



# Criminal Justice Act 1993

## 1993 CHAPTER 36

### PART VI

#### MISCELLANEOUS

VALID FROM 20/09/1993

#### **65 Fixing of fines.**

- (1) The following section shall be substituted for section 18 of the <sup>M1</sup>Criminal Justice Act 1991 (fixing of certain fines by reference to units)—

**“18 Fixing of fines.**

- (1) Before fixing the amount of any fine, a court shall inquire into the financial circumstances of the offender.
- (2) The amount of any fine fixed by a court shall be such as, in the opinion of the court, reflects the seriousness of the offence.
- (3) In fixing the amount of any fine, a court shall take into account the circumstances of the case including, among other things, the financial circumstances of the offender so far as they are known, or appear, to the court.
- (4) Where—
  - (a) an offender has been convicted in his absence in pursuance of section 11 or 12 of the Magistrates’ Courts Act 1980 (non-appearance of accused),
  - (b) an offender—
    - (i) has failed to comply with an order under section 20(1) below; or

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- (ii) has otherwise failed to co-operate with the court in its inquiry into his financial circumstances, or
- (c) the parent or guardian of an offender who is a child or young person—
- (i) has failed to comply with an order under section 20(1B) below; or
- (ii) has otherwise failed to co-operate with the court in its inquiry into his financial circumstances,
- and the court considers that it has insufficient information to make a proper determination of the financial circumstances of the offender, it may make such determination as it thinks fit.
- (5) Subsection (3) above applies whether taking into account the financial circumstances of the offender has the effect of increasing or reducing the amount of the fine.”.
- (2) Section 19 of the Act of 1991 (fixing of fines in cases to which the unit fines system did not apply) shall cease to have effect.
- (3) The further amendments made by Schedule 3 shall have effect.
- (4) The amendments made by this section and that Schedule shall apply in relation to offenders convicted (but not sentenced) before the date on which this section comes into force as they apply in relation to offenders convicted after that date.

#### Marginal Citations

M1 1991 c. 53.

## 66 Powers of courts to deal with offenders.

- (1) In section 1 of the <sup>M2</sup>Criminal Justice Act 1991 (restrictions on imposing custodial sentences), the following shall be substituted for subsection (2)(a)—
- “(a) that the offence, or the combination of the offence and one or more offences associated with it, was so serious that only such a sentence can be justified for the offence; or”.
- (2) In section 2 of the Act of 1991 (length of custodial sentences), in subsections (2)(a) and (3), for the word “other” there shall be substituted “one or more”.
- (3) In section 3 of the Act of 1991 (procedural requirements for custodial sentences), in subsection (3)(a), the words “or (as the case may be) of the offence and the offence or offences associated with it,” shall be inserted after the word “offence”.
- (4) In section 6 of the Act of 1991 (restrictions on imposing community sentences)—
- (a) in subsection (1), for the words “other offence” there shall be substituted “or more offences”; and
- (b) in subsection (2)(b), for the word “other” there shall be substituted “one or more”.

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- (5) In section 7 of the Act of 1991 (procedural requirements for community sentences), in subsection (1), the words “ or (as the case may be) of the offence and the offence or offences associated with it, ” shall be inserted after the word “offence”.
- (6) For section 29 of the Act of 1991 (effect of previous convictions) there shall be substituted—

