



Criminal Justice (Scotland) Act 1963

CHAPTER 39

LONDON
HER MAJESTY'S STATIONERY OFFICE
THREE SHILLINGS NET

Criminal Justice (Scotland) Act 1963

CHAPTER 39

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ELIZABETH II



1963 CHAPTER 39

An Act to amend the law of Scotland relating to the imprisonment and detention of offenders and other persons; to make further provision as to the treatment of prisoners and other persons committed to custody, including provision for their supervision within the British Islands after discharge, for the management of approved schools and for the treatment of persons detained therein; to amend the law relating to the payment of fines and detention in default of payment thereof within Great Britain; to alter the law relating to the proceedings of criminal courts in Scotland and to legal aid in such proceedings; to alter the law relating to the enforcement of warrants of arrest and the service of process in Great Britain; to provide for the execution in Scotland of warrants issued by courts in the Isle of Man; to provide for the appointment of additional judges of the Court of Session; to make certain consequential amendments to the First Offenders Act 1958 and the Criminal Justice Act 1961; and for purposes connected with the aforesaid matters.

[31st July 1963]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

PROVISIONS WITH RESPECT TO SENTENCES AND ORDERS
INFERRING DETENTION*Restrictions on Imprisonment and Detention of
Young Offenders*

1.—(1) No court shall impose detention on a person under twenty-one years of age, unless the court is of opinion that no other method of dealing with him is appropriate. Restrictions on detention.

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(2) For the purpose of determining in pursuance of the provisions of subsection (1) of this section whether any other method of dealing with a person mentioned therein is appropriate, the court shall obtain information about that person's circumstances from a probation officer or otherwise and shall consider that information ; and the court shall take into account any information before it which is relevant to his character and to his physical and mental condition.

(3) Where a court of summary jurisdiction imposes detention on an offender under twenty-one years of age, the court shall state the reason for its opinion that no other method of dealing with him is appropriate, and the reason shall be entered in the record of the proceedings along with the finding and sentence.

(4) Where, after the commencement of this section, in the case of a person who is of or over seventeen years of age but less than twenty-one years of age the court is of opinion as aforesaid, and either—

(a) if the person has been convicted of an offence punishable with imprisonment, is satisfied, having considered all the circumstances of the case, that neither a sentence of borstal training nor a sentence of detention in a detention centre should be imposed ; or

(b) would have power but for the said commencement to impose imprisonment otherwise than by sentence ;

it shall, subject to the following provisions of this Act, instead of imposing a term of imprisonment upon him impose detention in a young offenders institution for a term not exceeding the term for which he could have been imprisoned.

Young Offenders Institutions

Young
offenders
institutions.

2.—(1) The Secretary of State shall provide such young offenders institutions as appear to him to be necessary, and accordingly, after section 31 (1) (c) of the Prisons (Scotland) Act 1952 (which relates to remand centres, detention centres and borstal institutions), there shall be inserted the following paragraph—

“ and

(d) young offenders institutions, that is to say, places in which offenders upon whom detention therein has been imposed under the Criminal Justice (Scotland) Act 1963, may be kept for suitable training and instruction.”

(2) In any enactment—

(a) any reference to a sentence of imprisonment as including a reference to a sentence of any other form of detention shall be construed as including a reference to a

sentence of detention in a young offenders institution ; PART I
and

- (b) any reference to imprisonment as including any other form of detention shall be construed as including a reference to detention in a young offenders institution.”

Borstal Training

3. The power of a court to pass a sentence of borstal training under section 20 of the Criminal Justice (Scotland) Act 1949 shall not be exercised in the case of any person on whom such a sentence has previously been imposed and who has served any part thereof. Conditions for a sentence of borstal training.

4.—(1) The maximum period for which a person sentenced to borstal training after the commencement of this section may be detained in pursuance of section 33 (2) of the Prisons (Scotland) Act 1952 shall be two years instead of three years. Term of detention and supervision under a sentence of borstal training.

(2) The period for which a person sentenced to borstal training after the commencement of this section is to be under supervision under section 33 (3) of the said Act after his release from a borstal institution shall, subject to any order of the Secretary of State under that subsection, be a period of one year beginning with the date of his release (instead of a period of three years from the date of sentence or of one year from the date of release, whichever period expires earlier).

(3) Where in pursuance of section 33 (4) of the said Act an order is made for the recall of a person sentenced to borstal training after the commencement of this section and subsequently released, the maximum period for which he shall be liable to be detained following recall shall be three months instead of one year.

