
1968 c. 27.	Firearms Act 1968.	In section 21(2), the words “to borstal training, to

*Status: Point in time view as at 28/03/2011.*

**Changes to legislation:** *Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

		corrective training for less than three years or.
		In section 52(1)(a), the words “preventive detention, corrective training, borstal training,.
1969 c. 12.	Genocide Act 1969.	Section 2(1)(b) and the word “and immediately preceding it.
		In section 3(1), the words “and sections 16 and 17 of the Fugitive Offenders Act 1967.
1969 c. 54.	Children and Young Persons Act 1969.	In section 16(10), the words from “and the provisions to the end.
		Section 22(5).
		In section 29, the words “he or.
		Section 34(1)(f)
		In section 60, subsection (1) (b) and the word “and immediately preceding it, and in subsection (2), the words “or section 16(2) or 17 of the said Act of 1967.
F89	F89	F89
. . . .	. . . .	. . . .
1971 c. 40.	Fire Precautions Act 1971.	In section 40(2)(b), the words “detention centre.
1972 c. 20.	Road Traffic Act 1972.	In section 100, the words “or attempting to drive.
1972 c. 71.	Criminal Justice Act 1972.	Section 28(3).
		In Schedule 5, the amendment of the Criminal Appeal Act 1968.
1973 c. 14.	Costs in Criminal Cases Act 1973.	In Schedule 1, paragraph 3.
1973 c. 62.	Powers of Criminal Courts Act 1973.	Section 22(5).
		In section 34A(1)(c), the words “other than an order under section 35 of this Act.’
		Sections 39 and 40.

---

*Status: Point in time view as at 28/03/2011.*

**Changes to legislation:** *Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

---

		In section 57(3), the definition of “detention centre.
		In Schedule 3, paragraph 2(4)(b) and the word “and immediately preceding it, and paragraph 7.
		In Schedule 5, paragraph 29.
1974 c. 23.	Juries Act 1974.	In section 12(1)(a), the words “not more than three jurors without cause and.
		In section 16(2), the words “for murder or.
1976 c. 82.	Sexual Offences (Amendment) Act 1976.	In section 4, in subsection (3), the words “before the Crown Court at which a person is charged with a rape offence and “relating to the complainant, and subsection (7)(a).
		In section 5(6), the words from the beginning to “and, in the second place where it occurs.
		Section 6.
		In section 7, in subsection (4), the words “and 6(4)(b), in subsection (5), the words “and 6 and in subsection (6), the words “and section 6(1) as adapted by section 6(4)(b).
1977 c. 45.	Criminal Law Act 1977.	Section 43.
		In Schedule 5, paragraph 2, so far as relating to section 99(b) of the Road Traffic Act 1972.
		In Schedule 6, the entry relating to the Offences against the Person Act 1861.
		In Schedule 12, in the entry relating to the Children and Young Persons Act 1969, paragraph 4(b) and (c).
1978 c. 26.	Suppression of Terrorism Act 1978.	Section 3(2).

---

*Status: Point in time view as at 28/03/2011.*

**Changes to legislation:** *Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

---

1978 c. 31.	Theft Act 1978.	In section 5(3) the words from “and to the end.
1978 c. 37.	Protection of Children Act 1978.	In section 1(6), paragraph (b) and the word “and immediately preceding it and the words “and sections 16 and 17 of the 1967 Act.  In section 4(2), the words from “taken to the end.  In section 5(2), the words from “taken to “distributed or shown,.
1980 c. 9.	Reserve Forces Act 1980.	In Schedule 1, paragraph 5(c)(ii) and the word “or immediately preceding it.
1980 c. 43.	Magistrates’ Courts Act 1980.	Section 22(7).  Section 32(7).  Section 134.  In section 143, subsection (2) (l) to (n), subsections (4) and (5) and in subsection (6) the words “or (4).  In Schedule 1, in paragraph 5(h), the words “— common assault.
1982 c. 16.	Civil Aviation Act 1982.	Section 93(3).
1982 c. 28.	Taking of Hostages Act 1982.	In section 3, subsection (1) (b) and the word “and immediately preceding it and subsections (3) and (5).
1982 c. 36.	Aviation Security Act 1982.	In section 9, subsection (1) (b) and the word “and immediately preceding it, and subsections (2) and (3).
1982 c. 48.	Criminal Justice Act 1982.	Sections 4 to 7.  Section 12(1) to (5), (8) and (9).  Section 14.  Section 20(1).  In section 43, the words from “and, in the case to “thereof and the words from “(but to the end of the section.

