



# Criminal Justice Act 1948

1948 CHAPTER 58 11 and 12 Geo 6

**E+W**

An Act to abolish penal servitude, hard labour, prison divisions and sentence of whipping; to amend the law relating to the probation of offenders, and otherwise to reform existing methods and provide new methods of dealing with offenders and persons liable to imprisonment; to amend the law relating to the proceedings of criminal courts, including the law relating to evidence before such courts; to abolish privilege of peerage in criminal proceedings; to regulate the management of prisons and other institutions and the treatment of offenders and other persons committed to custody; to re-enact certain enactments relating to the matters aforesaid; and for purposes connected therewith. [30th July 1948]

## **PART I E+W**

### POWERS AND PROCEEDINGS OF COURTS

#### *Abolition of penal servitude, hard labour, prison divisions and sentence of whipping*

#### **1 Abolition of penal servitude, hard labour and prison divisions. E+W**

- (1) No person shall be sentenced by a court to penal servitude; and every enactment conferring power on a court to pass a sentence of penal servitude in any case shall be construed as conferring power to pass a sentence of imprisonment for a term not exceeding the maximum term of penal servitude for which a sentence could have been passed in that case immediately before the commencement of this Act.
- (2) No person shall be sentenced by a court to imprisonment with hard labour; and every enactment conferring power on a court to pass a sentence of imprisonment with hard labour in any case shall be construed as conferring power to pass a sentence of imprisonment for a term not exceeding the term for which a sentence of imprisonment with hard labour could have been passed in that case immediately

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before the commencement of this Act; and so far as any enactment requires or permits prisoners to be kept to hard labour it shall cease to have effect.

(3) So far as any enactment provides that a person sentenced to imprisonment or committed to prison is or may be directed to be treated as an offender of a particular division, or to be placed in a separate division, it shall cease to have effect.

2 ..... F1 **E+W**

**Textual Amendments**  
F1 S. 2 repealed by [Statute Law \(Repeals\) Act 1977 \(c. 18\)](#), [Sch. 1 Pt. IV](#)

3—12 ..... F2 **E+W**

**Textual Amendments**  
F2 S. 3–12 repealed by [Powers of Criminal Courts Act 1973 \(c. 62\)](#), [Sch. 6](#)

13 ..... F3 **E+W**

**Textual Amendments**  
F3 S. 13 repealed by [Criminal Law Act 1967 \(c. 58\)](#), [Sch. 3 Pt. III](#)

14 ..... F4 **E+W**

**Textual Amendments**  
F4 S. 14 repealed by [Powers of Criminal Courts Act 1973 \(c. 62\)](#), [Sch. 6](#)

15 ..... F5 **E+W**

**Textual Amendments**  
F5 S. 15 repealed by [Criminal Justice Act 1967 \(c. 80\)](#), [Sch. 7 Pt. I](#)

*Powers relating to young offenders*

16 ..... F6 **E+W**

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**Textual Amendments**

**F6** S. 16 repealed by [Homicide Act 1957 \(c. 11\)](#), **Sch. 2**

**17**

**E+W**

- (1) ..... **F7**
- (3) ..... **F8**
- (4) ..... **F9**
- (6) ..... **F10**

**Textual Amendments**

- F7** S. 17(1)(2) repealed by [Powers of Criminal Courts Act 1973 \(c. 62\)](#), **Sch. 6**
- F8** S. 17(3) repealed by [Courts Act 1971 \(c. 23\)](#), **Sch. 11 Pt. IV**
- F9** S. 17(4)(5) repealed by [Magistrates' Courts Act 1952 \(c. 55\)](#) s. 132(2), **Sch. 6**
- F10** S. 17(6) repealed by [Powers of Criminal Courts Act 1973 \(c. 62\)](#), **Sch. 6**

**18**

..... **F11** **E+W**

**Textual Amendments**

**F11** S. 18 repealed by [Criminal Justice Act 1961 \(c. 39\)](#), **Sch. 5**

**19, 20.**

..... **F12** **E+W**

**Textual Amendments**

**F12** Ss. 19, 20, 48(2), 52, 76(2) repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **Sch. 16**

**21**

..... **F13** **E+W**

**Textual Amendments**

**F13** S. 21 repealed by [Criminal Justice Act 1967 \(c. 80\)](#), **Sch. 7 Pt. I**

**22**

..... **F14** **E+W**

**Textual Amendments**

**F14** S. 22 repealed by [Criminal Justice Act 1961 \(c. 39\)](#), **Sch. 5**

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23 ..... <sup>F15</sup> **E+W**

**Textual Amendments**  
**F15** S. 23 repealed by [Criminal Justice Act 1967 \(c. 80\)](#), **Sch. 7 Pt. I**

24 ..... <sup>F16</sup> **E+W**

**Textual Amendments**  
**F16** Ss. 24–26, 28 repealed by [Magistrates' Courts Act 1952 \(c. 55\)](#), **Sch. 6**

*Adjournment, remand, etc.*

25, 26. .... <sup>F17</sup> **E+W**

**Textual Amendments**  
**F17** Ss. 24–26, 28 repealed by [Magistrates' Courts Act 1952 \(c. 55\)](#), **Sch. 6**

[<sup>F18</sup>27 **Remand of persons aged 17 to 20.** **E+W**

- (1) Where a court remands a person charged with or convicted of an offence or commits him for trial or sentence and he is not less than seventeen but under twenty-one years old and is not released on bail, then, if the court has been notified by the Secretary of State that a remand centre is available for the reception from the court of persons of his class or description, it shall commit him to a remand centre and, if it has not been so notified, it shall commit him to a prison.
- (2) Where a person is committed to a remand centre in pursuance of this section, the centre shall be specified in the warrant and he shall be detained there for the period for which he is remanded or until he is delivered thence in due course of law.
- (3) In this section “court” includes a justice; and nothing in this section affects the provisions of [<sup>F19</sup>section 128(7) of the Magistrates’ Courts Act 1980](which provides for remands to the custody of a constable).]