#### **“29 Effect of previous convictions and of offending while on bail.**

- (1) In considering the seriousness of any offence, the court may take into account any previous convictions of the offender or any failure of his to respond to previous sentences.
- (2) In considering the seriousness of any offence committed while the offender was on bail, the court shall treat the fact that it was committed in those circumstances as an aggravating factor.
- (3) A probation order or conditional discharge order made before 1st October 1992 (which, by virtue of section 2 or 7 of the <sup>M3</sup>Powers of Criminal Courts Act 1973, would otherwise not be a sentence for the purposes of this section) is to be treated as a sentence for those purposes.
- (4) A conviction in respect of which a probation order or conditional discharge order was made before that date (which, by virtue of section 13 of that Act, would otherwise not be a conviction for those purposes) is to be treated as a conviction for those purposes.”.
- (7) In subsection (1) of section 12D of the Children and Young Persons Act 1969 (duty of court to state in certain cases that requirement is in place of custodial sentence), in paragraph (ii)(a) for the words “other offence” there shall be substituted “ or more offences ”.
- (8) In section 38 of the <sup>M4</sup>Magistrates’ Courts Act 1980 (committal for sentence on summary trial of offence triable either way), in subsection (2)(a), for the word “other” there shall be substituted “ one or more ”.
- (9) The amendments made by this section shall apply in relation to offenders convicted (but not sentenced) before the date on which this section comes into force as they apply in relation to offenders convicted after that date.

#### **Marginal Citations**

- M2** 1991 c. 53.  
**M3** 1973 c. 62.  
**M4** 1980 c. 43.

#### **67 Penalty for causing death by dangerous driving or by careless driving.**

- (1) In Part I of Schedule 2 to the <sup>M5</sup>Road Traffic Offenders Act 1988 (prosecution and punishment of offences), in the entries relating to section 1 of the Road Traffic Act <sup>M6</sup>1988 (causing death by dangerous driving) and section 3A of that Act (causing death by careless driving while under influence of drink or drugs), in column 4, for “5 years” there shall be substituted “ 10 years ”.

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- (2) In section 53(2) of the <sup>M7</sup>Children and Young Persons Act 1933 (punishment of certain serious crimes), the following shall be inserted after the word “law” in paragraph (a)—
- “(aa) a young person is convicted of—
- (i) an offence under section 1 of the Road Traffic Act 1988 (causing death by dangerous driving); or
  - (ii) an offence under section 3A of that Act (causing death by careless driving while under influence of drink or drugs);”.

#### Extent Information

**E1** S. 67(1) extends to Great Britain and s. 67(2) extends to England and Wales only.

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

**C1** S. 67(1) restricted (S.) (11.8.1993) by S.I. 1993/2035, art. 2(2).

#### Marginal Citations

**M5** 1988 c. 53.

**M6** 1988 c. 52.

**M7** 1933 c. 12.

## 68 Appeals in Scotland against lenient disposals, etc.

- (1) In section 228(1) of the <sup>M8</sup>Criminal Procedure (Scotland) Act 1975 (right of appeal of person convicted on indictment)—
- (a) after paragraph (b) (and before the word “or”) insert—
    - “(bb) against his absolute discharge or admonition;
    - (bc) against any probation order or any community service order under the <sup>M9</sup>Community Service by Offenders (Scotland) Act 1978;
    - (bd) against any order deferring sentence;”;
  - (b) in paragraph (c), after “sentence” add “ or disposal or order ”.
- (2) In section 228A of that Act (appeal by Lord Advocate against sentence in solemn proceedings etc.)—
- (a) after “conviction” insert “ or against any probation order or any community service order under the Community Service by Offenders (Scotland) Act 1978 or against the person’s absolute discharge or admonition or against any order deferring sentence ”; and
  - (b) for paragraph (a) substitute—
    - “(a) if it appears to the Lord Advocate that, as the case may be—
      - (i) the sentence is unduly lenient;
      - (ii) the making of the probation order or community service order is unduly lenient or its terms are unduly lenient;
      - (iii) to dismiss with an admonition or to discharge absolutely is unduly lenient; or
      - (iv) the deferment of sentence is inappropriate or on unduly lenient conditions;”.

