

SCHEDULES

SCHEDULE 4

Section 67.

MINOR AND CONSEQUENTIAL AMENDMENTS

Criminal Evidence Act 1898 (c. 36)

- 1 (1) Section 1 of the Criminal Evidence Act 1898 (competence of accused as witness for the defence) is amended as follows.
- (2) Omit the words from the beginning to “Provided as follows:—”.
- (3) In paragraph (a) of the proviso—
- (a) for “so charged” substitute “charged in criminal proceedings”; and
 - (b) for “in pursuance of this Act” substitute “in the proceedings”.
- (4) In paragraph (e) of the proviso—
- (a) for “and being a witness in pursuance of this Act” substitute “in criminal proceedings who is called as a witness in the proceedings”; and
 - (b) for “the offence charged” substitute “any offence with which he is charged in the proceedings”.
- (5) In paragraph (f) of the proviso—
- (a) for “and called as a witness in pursuance of this Act” substitute “in criminal proceedings who is called as a witness in the proceedings”;
 - (b) for “that wherewith” substitute “one with which”; and
 - (c) in sub-paragraph (i), for “the offence wherewith” substitute “an offence with which”.
- (6) In paragraph (g) of the proviso, for “called as a witness in pursuance of this Act” substitute “charged in criminal proceedings who is called as a witness in the proceedings”.
- (7) Paragraphs (a), (e), (f) and (g) of the proviso shall be respectively numbered as subsections (1), (2), (3) and (4) of the section.

Children and Young Persons Act 1933 (c. 12)

- 2 (1) The Children and Young Persons Act 1933 has effect subject to the following amendments.
- (2) In section 37(1) (power to clear court, where child or young person giving evidence, of persons other than bona fide representatives of newspapers or news agencies), for “newspaper or news agency” substitute “news gathering or reporting organisation”.
- (3) In section 47(2)(c) (bona fide representatives of newspapers or news agencies entitled to be present at sitting of youth court), for “newspapers or news agencies” substitute “news gathering or reporting organisations”.

Status: This is the original version (as it was originally enacted).

Children and Young Persons Act 1963 (c. 37)

- 3 In section 57(3) of the Children and Young Persons Act 1963 (which provides for sections 39 and 49 of the Children and Young Persons Act 1933 to extend to Scotland), for “sections 39 and 49”, in both places, substitute “section 39”.

Criminal Appeal Act 1968 (c. 19)

- 4 (1) The Criminal Appeal Act 1968 has effect subject to the following amendments.
- (2) In section 10(2)(b) (appeal by offender who is further dealt with by the Crown Court), after “conditional discharge” insert “, a referral order within the meaning of Part I of the Youth Justice and Criminal Evidence Act 1999 (referral to youth offender panel)”.
- (3) In section 31(1)(b) (power to give directions exercisable by single judge), for “section 4(4) of the Sexual Offences (Amendment) Act 1976” substitute “section 3(4) of the Sexual Offences (Amendment) Act 1992”.

Children and Young Persons Act 1969 (c. 54)

- 5 In section 7(8) of the Children and Young Persons Act 1969 (remission to youth court for sentence), for the words “unless the court” substitute “unless the case falls within subsection (8A) or (8B) of this section.

(8A) The case falls within this subsection if the court would, were it not to so remit the case, be required by section 1(2) of the Youth Justice and Criminal Evidence Act 1999 to refer him to a youth offender panel (in which event the court may, but need not, so remit the case).

(8B) The case falls within this subsection if the court would not be so required to refer him to such a panel in the event of its not so remitting the case and”.

Rehabilitation of Offenders Act 1974 (c. 53)

- 6 (1) Section 5 of the Rehabilitation of Offenders Act 1974 is amended as follows.
- (2) In Table A in subsection (2), in the entry relating to fines or other sentences subject to rehabilitation under that Act, for “, (4A) to (8)” substitute “to (8)”.
- (3) After subsection (4A) insert—
- “(4B) Where in respect of a conviction a referral order (within the meaning of Part I of the Youth Justice and Criminal Evidence Act 1999) is made in respect of the person convicted, the rehabilitation period applicable to the sentence shall be—
- (a) if a youth offender contract takes effect under section 8 of that Act between him and a youth offender panel, the period beginning with the date of conviction and ending on the date when (in accordance with section 9 of that Act) the contract ceases to have effect;
- (b) if no such contract so takes effect, the period beginning with the date of conviction and having the same length as the period for which such a contract would (ignoring any order under paragraph 11 or 12 of Schedule 1 to that Act) have had effect had one so taken effect.
- (4C) Where in respect of a conviction an order is made in respect of the person convicted under paragraph 11 or 12 of Schedule 1 to the Youth Justice and

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Criminal Evidence Act 1999 (extension of period for which youth offender contract has effect), the rehabilitation period applicable to the sentence shall be—

- (a) if a youth offender contract takes effect under section 8 of that Act between the offender and a youth offender panel, the period beginning with the date of conviction and ending on the date when (in accordance with section 9 of that Act) the contract ceases to have effect;
- (b) if no such contract so takes effect, the period beginning with the date of conviction and having the same length as the period for which, in accordance with the order, such a contract would have had effect had one so taken effect.”