**Textual Amendments**  
**F18** S. 27 substituted by [Children and Young Persons Act 1969 \(c. 54\)](#), **Sch. 5 para. 24**  
**F19** Words substituted by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), **Sch. 7 para. 7**

28 ..... <sup>F20</sup> **E+W**

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**Textual Amendments**

**F20** Ss. 24–26, 28 repealed by [Magistrates' Courts Act 1952 \(c. 55\)](#), [Sch. 6](#)

29 ..... <sup>F21</sup> **E+W**

**Textual Amendments**

**F21** S. 29 repealed by [Powers of Criminal Courts Act 1973 \(c. 62\)](#), [Sch. 6](#)

*Miscellaneous provisions relating to procedure, appeals, evidence, etc.*

30 ..... <sup>F22</sup> **E+W**

**Textual Amendments**

**F22** S. 30 repealed by [Statute Law \(Repeals\) Act 1977 \(c. 18\)](#), [Sch. 1 Pt. IV](#)

**31 Jurisdiction and procedure in respect of certain indictable offences committed in foreign countries.** **E+W**

- (1) Any British subject employed under His Majesty's Government in the United Kingdom in the service of the Crown who commits, in a foreign country, when acting or purporting to act in the course of his employment, any offence which, if committed in England, would be punishable on indictment, shall be guilty of an offence . . . <sup>F23</sup>, and subject to the same punishment, as if the offence had been committed in England.

(2) ..... <sup>F24</sup>

**Textual Amendments**

**F23** Words repealed by [Criminal Law Act 1967 \(c. 58\)](#), [Sch. 3 Pt. III](#)

**F24** S. 31(2)(3) repealed by [Criminal Law Act 1967 \(c. 58\)](#), [Sch. 3 Pt. III](#)

32, 33. .... <sup>F25</sup> **E+W**

**Textual Amendments**

**F25** Ss. 32, 33 repealed by [Magistrates' Courts Act 1952 \(c. 55\)](#), [Sch. 6](#)

34 ..... <sup>F26</sup> **E+W**

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**Textual Amendments**  
F26 S. 34 repealed by [Criminal Justice Administration Act 1962 \(c. 15\)](#), [Sch. 5 Pt. II](#)

35 ..... F27 **E+W**

**Textual Amendments**  
F27 S. 35 repealed by [Juries Act 1974 \(c. 23\)](#), [Sch. 3](#)

36 ..... F28 **E+W**

**Textual Amendments**  
F28 S. 36 repealed by [Magistrates' Courts Act 1952 \(c. 55\)](#), [Sch. 6](#)

**37 Bail on appeal, case stated or application for certiorari. **E+W****

(1) Without prejudice to the powers vested before the commencement of this Act in any court to admit or direct the admission of a person to bail—

(a) ..... F29

[<sup>F30</sup>(b) the High Court may [<sup>F31</sup> subject to section 25 of the Criminal Justice and Public Order Act 1994,][<sup>F32</sup> grant bail to] a person—

(i) who, after the decision of his case by the Crown Court, has applied to the Crown Court for the statement of a case for the High Court on that decision, or

(ii) who has applied to the High Court for an order of certiorari to remove proceedings in the Crown Court in his case into the High Court, or has applied to the High Court for leave to make such an application.]

(c) ..... F33

[<sup>F34</sup>(d) the High Court may [<sup>F31</sup> subject to section 25 of the Criminal Justice and Public Order Act 1994,]grant bail to a person who has been convicted or sentenced by a magistrates' court and has applied to the High Court for an order of certiorari to remove the proceedings into the High Court or has applied to the High Court for leave to make such an application.]

[<sup>F35</sup>(1A) Where the court grants bail to a person under paragraph (d) of subsection (1) above—

(a) the time at which he is to appear in the event of the conviction or sentence not being quashed by the High Court shall be such time within ten days after the judgment of the High Court has been given as may be specified by the High Court; and

(b) the place at which he is to appear in that event shall be a magistrates' court acting for the same petty sessions area as the court which convicted or sentenced him.]

(2) ..... F36

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- (4) Rules of court may be made under section [F37]84 of the Supreme Court Act 1981—
- (a) ..... F38
  - (b) for authorising the recommitment, in such cases and by such courts or justices as may be prescribed by the rules, of persons released from custody under this section;  
..... F39
- (5) ..... F40
- (6) The time during which a person is [F41]released on] bail under paragraph (b), . . . F42 or (d) of subsection (1) of this section shall not count as part of any term of imprisonment under his sentence; and any sentence of imprisonment imposed by a court of summary jurisdiction, or, on appeal, by [F43]the Crown Court], after the imposition of which a person is so [F41]released on] bail, shall be deemed to begin to run or to be resumed as from the day on which he is received in prison under the sentence; and for the purposes of this subsection the expression “prison” shall be deemed to include a detention centre and remand home and the expression “imprisonment” shall be construed accordingly.