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- (3) In section 442(1) of that Act (rights of appeal in summary proceedings)—
- (a) in paragraph (a)—
- (i) after “person convicted” insert “, or found to have committed an offence,”;
  - (ii) in sub-paragraph (i), after “conviction” insert “ or finding ”;
  - (iii) after sub-paragraph (ii) (and before the word “or”) insert—  
“(iia) against his absolute discharge or admonition or any probation order or any community service order under the <sup>M10</sup>Community Service by Offenders (Scotland) Act 1978 or any order deferring sentence;”; and
  - (iv) in sub-paragraph (iii), after “sentence” add “ or disposal or order ”; and
- (b) in paragraph (c)—
- (i) after “conviction” insert “ or, whether the person has been convicted or not, against any probation order or any community service order under the Community Service by Offenders (Scotland) Act 1978 or against the person’s absolute discharge or admonition or against any order deferring sentence ”;
  - (ii) for “the sentence is unduly lenient” substitute—  
“, as the case may be—
    - (i) the sentence is unduly lenient;
    - (ii) the making of the probation order or community service order is unduly lenient or its terms are unduly lenient;
    - (iii) to dismiss with an admonition or to discharge absolutely is unduly lenient; or
    - (iv) the deferment of sentence is inappropriate or on unduly lenient conditions;”.

**Marginal Citations**

**M8** 1975 c. 21.

**M9** 1978 c. 49.

**M10** 1978 c. 49

**69 Supervised release of certain young offenders in Scotland.**

In section 212A of the <sup>M11</sup>Criminal Procedure (Scotland) Act 1975 (which makes provision for the supervised release of short-term prisoners in Scotland) at the end add—

“(7) The foregoing provisions of this section apply to a person sentenced under section 207 or 415 of this Act as the provisions apply to a person sentenced to a period of imprisonment.”.

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#### Marginal Citations

**M11** 1975 c. 21.

VALID FROM 27/09/1993

#### 70 Penalties under implementation regulations.

(1) Paragraphs 8(3), 9(2) and 10(3) of Schedule 8 to the Banking Coordination (Second Council Directive) Regulations 1992 shall cease to have effect.

(2) Regulations under section 2(2) of the <sup>M12</sup>European Communities Act 1972 for the purpose of implementing—

- (a) Article 15 of the Second Banking Co-ordination Directive (which requires the United Kingdom to make provision for the exercise in the United Kingdom by supervisory authorities of other member States of information and inspection powers in relation to institutions authorised by them), or
- (b) Articles 3, 6 and 7 of the Supervision of Credit Institutions Directive (which make similar provision in relation to the consolidated supervision of credit institutions),

may, notwithstanding paragraph 1(1)(d) of Schedule 2 to that Act, create offences punishable in the same way as offences under sections 39, 40 and 41 of the <sup>M13</sup>Banking Act 1987.

(3) In this section—

“the Second Banking Co-ordination Directive” means the <sup>M14</sup>Community Council Directive No. [89/646/EEC](#) on the co-ordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions and amending Directive [77/780/EEC](#); and

“the Supervision of Credit Institutions Directive” means the <sup>M15</sup>Community Council Directive No. [92/30/EEC](#) on the supervision of credit institutions on a consolidated basis.

(4) Subsection (1) shall not affect the punishment for an offence committed before that subsection comes into force.