---

*Status: Point in time view as at 28/03/2011.*

**Changes to legislation:** *Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

---

		Sections 74 and 75.
		In section 80(1), the words “section 74; section 75;.
		In Schedule 8, paragraphs 3(c) and 7(d).
1983 c. 18.	Nuclear Material (Offences) Act 1983.	In section 5, subsection (1) (b) and the word “and immediately preceding it, and subsections (2) and (4).
1984 c. 39.	Video Recordings Act 1984.	Section 15(2), (4) and (5).
1984 c. 46.	Cable and Broadcasting Act 1984.	In Schedule 5, paragraph 34(6).
1984 c. 47.	Repatriation of Prisoners Act 1984.	In Schedule 1, paragraph 4.
1984 c. 60.	Police and Criminal Evidence Act 1984.	Section 24(2)(e).
		In section 65, the word “and before “references.
		Section 68.
		In Schedule 3, paragraphs 1 to 7 and paragraph 13.
1985 c. 13.	Cinemas Act 1985.	In Schedule 2, paragraph 11.
1985 c. 37.	Prohibition of Female Circumcision Act 1985.	Section 3(1)(b) and the word “and immediately preceding it.
1985 c. 51.	Local Government Act 1985.	In section 15(5), the words “or 7.
1985 c. 65.	Insolvency Act 1985.	In Schedule 8, paragraph 24.
1986 c. 32.	Drug Trafficking Offences Act 1986.	In section 6, in subsection (1), paragraph (b) and the word “and immediately preceding it, in subsection (3), the words “or 9 and subsection (5).
		Section 10(1).
		Section 15(5)(b) and (c).
		In section 17(1), the words from “but to the end.
		In section 19, in subsection (1) (b) (i), the words “(and no conviction for any drug trafficking offence is substituted)



---

*Status: Point in time view as at 28/03/2011.*

**Changes to legislation:** *Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

---

1986 c. 45.	Insolvency Act 1986.	<p>and in subsection (2), in paragraph (a), the words “and that, but for that default, the proceedings would not have been instituted or continued, and in paragraph (b), the word “substantial.</p> <p>In section 25(3), the words “varying or revoking a previous Order in Council.</p> <p>In section 38(11), the words “in England and Wales.</p> <p>Section 264(1)(d) and the word “or immediately preceding it.</p> <p>Section 266(4).</p> <p>Section 267(3).</p> <p>Section 277.</p> <p>Section 282(2).</p> <p>In section 293(1), the words “does not apply where the bankruptcy order was made on a petition under section 264(1)(d) (criminal bankruptcy); and it.</p> <p>Section 297(1).</p> <p>Section 327.</p> <p>Section 341(4) and (5).</p> <p>Section 382(1)(c).</p> <p>In section 383(1)(a), the words from “(being, to “question).</p> <p>In section 385(1), the definition of “criminal bankruptcy order.</p> <p>Section 402.</p>
1987 c. 38.	Criminal Justice Act 1987.	<p>Section 9(3)(a).</p> <p>In section 11, in subsection (8)(e), the word “engaged, and subsection (11).</p> <p>In Schedule 2, paragraph 1(2).</p>

---

*Status: Point in time view as at 28/03/2011.*

**Changes to legislation:** *Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

---

1987 c. 41.	Criminal Justice (Scotland) Act 1987.	Section 45(7)(c)(ii) and the word “and immediately preceding it.
1988 c. 13.	Coroners Act 1988.	In Schedule 3, paragraph 14.

---

#### Textual Amendments

**F89** Sch. 16: Entry relating to s. 41(8) of the Administration of Justice Act 1970 repealed (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 23(3), 101(2), **Sch. 13**; S.I. 1992/333, art. 2(2), **Sch. 2**.

#### Notes

- 1 The repeals in the Offences against the Person Act 1861 and the Prevention of Corruption Act 1916 do not extend to Northern Ireland.
- 2 The repeal in the Road Traffic Act 1972 does not extend to Scotland.
- 3 The repeal of sections 74 and 75 of the Criminal Justice Act 1982 and the repeals in sections 80 and 81 of that Act do not affect those sections as they apply—
  - (a) in any of the Channel Islands; or
  - (b) in the Isle of Man,
 and any Order in Council applying section 74(1) or 75 to any of those Islands shall continue to have effect as if this Act had not been passed.

**Status:**

Point in time view as at 28/03/2011.

**Changes to legislation:**

Criminal Justice Act 1988 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.