**Textual Amendments**

- F29** S. 37(1)(a) repealed by [Criminal Justice Act 1967 \(c. 80\)](#), **Sch. 7 Pt. I**
- F30** S. 37(1)(b) substituted by [Courts Act 1971 \(c. 23\)](#), **Sch. 8**, para. 28(1)
- F31** Words in s. 37(1)(b)(d) inserted (10.4.1995) by [1994 c. 33](#), s. 168(2), **Sch. 10 para. 6**; S.I. 1995/721, art. 2, **Sch. Appendix A**
- F32** Words substituted by [Bail Act 1976 \(c. 63\)](#), **Sch. 2 para. 11(1)(2)**
- F33** S. 37(1)(c) repealed by [Criminal Justice Act 1967 \(c. 80\)](#), **Sch. 7 Pt. I**
- F34** S. 37(1)(d) substituted by [Bail Act 1976 \(c. 63\)](#), **Sch. 2 para. 11(1)(3)**
- F35** S. 37(1A) substituted by [Bail Act 1976 \(c. 63\)](#), **Sch. 2 para. 11(1)(4)**
- F36** S. 37(2)(3) repealed by [Bail Act 1976 \(c. 63\)](#), **Sch. 3**
- F37** Words substituted by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), **Sch. 5**
- F38** S. 37(4)(a) repealed by [Bail Act 1976 \(c. 63\)](#), **Sch. 3**
- F39** Words repealed by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), **Sch. 7**
- F40** S. 37(5) repealed by [Courts Act 1971 \(c. 23\)](#), **Sch. 11 Pt. IV**
- F41** Words substituted by [Bail Act 1976 \(c. 63\)](#), **Sch. 2 para. 11(1)(5)**
- F42** Word repealed by [Criminal Justice Act 1967 \(c. 80\)](#), s. 22(5), **Sch. 7 Pt. I**
- F43** Words substituted by [Courts Act 1971 \(c. 23\)](#), **Sch. 8 para. 24(b)**

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

- C1** S. 37 applied by [Administration of Justice Act 1960 \(c. 65\)](#) s. 4(2)
- C2** S. 37(6) extended by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), s. 113(4)
- C3** S. 37(6) applied by [Magistrates' Courts Act 1952 \(c. 55\)](#), s. 89(3)

- (1) ..... F44
- (2) ..... F45
- (3) ..... F46
- (5) ..... F47

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(6) ..... F48

**Textual Amendments**

**F44** S. 38(1) repealed by [Criminal Appeal Act 1968 \(c. 19\)](#), **Sch. 7**

**F45** S. 38(2) repealed by [Criminal Appeal Act 1966 \(c. 31\)](#), **Sch. 3**

**F46** S. 38(3)(4) repealed by [Criminal Justice Act 1967 \(c. 80\)](#), **Sch. 7 Pt. I**

**F47** S. 38(5) repealed by Costs in [Criminal Cases Act 1952 \(c. 48\)](#), **Sch.**

**F48** S. 38(6) repealed by [Administration of Justice Act 1960 \(c. 65\)](#), **Sch. 4**

**39 Proof of previous convictions by finger-prints. E+W**

- (1) A previous conviction may be proved against any person in any criminal proceedings by the production of such evidence of the conviction as is mentioned in this section, and by showing that his finger-prints and those of the person convicted are the finger-prints of the same person.
- (2) A certificate purporting to be signed by or on behalf of the Commissioner of Police of the Metropolis, containing particulars relating to a conviction extracted from the criminal records kept by him, and certifying that the copies of the finger-prints exhibited to the certificate are copies of the finger-prints appearing from the said records to have been taken [<sup>F49</sup>under or by virtue of any enactment in that behalf in force in any part of the United Kingdom (including an enactment of the Parliament of Northern Ireland)], from the person convicted on the occasion of the conviction, shall be evidence of the conviction and evidence that the copies of the finger-prints exhibited to the certificate are copies of the finger-prints of the person convicted.
- (3) A certificate purporting to be signed by or on behalf of the governor of a prison or remand centre in which any person have been detained in connection with any criminal proceedings, certifying that the finger-prints exhibited thereto were taken from him while he was so detained, shall be evidence in those proceedings that the finger-prints exhibited to the certificate are the finger-prints of that person.
- (4) A certificate, purporting to be signed by or on behalf of the Commissioner of Police of the Metropolis, and certifying that the finger-prints, copies of which are certified as aforesaid by or on behalf of the Commissioner to be copies of the finger-prints of a person previously convicted and the finger-prints certified by or on behalf of the governor as aforesaid, or otherwise shown, to be the finger-prints of the person against whom the previous conviction is sought to be proved are the finger-prints of the same person shall be evidence of the matter so certified.
- (5) The method of proving a previous conviction authorised by this section shall be in addition to any other method of proving the conviction.

**Textual Amendments**

**F49** Words substituted by [Criminal Justice Act 1961 \(c. 39\)](#), **Sch. 4**

**40** ..... F50 **E+W**



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### Textual Amendments

**F50** S. 40 repealed by [Magistrates' Courts Act 1952 \(c. 55\)](#), [Sch. 6](#)

## 41 Evidence by certificate. **E+W**

- (1) In any criminal proceedings, a certificate purporting to be signed by a constable, or by a person having the prescribed qualifications, and certifying that a plan or drawing exhibited thereto is a plan or drawing made by him of the place or object specified in the certificate, and that the plan or drawing is correctly drawn to a scale so specified, shall be evidence of the relative position of the things shown on the plan or drawing.
- (2) ..... <sup>F51</sup>
- (3) ..... <sup>F52</sup>
- (4) Nothing in this section shall be deemed to make a certificate . . . <sup>F53</sup> admissible as evidence in proceedings for an offence except in a case where and to the extent to which oral evidence to the like effect would have been admissible in those proceedings.
- (5) Nothing in this section shall be deemed to make a certificate . . . <sup>F53</sup> admissible as evidence in proceedings for any offence—
  - (a) unless a copy thereof has, not less than seven days before the hearing or trial, been served in the prescribed manner on the person charged with the offence; or
  - (b) if that person, not later than three days before the hearing or trial or within such further time as the court may in special circumstances allow, serves notice in the prescribed form and manner on the prosecutor requiring the attendance at the trial of the person who signed the certificate . . . <sup>F53</sup>
- [<sup>F54</sup>(5A) Where the proceedings mentioned in subsection (1) above are proceedings before a magistrates' court inquiring into an offence as examining justices this section shall have effect with the omission of—
  - (a) subsection (4), and
  - (b) in subsection (5), paragraph (b) and the word “or” immediately preceding it.]
  - (6) In this section the expression “prescribed” means prescribed by rules made by the Secretary of State.