#### Marginal Citations

**M12** 1972 c. 68.

**M13** 1987 c. 22.

**M14** O.J. No. L386/1.

**M15** O.J. No. L110/52.

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VALID FROM 27/09/1993

## **71 Offences in connection with taxation etc. in the EC.**

- (1) A person who, in the United Kingdom, assists in or induces any conduct outside the United Kingdom which involves the commission of a serious offence against the law of another member State is guilty of an offence under this section if—
  - (a) the offence involved is one consisting in or including the contravention of provisions of the law of that member State which relate to any of the matters specified in subsection (2);
  - (b) the offence involved is one consisting in or including the contravention of other provisions of that law so far as they have effect in relation to any of those matters; or
  - (c) the conduct is such as to be calculated to have an effect in that member State in relation to any of those matters.
- (2) The matters mentioned in subsection (1) are—
  - (a) the determination, discharge or enforcement of any liability for a Community duty or tax;
  - (b) the operation of arrangements under which reliefs or exemptions from any such duty or tax are provided or sums in respect of any such duty or tax are repaid or refunded;
  - (c) the making of payments in pursuance of Community arrangements made in connection with the regulation of the market for agricultural products and the enforcement of the conditions of any such payments;
  - (d) the movement into or out of any member State of anything in relation to the movement of which any Community instrument imposes, or requires the imposition of, any prohibition or restriction; and
  - (e) such other matters in relation to which provision is made by any Community instrument as the Secretary of State may by order specify.
- (3) For the purposes of this section—
  - (a) an offence against the law of a member State is a serious offence if provision is in force in that member State authorising the sentencing, in some or all cases, of a person convicted of that offence to imprisonment for a maximum term of twelve months or more; and
  - (b) the question whether any conduct involves the commission of such an offence shall be determined according to the law in force in the member State in question at the time of the assistance or inducement.
- (4) In any proceedings against any person for an offence under this section it shall be a defence for that person to show—
  - (a) that the conduct in question would not have involved the commission of an offence against the law of the member State in question but for circumstances of which he had no knowledge; and
  - (b) that he did not suspect or anticipate the existence of those circumstances and did not have reasonable grounds for doing so.
- (5) For the purposes of any proceedings for an offence under this section, a certificate purporting to be issued by or on behalf of the government of another member State

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which contains a statement, in relation to such times as may be specified in the certificate—

- (a) that a specified offence existed against the law of that member State,
- (b) that an offence against the law of that member State was a serious offence within the meaning of this section,
- (c) that such an offence consists in or includes the contravention of particular provisions of the law of that member State,
- (d) that specified provisions of the law of that member State relate to, or are capable of having an effect in relation to, particular matters,
- (e) that specified conduct involved the commission of a particular offence against the law of that member State, or
- (f) that a particular effect in that member State in relation to any matter would result from specified conduct,

shall, in the case of a statement falling within paragraphs (a) to (d), be conclusive of the matters stated and, in the other cases, be evidence, and in Scotland sufficient evidence, of the matters stated.

- (6) A person guilty of an offence under this section shall be liable—
  - (a) on summary conviction, to a penalty of the statutory maximum or to imprisonment for a term not exceeding six months or to both; or
  - (b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding seven years or to both.
- (7) Sections 145 to 152 and 154 of the <sup>M16</sup>Customs and Excise Management Act 1979 (general provisions as to legal proceedings) shall apply as if this section were contained in that Act; and an offence under this section shall be treated for all purposes as an offence for which a person is liable to be arrested under the customs and excise Acts.
- (8) The power of the Secretary of State to make an order under subsection (2)(e) shall be exercisable by statutory instrument; and no such order shall be made unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.
- (9) In this section—
  - “another member State” means a member State other than the United Kingdom;
  - “Community duty or tax” means any of the following, that is to say—
    - (a) any Community customs duty;
    - (b) an agricultural levy of the Economic Community;
    - (c) value added tax under the law of another member State;
    - (d) any duty or tax on tobacco products, alcoholic liquors or hydrocarbon oils which, in another member State, corresponds to any excise duty;
    - (e) any duty, tax or other charge not falling within paragraphs (a) to (d) of this definition which is imposed by or in pursuance of any Community instrument on the movement of goods into or out of any member State;
  - “conduct” includes acts, omissions and statements;
  - “contravention” includes a failure to comply; and
  - “the customs and excise Acts” has the same meaning as in the Customs and Excise Management Act 1979.



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- (10) References in this section, in relation to a Community instrument, to the movement of anything into or out of a member State include references to the movement of anything between member States and to the doing of anything which falls to be treated for the purposes of that instrument as involving the entry into, or departure from, the territory of the Community of any goods (within the meaning of that Act of 1979).

#### Marginal Citations

M16 1979 c. 2.