Magistrates' Courts Act 1980 (c. 43)

- 7 The Magistrates' Courts Act 1980 has effect subject to the following amendments.
- 8 In section 125(4)(c) (warrants which constable may execute when not in his possession), after sub-paragraph (iv) insert “and
- (v) paragraph 3(2) of Schedule 1 to the Youth Justice and Criminal Evidence Act 1999 (offender referred to court by youth offender panel).”
- 9 In section 126 (execution of warrants in Channel Islands and Isle of Man under section 13 of the Indictable Offences Act 1848), after paragraph (e) insert “and
- (f) warrants of arrest issued under paragraph 3(2) of Schedule 1 to the Youth Justice and Criminal Evidence Act 1999 (offender referred to court by youth offender panel).”

Criminal Justice Act 1982 (c. 48)

- 10 In section 72(1) of the Criminal Justice Act 1982 (accused to give evidence on oath), after “if he gives evidence, he shall do so” insert “(subject to sections 55 and 56 of the Youth Justice and Criminal Evidence Act 1999)”.

Mental Health Act 1983 (c. 20)

- 11 In section 37(8) of the Mental Health Act 1983 (combining hospital and guardianship orders with other orders), for the words from “shall not” to “which the court” substitute “shall not—
- (a) pass sentence of imprisonment or impose a fine or make a probation order in respect of the offence,
 - (b) if the order under this section is a hospital order, make a referral order (within the meaning of Part I of the Youth Justice and Criminal Evidence Act 1999) in respect of the offence, or
 - (c) make in respect of the offender any such order as is mentioned in section 7(7)(b) of the Children and Young Persons Act 1969 or section 58 of the Criminal Justice Act 1991,

but the court may make any other order which it”.

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Police and Criminal Evidence Act 1984 (c. 33)

12 The Police and Criminal Evidence Act 1984 has effect subject to the following amendments.

13 (1) Section 80 (competence and compellability of accused's spouse) is amended as follows.

(2) Omit subsections (1) and (8).

(3) For subsections (2) to (4) substitute—

“(2) In any proceedings the wife or husband of a person charged in the proceedings shall, subject to subsection (4) below, be compellable to give evidence on behalf of that person.

(2A) In any proceedings the wife or husband of a person charged in the proceedings shall, subject to subsection (4) below, be compellable—

(a) to give evidence on behalf of any other person charged in the proceedings but only in respect of any specified offence with which that other person is charged; or

(b) to give evidence for the prosecution but only in respect of any specified offence with which any person is charged in the proceedings.

(3) In relation to the wife or husband of a person charged in any proceedings, an offence is a specified offence for the purposes of subsection (2A) above if—

(a) it involves an assault on, or injury or a threat of injury to, the wife or husband or a person who was at the material time under the age of 16;

(b) it is a sexual offence alleged to have been committed in respect of a person who was at the material time under that age; or

(c) it consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling within paragraph (a) or (b) above.

(4) No person who is charged in any proceedings shall be compellable by virtue of subsection (2) or (2A) above to give evidence in the proceedings.

(4A) References in this section to a person charged in any proceedings do not include a person who is not, or is no longer, liable to be convicted of any offence in the proceedings (whether as a result of pleading guilty or for any other reason).”

(4) In subsection (5), omit “competent and” and, in the side-note, omit “Competence and”.

14 After section 80 insert—

“80A Rule where accused's spouse not compellable

The failure of the wife or husband of a person charged in any proceedings to give evidence in the proceedings shall not be made the subject of any comment by the prosecution.”

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Criminal Justice Act 1988 (c. 33)

- 15 The Criminal Justice Act 1988 has effect subject to the following amendments.
- 16 In subsection (1) of each of sections 23 and 24 (first-hand hearsay; business etc. documents), at the end of paragraph (a) insert “and”.
- 17 In section 34(3) (unsworn evidence may corroborate other evidence), for “section 52 of the Criminal Justice Act 1991” substitute “section 56 of the Youth Justice and Criminal Evidence Act 1999”.

Companies (Northern Ireland) Order 1989 (N.I.18)

- 18 In Article 3(1) of the Companies (Northern Ireland) Order 1989 (interpretation), in the definition of “regulations” after “subject” insert “(except in Article 23(3)(a) (ii))”.