### Textual Amendments

**F51** S. 41(2) repealed by [Road Traffic Act 1960 \(c. 16\)](#), [Sch. 18 Pt. I](#)

**F52** S. 41(3) repealed by [Theft Act 1968 \(c. 60\)](#), s. 33(3), [Sch. 3 Pt. III](#)

**F53** Words repealed by [Theft Act 1968 \(c. 60\)](#), s. 33(3), [Sch. 3 Pt. III](#)

**F54** S. 41(5A) inserted (4.7.1996 but with effect as mentioned in [Sch. 1 Pt. III para. 39](#)) by [1996 c. 25](#), s. 47, [Sch. 1 Pt. II para. 18](#) (with s. 78(1)); S.I. 1997/683, [art. 1\(2\)](#)

## 42 Order of speeches. **E+W**

- (1) Notwithstanding anything in section two of the <sup>M1</sup>Criminal Procedure Act 1865, as amended by section three of the <sup>M2</sup>Criminal Evidence Act 1898, the prosecution shall

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not be entitled to the right of reply upon the trial of any person on indictment on the ground only that documents have been put in evidence for the defence.

(2) ..... F55

**Textual Amendments**  
**F55** S. 42(2)(3) repealed by [Magistrates' Courts Act 1952 \(c. 55\)](#), [Sch. 6](#)

**Marginal Citations**  
**M1** 1865 c. 18.  
**M2** 1898 c. 36.

43 ..... F56 **E+W**

**Textual Amendments**  
**F56** S. 43 repealed by [Powers of Criminal Courts Act 1973 \(c. 62\)](#), [Sch. 6](#)

44 ..... F57 **E+W**

**Textual Amendments**  
**F57** S. 44 repealed by [Costs in Criminal Cases Act 1952 \(c. 48\)](#), [Sch.](#)

**PART II** **E+W**

ADMINISTRATIVE PROVISIONS AND PROVISIONS AS TO TREATMENT OF PRISONERS, ETC.

45— ..... F58 **E+W**  
47.

**Textual Amendments**  
**F58** [Ss. 45–47](#) repealed by [Powers of Criminal Courts Act 1973 \(c. 62\)](#), [Sch. 6](#)

*Institutions for offenders*

48 **E+W**  
(1) ..... F59  
(2) ..... F60  
(3) ..... F59

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- (4) ..... F61
- (5) ..... F62

**Textual Amendments**

- F59** S. 48(1)(3) repealed by [Prison Act 1952 \(c. 52\)](#), [Sch. 4 Pt. I](#)
- F60** Ss, 19, 20, 48(2), 52, 76(2) repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [Sch. 16](#)
- F61** S. 48(4) repealed by [Children and Young Persons Act 1969 \(c. 54\)](#), [Sch. 6](#)
- F62** Ss. 48(5)–(7) 50, 51 repealed by [Prison Act 1952 \(c. 52\)](#), [Sch. 4 Pt. I](#)

**49 Remand homes. E+W**

- (1) As from such date as may be specified in an order made by statutory instrument by the Secretary of State, no premises shall be used as a remand home unless a certificate of approval has been issued by the Secretary of State.
- (2) The Secretary of State may by rules made under this Act apply to remand homes, with such adaptations and modifications as he thinks fit, the provisions of section seventy–nine and subsection (3) of section one hundred and six of the <sup>M3</sup>Children and Young Persons Act 1933 (which relate to the approval of schools for the purposes of that Act and the evidence of such approval).
- (3) No person shall be appointed after the commencement of this Act to be in charge of a remand home established by a county council or a county borough council unless his appointment has been approved by the Secretary of State.
- (4) Councils of counties and county boroughs may provide in remand homes provided for their areas facilities for the observation of any person detained therein on whose physical or mental condition a medical report may be desirable for the assistance of the court in determining the most suitable method of dealing with his case, or may, if facilities for observation are available at any other institution or place, arrange for the use of those facilities for the observation of any such person as aforesaid.
- (5) ..... F63
- (6) Any expenses incurred by the council of a county or county borough in giving effect to arrangements made under subsection (4) of this section, and any sums paid by such a council under subsection (4) of the last foregoing section, shall be treated for the purposes of any grant under section one hundred and four of the Children and Young Persons Act 1933, as expenses of the council in respect of remand homes.

**Textual Amendments**

- F63** S. 49(5) repealed by [Children and Young Persons Act 1969 \(c. 54\)](#), ss. 72(4), 73(1), [Sch. 6](#), which repeal came into force 1.1.1971 by virtue of S.I. 1970/1498, art. 3, [Sch. 1](#) appendix B

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

- C4** S. 49(1)–(4), (6) repealed (prosp.) by [Children and Young Persons Act 1969 \(c. 54\)](#), ss. 72(4), 73(1), [Sch. 6](#)

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**Marginal Citations**

M3 1933 c. 12.

50, 51. .... F64 **E+W**

**Textual Amendments**

F64 Ss. 48(5)–(7) 50, 51 repealed by Prison Act 1952 (c. 52), Sch. 4 Pt. I

*Rules for Management of Prisons, Etc.*

52 ..... F65 **E+W**

**Textual Amendments**

F65 Ss. 19, 20, 48(2), 52, 76(2) repealed by Criminal Justice Act 1982 (c. 48, SIF 39:1), Sch. 16

53— ..... F66 **E+W**  
59.