VALID FROM 22/08/1994

## 72 Backing of warrants: safeguards.

- (1) The <sup>M17</sup>Backing of Warrants (Republic of Ireland) Act 1965 shall be amended as follows.
- (2) In section 2 (proceedings before magistrates' courts), the following subsection shall be added at the end—
- “(5) The Secretary of State may by order provide that an order may not be made under subsection (1) of this section if it is shown to the satisfaction of the court that no provision is made in the law of the Republic, in respect of a person delivered up to the Republic by the United Kingdom, corresponding to the provision made by or under sections 6A and 6B of this Act in respect of a person delivered up to the United Kingdom by the Republic.”
- (3) The following sections shall be inserted after section 6—

### “6A Persons delivered up by the Republic: the rule of speciality.

- (1) The Secretary of State may by order provide that, except in such cases as may be specified in the order, no person delivered up to the United Kingdom under corresponding arrangements in force in the Republic (“the defendant”) may be dealt with for, or in respect of, any offence committed before his surrender, other than the offence for which he was delivered up.
- (2) In subsection (1) of this section, “corresponding” means corresponding to provisions contained in this Act.
- (3) Any order under this section may, in particular, specify the following cases for the purposes of subsection (1) of this section—
- where consent is given by a Minister of the Republic;
  - where the defendant, having had an opportunity to leave the United Kingdom, has not done so within 45 days of his final discharge in respect of the offence for which he was delivered up;
  - where the defendant has, after being returned to the United Kingdom, left the United Kingdom and subsequently returned to it;

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- (d) where the description of the offence charged in the United Kingdom is altered in the course of proceedings but the offence under its new description is shown by its constituent elements to be an offence for which the defendant could have been delivered up under the corresponding legislation.

#### **6B Extradition to third country.**

- (1) The Secretary of State may by order provide that, except in such cases as may be specified in the order, no person delivered up to the United Kingdom under corresponding arrangements in force in the Republic (“the defendant”) may be delivered up to a territory other than the Republic to be dealt with for, or in respect of, any offence committed before his surrender to the United Kingdom.
- (2) In subsection (1) of this section “corresponding” means corresponding to provisions contained in this Act.
- (3) Any order under this section may, in particular, specify the following cases for the purposes of subsection (1) of this section—
  - (a) where consent is given by a Minister of the Republic;
  - (b) where the defendant, having had an opportunity to leave the United Kingdom, has not done so within 45 days of his final discharge in respect of the offence for which he was delivered up;
  - (c) where the defendant has, after being returned to the United Kingdom, left the United Kingdom and subsequently returned to it.

#### **6C Provisions supplementing sections 2(5), 6A and 6B.**

- (1) The power to make an order under section 2(5), 6A or 6B of this Act shall be exercisable by statutory instrument.
- (2) Any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Any such order may—
  - (a) make different provision for different cases; and
  - (b) make such incidental or supplemental provision as the Secretary of State considers appropriate.
- (4) Any incidental or supplemental provision may, in particular, include—
  - (a) in the case of an order under section 2(5) of this Act, provision as to the circumstances in which, and the presumptions which may be applied in considering whether, provision made by the law of the Republic is to be treated as corresponding to provision made by or under section 6A or 6B of this Act;
  - (b) in the case of an order under section 6A or 6B of this Act—
    - (i) provision as to the notification of any consent;
    - (ii) provision as to the drawing up of any document to support a request for consent.
- (5) Where any consent is notified in accordance with the provisions of an order under section 6A or 6B of this Act—

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- (a) judicial notice shall be taken of that consent; and
- (b) a certificate of the Secretary of State to the effect that that consent was given in accordance with those provisions shall be evidence without further proof (or in Scotland sufficient evidence).”.