Insolvency (Northern Ireland) Order 1989 (N.I.19)

- 19 In Article 2(2) of the Insolvency (Northern Ireland) Order 1989 (interpretation), in the definition of “regulations” for “Article 359(5)” substitute “Articles 359(5) and 375(3)(b)(ii)”.

Criminal Justice Act 1991 (c. 53)

- 20 In section 58 of the Criminal Justice Act 1991 (binding over of parent or guardian), after subsection (1) insert—
- “(1A) Subsection (1) has effect subject to section 4(5) of, and paragraph 13(5) of Schedule 1 to, the Youth Justice and Criminal Evidence Act 1999.”

Criminal Justice and Public Order Act 1994 (c. 33)

- 21 The Criminal Justice and Public Order Act 1994 has effect subject to the following amendments.
- 22 (1) Section 51 (intimidation etc. of witnesses, jurors and others) is amended as follows.
- (2) For subsections (1) to (3) (offences of intimidating, and of doing or threatening harm to, witnesses etc.) substitute—
- “(1) A person commits an offence if—
- (a) he does an act which intimidates, and is intended to intimidate, another person (“the victim”),
- (b) he does the act knowing or believing that the victim is assisting in the investigation of an offence or is a witness or potential witness or a juror or potential juror in proceedings for an offence, and
- (c) he does it intending thereby to cause the investigation or the course of justice to be obstructed, perverted or interfered with.
- (2) A person commits an offence if—
- (a) he does an act which harms, and is intended to harm, another person or, intending to cause another person to fear harm, he threatens to do an act which would harm that other person,

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- (b) he does or threatens to do the act knowing or believing that the person harmed or threatened to be harmed (“the victim”), or some other person, has assisted in an investigation into an offence or has given evidence or particular evidence in proceedings for an offence, or has acted as a juror or concurred in a particular verdict in proceedings for an offence, and
 - (c) he does or threatens to do it because of that knowledge or belief.
- (3) For the purposes of subsections (1) and (2) it is immaterial that the act is or would be done, or that the threat is made—
- (a) otherwise than in the presence of the victim, or
 - (b) to a person other than the victim.”
- (3) In subsection (8) (presumption in proceedings for offence under subsection (2))—
- (a) for “he did or threatened to do an act falling within paragraph (a) within the relevant period” substitute “within the relevant period—
 - (a) he did an act which harmed, and was intended to harm, another person, or
 - (b) intending to cause another person fear of harm, he threatened to do an act which would harm that other person,

and that he did the act, or (as the case may be) threatened to do the act,”;

and

 - (b) after “to have done the act” insert “or (as the case may be) threatened to do the act”.
- 23 In section 136 (cross-border execution of arrest warrants), after subsection (7) insert—
- “(7A) This section applies as respects a warrant issued under paragraph 3(2) of Schedule 1 to the Youth Justice and Criminal Evidence Act 1999 (warrant for arrest of offender referred back to court by youth offender panel) as it applies to a warrant issued in England or Wales for the arrest of a person charged with an offence.”
- 24 In Schedule 11 (repeals), the entry relating to section 57(4) of the Children and Young Persons Act 1969 shall be treated as, and as always having been, an entry relating to section 57(4) of the Children and Young Persons Act 1963.
- Crime and Disorder Act 1998 (c. 37)*
- 25 The Crime and Disorder Act 1998 has effect subject to the following amendments.
- 26 In section 8(2) (power to make parenting orders), after “Subject to subsection (3) and section 9(1) below” insert “and to section 4(5) of, and paragraph 13(5) of Schedule 1 to, the Youth Justice and Criminal Evidence Act 1999”.
- 27 In section 9, after subsection (1) (duty to make parenting order where person under 16 convicted of offence) insert—
- “(1A) Subsection (1) above has effect subject to section 4(5) of, and paragraph 13(5) of Schedule 1 to, the Youth Justice and Criminal Evidence Act 1999.”
- 28 In section 38(4) (definition of “youth justice services”), after paragraph (j) there shall be inserted—

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“(k) the implementation of referral orders within the meaning of Part I of the Youth Justice and Criminal Evidence Act 1999.”

29 In section 67(4)(b) (court may not make reparation order where it proposes to make certain other orders), for “or an action plan order” substitute “, an action plan order or a referral order under Part I of the Youth Justice and Criminal Evidence Act 1999”.

30 In section 69(4)(b) (court may not make action plan order where it proposes to make certain other orders), for “or an attendance centre order” substitute “, an attendance centre order or a referral order under Part I of the Youth Justice and Criminal Evidence Act 1999”.