**Textual Amendments**

F66 Ss. 53–59 repealed by Prison Act 1952 (c. 52), Sch. 4 Pt. I

60, 61. .... F67 **E+W**

**Textual Amendments**

F67 Ss. 60, 61 repealed by Prison Act 1952 (c. 52) s. 55(3), Sch. 4 Pt. II

62 ..... F68 **E+W**

**Textual Amendments**

F68 S. 62 repealed by Mental Health Act 1959 (c. 72), Sch. 8 Pt. I

63 ..... F69 **E+W**

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**Textual Amendments**

**F69** S. 63 repealed by [Mental Health Act 1959 \(c. 72\)](#), [Sch. 8 Pts. I, II](#)

**64** ..... <sup>F70</sup> **E+W**

**Textual Amendments**

**F70** S. 64 repealed by [Mental Health Act 1959 \(c. 72\)](#), [Sch. 8 Pt. I](#)

*Miscellaneous*

**65** ..... <sup>F71</sup> **E+W**

**Textual Amendments**

**F71** S. 65 repealed by [Prison Act 1952 \(c. 52\)](#), [s. 55\(3\)](#), [Sch. 4 Pt. II](#)

**66** **Legal custody.** **E+W**

Any person required or authorised by or under this Act to be taken to any place or to be kept in custody shall, while being so taken or kept, be deemed to be in legal custody; and a constable, while taking or keeping any such person as aforesaid, shall have all the powers, authorities, protection and privileges of a constable as well beyond his constablewick as within it.

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

**C5** S. 66 repealed (S.) by [Statute Law \(Repeals\) Act 1977 \(c. 18\)](#), [Sch. Pt. IV](#)

**67** ..... <sup>F72</sup> **E+W**

**Textual Amendments**

**F72** S. 67 repealed by [Magistrates' Courts Act 1952 \(c. 55\)](#), [Sch. 6](#)

**68** ..... <sup>F73</sup> **E+W**

**Textual Amendments**

**F73** S. 68 repealed by [Police and Criminal Evidence Act 1984 \(c. 60, SIF 95\)](#), [s. 119\(2\)](#), [Sch. 7 Pt. I](#)

*Status: Point in time view as at 04/07/1996.*

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**69 Commutation of death sentence to sentence of imprisonment. E+W**

Where His Majesty pardons any person who has been sentenced to death on condition that he serves a term of imprisonment, that person shall be deemed to have been sentenced by the court before which he was convicted to imprisonment for the said term.

**70 Amendments of Forfeiture Act, 1870. E+W**

- (1) ..... F74
- (2) Where any pension or superannuation allowance has been forfeited under section two of the <sup>M4</sup>Forfeiture Act 1870, the authority by whom the pension or allowance was granted may restore the pension or allowance either in whole or in part: Provided that no payment of pension or allowance in respect of any period before the commencement of this Act shall be made by virtue of this subsection.

**Textual Amendments**  
**F74** S. 70(1) repealed by Statute Law (Repeals) Act 1977 (c. 18), Sch. 1 Pt. IV

**Marginal Citations**  
**M4** 1870 c. 23.

**71, 72. .... F75 E+W**

**Textual Amendments**  
**F75** Ss. 71, 72 repealed by Children and Young Persons Act 1969 (c. 54), Sch. 6

**PART III E+W**

**SUPPLEMENTAL**

**73 ..... F76 E+W**

**Textual Amendments**  
**F76** S. 73 repealed by Statute Law Repeals Act 1977 (c. 18), Sch. 1 Pt. IV

**74 ..... F77 E+W**

**Textual Amendments**  
**F77** S. 74 repealed by Children and Young Persons Act 1963 (c. 37), Sch. 5

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75 .....<sup>F78</sup> **E+W**

**Textual Amendments**

**F78** S. 75 repealed by [Children and Young Persons Act 1969 \(c. 54\)](#), [Sch. 6](#)

76 **Rules and orders.** **E+W**

- (1) Any power of the Secretary of State to make rules under this Act shall be exercised by statutory instrument.
- (2) .....<sup>F79</sup>
- (3) Any power to make Orders in Council under this Act, and any power of the Secretary of State to make orders under this Act, shall include power to revoke or vary any such Order in Council or order by a subsequent Order in Council or order.

**Textual Amendments**

**F79** Ss. 19, 20, 48(2), 52, 76(2) repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [Sch. 16](#)

77 **Expenses and grants payable out of moneys provided by Parliament.** **E+W**

- (1) Any expenses of the Secretary of State under this Act . . .<sup>F80</sup>  
shall, to such amount as may be sanctioned by the Treasury, be defrayed out of moneys provided by Parliament.
- (2) .....<sup>F81</sup>
- (6) There shall be paid out of moneys provided by Parliament any sums by which any grants under section one hundred and four of the<sup>M5</sup>Children and Young Persons Act 1933 towards the expenses of councils of counties and county boroughs are increased by reason of any provisions of this Act.
- (7) .....<sup>F81</sup>

**Textual Amendments**

**F80** Words repealed by [Powers of Criminal Courts Act 1973 \(c. 62\)](#), [Sch. 6](#)

**F81** S. 77(2)–(5)(7) repealed by [Powers of Criminal Courts Act 1973 \(c. 62\)](#), [Sch. 6](#)

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

**C6** S. 77(6) repealed (prosp.) by [Children and Young Persons Act 1969 \(c. 54\)](#), s. 73(2), [Sch. 6](#)

**Marginal Citations**

**M5** 1933 c. 12.

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## 78 Transitory provisions. **E+W**

Without prejudice to the provisions of the <sup>M6</sup>Interpretation Act 1889 with respect to repeals, the transitory provisions set out in the Eighth Schedule to this Act shall have effect for the purposes of the transition to the provisions of this Act from the law in force before the commencement of this Act.

### Marginal Citations

**M6** 1889 c. 63.

## 79 **E+W**

The enactments mentioned in the first column of the Ninth Schedule to this Act shall have effect subject to the amendments specified in the second column of that Schedule (being amendments consequential upon the foregoing provisions of this Act or relating to matters of minor detail).