#### Extent Information

**E2** S. 72 extends to the United Kingdom and also to the Channel Islands and the Isle of Man, see s. 79(7)

#### Marginal Citations

**M17** 1965 c. 45.

VALID FROM 01/12/1993

#### **73 Power of Secretary of State to make grants in relation to combating drug misuse.**

- (1) The Secretary of State may, with the consent of the Treasury, pay such grants, to such persons, as he considers appropriate in connection with measures intended—
  - (a) to combat or deal with drug trafficking or the misuse of drugs; or
  - (b) to deal with consequences of the misuse of drugs.
- (2) Any such grant may be made subject to such conditions as the Secretary of State may, with the agreement of the Treasury, see fit to impose.
- (3) Payments under this section shall be made out of money provided by Parliament.

VALID FROM 15/02/1994

#### **74 Persons not eligible for early release.**

- (1) Part II of Schedule 1 to the <sup>M18</sup>Criminal Justice Act 1982 (persons convicted of offences under certain enactments not eligible for early release) shall be amended as follows.
- (2) In the entry relating to the <sup>M19</sup>Drug Trafficking Offences Act 1986, the following paragraph shall be inserted before paragraph 26—

“25A Section 23A (acquisition, possession or use of proceeds of drug trafficking).”.
- (3) In the entry relating to the <sup>M20</sup>Criminal Justice Act 1988, the following paragraphs shall be inserted before paragraph 30—

“29A Section 93A (assisting another to retain the benefit of criminal conduct).

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29B Section 93B (acquisition, possession or use of proceeds of criminal conduct).

29C Section 93C (concealing or transferring proceeds of criminal conduct).”.

#### Marginal Citations

**M18** 1982 c. 48.

**M19** 1986 c. 32.

**M20** 1988 c. 33.

### 75 Compassionate release of certain children and other persons in Scotland.

- (1) In section 7(5) of the <sup>M21</sup>Prisoners and Criminal Proceedings (Scotland) Act 1993 (which applies provisions of that Act to certain children), for “Sections”, where it first occurs, substitute “ Without prejudice to section 6(1)(b)(ii) of this Act, sections 3, ”.
- (2) In paragraph 2(2) of Schedule 6 to that Act (which makes transitional provision as respects release on licence on compassionate grounds) after “Act” insert “ , and sections 12 and 17 of this Act in so far as relating to a licence granted, or person released, by virtue of this sub-paragraph, ”.

#### Marginal Citations

**M21** 1993 c. 9.

### 76 Life prisoners transferred to Scotland.

- (1) The Prisoners and Criminal Proceedings (Scotland) Act 1993 shall be amended as follows.
- (2) In section 10 (life prisoners transferred to Scotland)—
  - (a) in subsection (1), the words “(whether before or after the commencement of this section)” shall cease to have effect;
  - (b) in subsection (2), after “life prisoner” insert “ , except such case as is mentioned in paragraph 7 of Schedule 6 to this Act, ”; and
  - (c) in subsection (4)—
    - (i) in paragraph (a), after “has” insert “ (whether before or after the commencement of this section) ”; and
    - (ii) in paragraph (b), after “Scotland” insert “ (whether before or after that commencement) ”.
- (3) In Schedule 6 (transitional provisions and savings)—
  - (a) in paragraph 1, in the definition of “existing life prisoner”, after “person” insert “ (other than a transferred life prisoner) ”;
  - (b) in paragraph 2(1), for “paragraph 7 below” substitute “ to section 10(4) of this Act ”; and
  - (c) for paragraph 7 substitute—

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In the case of a transferred life prisoner who is a discretionary life prisoner for the purposes of Part II of the <sup>M22</sup>Criminal Justice Act 1991 by virtue of section 48 of or paragraph 9 of Schedule 12 to that Act, subsection (3) of section 10 of this Act applies and the certificate mentioned in paragraph (b) of that subsection is the certificate under the said section 48 or paragraph 9.”

**Marginal Citations**

**M22** 1991 c. 53.

VALID FROM 01/04/1994

**77 Power to extend certain offences to Crown servants and to exempt regulators etc.**

Schedule 4, which confers power on the Secretary of State to make regulations extending certain provisions to Crown servants and to make regulations exempting persons from certain offences, shall have effect.

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