### Modifications etc. (not altering text)

**C7** The text of s. 79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

## 80 Interpretation. **E+W**

(1) In this Act, unless the context otherwise requires, the following expressions have the meaning hereby respectively assigned to them, that is to say:—

<sup>F82</sup>

[<sup>F83</sup>“Approved school” means a school approved under section seventy–nine of the <sup>M7</sup>Children and Young Persons Act 1933;]

“Court” does not include a court–martial;

“Court of summary jurisdiction” includes examining justices within the meaning of the <sup>M8</sup>Criminal Justice Act 1925;

“Detention centre” has the meaning assigned to it by section forty–eight of this Act;

“Enactment” includes an enactment contained in a local Act and any order, regulation or other instrument having effect by virtue of an Act;

“England” includes Wales;

“Impose imprisonment” means pass a sentence of imprisonment or commit to prison in default of payment of any sum of money or for failing to do or abstain from doing anything required to be done or left undone;

“Local authority” means, in relation to any probation area, any authority out of whose funds the salary of the clerk to the justices for a petty sessional division or place contained in the probation area is paid;

<sup>F84</sup>

“Remand centre” has the meaning assigned to it by section forty–eight of this Act

[<sup>F85</sup>“Remand home” means premises established or used by the council of a county or county borough under the provisions of section seventy–seven of the Children and Young Persons Act 1933;]



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“Sentence” includes an order for detention in a detention centre, . . . <sup>F86</sup>, but does not include a committal in default of payment of any sum of money or failing to do or abstain from doing anything required to be done or left undone;

. . . . .<sup>F87</sup>

- (2) Any reference in this Act to a previous sentence of imprisonment shall be construed as including a reference to a previous sentence of penal servitude; any such reference to a previous sentence of Borstal training shall be construed as including a reference to a previous sentence of detention in a Borstal institution; and any such reference to a previous conviction or sentence shall be construed as a reference to a previous conviction by a court in any part of Great Britain and to a previous sentence passed by any such court.
- (3) Where the age of any person at any time is material for the purposes of any provision of this Act, or of any Order in Council made thereunder, regulating the powers of a court, his age at the material time shall be deemed to be or to have been that which appears to the court after considering any available evidence to be or to have been his age at that time.
- (4) References in this Act to an offence punishable with imprisonment shall be construed, in relation to any offender, without regard to any prohibition or restriction imposed by or under [<sup>F88</sup>any enactment], upon the imprisonment of offenders of his age, but shall not be construed as including an offence for which the court is required to impose a sentence of imprisonment for life.
- (5) . . . . .<sup>F89</sup>
- (6) Where any provision of this Act empowers a court on conviction of an offender to pass a sentence or make an order in lieu of dealing with him in any other manner, the said provision shall not be construed as taking away any power of the court to order the offender to pay costs, . . . <sup>F90</sup> or compensation.
- (7) References in this Act to any enactment shall, unless the context otherwise requires, be construed as references to that enactment as amended by any subsequent enactment including this Act.

**Textual Amendments**

- F82** Definition repealed by Powers of Criminal Courts Act 1973 (c. 62), **Sch. 6**
- F83** Definition repealed (prosp.) by Children and Young Person Act 1969 (c. 54), ss. 72(4), 73(2), **Sch. 6**
- F84** Definitions repealed by Mental Health Act 1959 (c. 72), **Sch. 8 Pt. I**, Administration of Justice Act 1964 (c. 42), **Sch. 5** and Powers of Criminal Courts Act 1973 (c. 62), **Sch. 6**
- F85** Definition of “Remand Home” repealed (prosp.) by Children and Young Persons Act 1969 (c. 54), **Sch. 6**
- F86** Words repealed by Children and Young Persons Act 1969 (c. 54), **Sch. 6**
- F87** Definitions repealed by Criminal Courts Act 1973 (c. 62), **Sch. 6** and Children and Young Persons Act 1969 (c. 54), **Sch. 6**
- F88** Words substituted by Criminal Justice Act 1961 (c. 39), **Sch. 4**
- F89** S. 80(5) repealed by Powers of Criminal Courts Act 1973 (c. 62), **Sch. 6**
- F90** Word repealed by Criminal Justice Act 1972 (c. 71), **Sch. 6 Pt. II**

**Marginal Citations**

- M7** 1933 c. 12.
- M8** 1925 c. 86.

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**81 Application to Scotland. E+W**

.....<sup>F91</sup> this Act shall not extend to Scotland.

**Textual Amendments**  
**F91** Words repealed by [Statute Law \(Repeals\) Act 1977 \(c. 18\)](#), [Sch. 1 Pt. IV](#)

**82 †Application to Northern Ireland. E+W**

.....<sup>F92</sup> this Act shall not extend to Northern Ireland.

**Textual Amendments**  
**F92** Words repealed by [Statute Law \(Repeals\) Act 1977 \(c. 18\)](#), [Sch. 1 Pt. IV](#)

**Modifications etc. (not altering text)**  
**C8** Unreliable marginal note

**83 Short title, commencement and repeals. E+W**

(1) This Act may be cited as the Criminal Justice Act 1948.

(2) .....<sup>F93</sup>

**Textual Amendments**  
**F93** [S. 83\(2\)\(3\)](#) repealed by [Statute Law \(Repeals\) Act 1977 \(c. 18\)](#), [Sch. 1 Pt. IV](#)

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## SCHEDULES

### <sup>F94</sup>FIRST SCHEDULE **E+W**

#### Textual Amendments

**F94** Sch. 1 repealed by Powers of Criminal Courts Act 1973 (c. 62), Sch. 6

.....  
F94

### <sup>F95</sup>SECOND TO FOURTH SCHEDULES **E+W**

#### Textual Amendments

**F95** Schs. 2–4 repealed by Prison Act 1952 (c. 52), Sch. 4 Pt. I

.....  
F95

### <sup>F96</sup>FIFTH SCHEDULE **E+W**

#### Textual Amendments

**F96** Sch. 5 repealed by Powers of Criminal Courts Act 1973 (c. 62), Sch. 6

.....  
F96

### <sup>F97</sup>SIXTH SCHEDULE **E+W**

#### Textual Amendments

**F97** Sch. 6 repealed by Prison Act 1952 (c. 52), Sch. 4 Pt. I

.....  
F97

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F98F98 SEVENTH  
SCHEDULE E+W

**Textual Amendments**

**F98** Sch. 7 repealed by [Prison Act 1952 \(c. 52\)](#), s. 55(3), [Sch. 4 Pt. II](#)

F98

EIGHTH SCHEDULE E+W

Section 78.

TRANSITORY PROVISIONS

- 1 (1) Any person who immediately before the commencement of this Act was undergoing or liable to undergo a term of penal servitude under a sentence passed by a court in any part of Great Britain, or as a condition of a pardon granted by His Majesty for an offence for which he was sentenced to death by such a court, or in consequence of the forfeiture or revocation of a licence granted in any part of Great Britain under the Penal Servitude Acts 1853 to 1891, shall, if he is or ought to be in custody in England at the commencement of this Act, be treated thereafter as if he had been sentenced to, or were undergoing or liable to undergo, imprisonment and not penal servitude for that term.
- (2) Where any person who having been sentenced to penal servitude for life, or while undergoing penal servitude for life as a condition of a pardon granted as aforesaid, is at the commencement of this Act the holder of a licence granted under the Penal Servitude Acts 1853 to 1891, which has not been forfeited or revoked, he shall, unless the licence was granted to him while he was in Scotland, be deemed to have been released on licence under section fifty-seven of this Act, and paragraph 6 of the Seventh Schedule to this Act shall apply to him accordingly.
- [<sup>F99</sup>(2A) In the case of a person who is deemed by virtue of the last foregoing sub-paragraph to have been released on licence under section fifty-seven of this Act, the Secretary of State may, without recalling him to prison, substitute for the licence granted under the Penal Servitude Acts 1853 to 1891, a licence under the said section fifty-seven.]
- (3) Where any person who having been sentenced to penal servitude for a term less than life is at the commencement of this Act the holder of a licence granted as aforesaid under the Penal Servitude Acts 1853 to 1891, which has not been forfeited or revoked, he shall, unless the licence was granted to him while he was in Scotland, be treated as if his sentence had expired.

**Textual Amendments**

**F99** Para. 1(2A) inserted (S.) by [Criminal Justice \(Scotland\) Act 1949 \(c. 94\)](#), [Sch. 11](#)

- 2 Any person who has been sentenced to imprisonment with hard labour for a term which has not expired at the commencement of this Act shall, for the remainder of that term, be treated as though he had been sentenced to imprisonment without hard labour; but nothing in this paragraph shall affect any disability or disqualification attaching to him by virtue of his sentence.

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3—9. . . . . F100

**Textual Amendments**  
F100 Sch. 8 paras. 3–9 repealed by Powers of Criminal Courts Act 1973 (c. 62), Sch. 6

NINTH SCHEDULE **E+W**

Section 79.

CONSEQUENTIAL AND MINOR AMENDMENTS.

**Modifications etc. (not altering text)**  
C9 Except as indicated the text of Sch. 9 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Act to be amended	Amendment
. . . F101	. . . F101
. . . F102	. . . F102
. . . F103	. . . F103
. . . F104	. . . F104
. . . F105	. . . F105
. . . F106	. . . F106
. . . F107	. . . F107
. . . F108	. . . F108
. . . F109	. . . F109
. . . F110	. . . F110
. . . F111	. . . F111
. . . F112	. . . F112

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<p>... F113</p>	<p>... F113</p>
<p>... F114</p>	<p>... F114</p>
<p>... F115</p> <p>The Protection of Animals Act, 1911. 1 &amp; 2 Geo. 5. c. 27.</p>	<p>... F115</p> <p>In section fourteen, in subsection (2), for the words from “direct that the recognizance” to “undertaking” there shall be substituted the words “order him” and at the end the subsection there shall be added the words “and a person who fails to comply with an order under this section without satisfactory excuse shall be liable on summary conviction to a fine not exceeding five pounds”.</p>
<p>... F116</p> <p>The Criminal Justice Administration Act, 1914. 4 &amp; 5 Geo. 5. c. 58.</p>	<p>... F116</p> <p>Section fifteen shall cease to have effect.</p>
<p>... F117</p>	<p>... F117</p>
<p>... F118</p>	<p>... F118</p>
<p>... F119</p> <p>The Children and Young Persons Act, 1933. 23 &amp; 24 Geo. 5. c. 12.</p>	<p>... F119</p> <p>In section forty–eight, for subsection (2) there shall be substituted the following subsection— “(2) The attainment of the age of seventeen years by a probationer, or a person in whose case an order for conditional discharge has been made, shall not deprive a juvenile court of jurisdiction to enforce his attendance and deal with him in respect of any failure to comply with the requirements of the probation order or the commission of a further offence or to amend or discharge the probation order”. and in subsection (3) the words from “and where” to the end shall cease to have effect.</p>
<p>The Children and Young Persons Act, 1933. 23 &amp; 24 Geo. 5. c. 12.</p>	<p>In section fifty–nine after the word “enactment” there shall be inserted the words “whether passed before or after the commencement of this Act”.</p>
<p>... F120</p>	<p>... F120</p>

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...	...
F121	F121
...	...
F122	F122
...	...
F123	F123
...	...
F124	F124
...	...
F125	F125
...	...
F126	F126

### Textual Amendments

- F101** The entry relating to The Diplomatic Privileges Act, 1708. 7 Ann. c. 12. is repealed by [Courts Act 1971 \(c. 23\)](#) Sch. 11 Pt IV
- F102** The entry relating to The Beerhouse Act, 1840. 3 & 4 Vict. c. 61. repealed by [Courts Act 1971 \(c. 23\)](#) Sch. 11 Pt IV
- F103** The entry relating to The Stipendiary Magistrates Act, 1858. 21 & 22 Vict. c. 73 is repealed by [Statute Laws \(Repeals\) Act 1977 \(c. 18\)](#) Sch. 1 Pt. IV
- F104** The entry relating to The Queen's Remembrancer Act, 1859. 22 & 23 Vict. c. 21. is repealed by [Courts Act 1971 \(c. 23\)](#) Sch. 11 Pt IV
- F105** The entry relating to The Refreshment Houses Act, 1860. 23 & 24 Vict. c. 27 repealed by Licensing Act 1961, (c. 61) s. 38(3), Sch. 9 Pt. I
- F106** The entry relating to The Criminal Lunatic Asylums Act, 1860. 23 & 24 Vict. c. 75 repealed by [Mental Health Act, 1959 \(c. 72\)](#) Sch. 8 Pt. I
- F107** The entry relating to The Forfeiture Act, 1870. 33 & 34 Vict. c. 23. repealed by [Criminal Law Act 1967 \(c. 58\)](#) Sch. 3 Pt. III
- F108** The entry relating to The Prison Act, 1877. 40 & 41 Vict. 21 repealed by [Prison Act, 1952 \(c. 52\)](#) Sch. 4 Pt. I
- F109** The entry relating to The Summary Jurisdiction Act, 1879. 42 & 43 Vict. c. 49 repealed by [Magistrates' Courts Act, 1952 \(c. 55\)](#) Sch. 6
- F110** The entry relating to The Criminal Lunatics Act. 1884. 47 & 48 Vict. c. 64 repealed by [Mental Health Act, 1959 \(c. 72\)](#) Sch. 8 Pt. I
- F111** The entry relating to The Local Government Act, 1888. 51 & 52 Vict. c. 41 repealed by [Courts Act 1971 \(c. 23\)](#) Sch. 11 Pt IV
- F112** The entry relating to The Clergy Discipline Act, 1892, 55 & 56 Vict. c. 32 repealed by [Statute Laws \(Repeals\) Act 1977 \(c. 18\)](#) Sch. 1 Pt. IV
- F113** The entry relating to The Criminal Appeal Act, 1907. 7 Edw. 7. c. 23 repealed by Costs in [Criminal Cases Act, 1952 \(c. 48\)](#) Sch.; and [Administration of Justice Act, 1960 \(c. 65\)](#) sch. 4; and [Courts Act 1971 \(c. 23\)](#) Sch. 11 Pt IV
- F114** The entry relating to The Costs in Criminal Cases Act, 1908. 8 Edw. 7. c. 15 repealed by Costs in [Criminal Cases Act, 1952 \(c. 48\)](#) Sch. ; and [Courts Act 1971 \(c. 23\)](#) Sch. 11 Pt IV
- F115** The entry relating to The Licensing (Consolidation) Act, 1910. 10 Edw. 7 & 1 Geo. 5. c. 24 repealed by [Courts Act 1971 \(c. 23\)](#) Sch. 11 Pt IV
- F116** The entry relating to The Mental Deficiency Act, 1913. 3 & 4 Geo. 5. c. 28 repealed by [Mental Health Act, 1959 \(c. 72\)](#) Sch. 8 Pt. I

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- F117** The entry relating to The Criminal Justice Administration Act, 1925. 15 & 16 Geo. 5. c. 86. repealed by [Magistrates' Courts Act, 1952 \(c. 55\)](#) Sch. 6
- F118** The entry relating to The Mental Deficiency Act, 1927. 17 & 18 Geo. 5. c. 33 repealed by [Mental Health Act, 1959 \(c. 72\)](#) Sch. 8 Pt. I
- F119** The entry relating to The Local Government (Clerks) Act, 1931. 21 & 22 Geo. 5. c. 45. repealed by [Courts Act 1971 \(c. 23\)](#) Sch. 11 Pt IV
- F120** The entry relating to The Summary Jurisdiction (Appeals) Act, 1933. 23 & 24 Geo. 5. c. 38. repealed by [Courts Act 1971 \(c. 23\)](#) Sch. 11 Pt IV
- F121** The entry relating to The Money Payments (Justices Procedure) Act. 1935. 25 & 26 Geo. 5. c. 46 repealed by [Magistrates' Courts Act, 1952 \(c. 55\)](#) Sch. 6
- F122** The entry relating to The Firearms Act, 1937. 1 Edw. 8 & Geo. 6. c. 12. repealed by [The Firearms Act 1968 \(c. 27\)](#) Sch. 7
- F123** The entry relating to The Dogs Amendment Act, 1938. 1 & 2 Geo. 6. c. 21 repealed by [Dangerous Dogs Act 1989 \(c. 30\)](#) s. 2(3)(b)
- F124** The entry relating to The Children and Young Persons Act, 1938. 1 & 2 Geo. 6. c. 40 repealed by [Children and Young Persons Act 1963 \(c. 37\)](#) Sch. 5 and by [Statute Laws \(Repeals\) Act 1977 \(c. 18\)](#) Sch. 1 Pt. IV
- F125** The entry relating to The National Service Act, 1947. 10 & 11 Geo. 6. c. 31. repealed by [Statute Laws \(Repeals\) Act 1977 \(c. 18\)](#) Sch. 1 Pt. IV
- F126** The entry relating to The Police Pensions Act, 1948. 11 & 12 Geo. 6. c. 24. repealed by [Police Pensions Act 1976 \(c. 35\)](#) Sch. 3

F127F127 TENTH  
SCHEDULE **E+W**

**Textual Amendments**

**F127** Sch. 10 repealed by [Statute Law \(Repeals\) Act 1977 \(c. 18\)](#), **Sch. 1 Pt. IV**

F127



**Status:**

Point in time view as at 04/07/1996.

**Changes to legislation:**

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