5.—(1) Where in pursuance of section 33 (4) of the said Act of 1952 an order is made for the recall of a person who is under supervision after his release from a borstal institution, that person shall, after the commencement of this section, instead of being detained in a borstal institution, be detained in a young offenders institution. Detention on recall from supervision under a sentence of borstal training.

(2) The Secretary of State shall have power, in the case of a person who is detained in a borstal institution at the commencement of this section after his recall as aforesaid, to transfer that person to a young offenders institution.

6.—(1) Where a person sentenced to borstal training, being under supervision after his release from a borstal institution, is convicted of an offence punishable with imprisonment, the court may, instead of dealing with him in any other manner, make an order for his recall. Recall on re-conviction.

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(2) An order for the recall of a person made as aforesaid shall have the like effect as an order for recall made by the Secretary of State under section 33 (4) of the Prisons (Scotland) Act 1952.

Detention Centre

Detention in
a detention
centre.

7.—(1) Subject to the provisions of this section, in any case where a person who is not less than fourteen but under twenty-one years of age is convicted of an offence punishable with imprisonment, and the court has been notified by the Secretary of State that a detention centre is available for the reception from that court of persons of his class or description, it may pass on him a sentence of detention in that centre for a fixed term of three months.

(2) A court shall not pass a sentence under this section in the case of a person who has served or is serving a sentence involving his detention for two months or more in a prison or in a young offenders institution or a sentence of borstal training, or in the case of a person who has served a sentence of detention in a detention centre, unless the court is of the opinion that, having regard to special considerations arising out of the circumstances of the case and the character of the offender, this method of dealing with him is the most appropriate.

(3) Where it appears to the Secretary of State that a person detained in a detention centre is unfit for such detention by reason of his health, without prejudice to any other powers he may have in the matter, he may, after consultation where practicable with the judge by whom or the presiding chairman of the court by which the sentence was passed, release that person; and he shall then be required to be under supervision in accordance with section 11(1) of this Act.

(4) Section 19 of the Criminal Justice (Scotland) Act 1949 shall cease to have effect.

Term of
detention in a
detention
centre.

8.—(1) The term for which a person may be detained in a detention centre shall not exceed three months at a time; and accordingly no court may pronounce an order the effect of which would be that a person would be liable to be detained for more than that period.

(2) Where a court has before it a person convicted of an offence punishable with imprisonment who is serving a sentence of detention in a detention centre or who has been sentenced to and has not yet started to serve such a sentence as aforesaid, it may pass either of the following sentences (subject to the requirements of any enactment relating to those sentences)—

(a) a sentence of detention in a young offenders institution, or, if the person is of or over twenty-one years of age,

a sentence of imprisonment, for a period not exceeding the aggregate of the unexpired portion of the sentence of detention in a detention centre and the maximum period of detention in a young offenders institution or of imprisonment, as the case may be, which the court may impose for the offence of which it has convicted the person ; or

(b) a sentence of borstal training ;

and in that event the sentence of detention in a detention centre shall cease to have effect.

Transfer of Young Offenders

9.—(1) For section 32 of the Prisons (Scotland) Act 1952 (which relates to transfers from prison to borstal institution and vice versa) there shall be substituted the following section :—

“ Transfer of young offenders between institutions.

32.—(1) If the Secretary of State is satisfied that a person detained in a young offenders institution in pursuance of a sentence is under twenty-one years of age and might with advantage be detained in a borstal institution, he may, after consultation where practicable with the judge by whom or the presiding chairman of the court by which the sentence was passed, transfer that person to a borstal institution ; and the provisions of the next following section shall thereupon apply to him as if he had on the date of the transfer been sentenced to borstal training :

Provided that if on that date the unexpired term of his sentence is less than two years those provisions shall apply to him as if he had been sentenced to borstal training two years before the expiration of that term.

(2) If a person detained in a borstal institution is reported to the Secretary of State by the visiting committee to be incorrigible, or to be exercising a bad influence on the other inmates of the institution, the Secretary of State may present an application to the sheriff within whose jurisdiction the institution is situated for commutation to detention in a young offenders institution of the unexpired part of the term for which the said person is then liable to be detained in a borstal institution, and on any such application the sheriff may commute the said unexpired part to detention as aforesaid for such a term, not exceeding that unexpired part, as he may think fit ; and for the purposes of this Act (other than those of subsections (3) and (4) of section 33) and of the Criminal Justice (Scotland) Act 1963 the said

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person shall be treated as if he had been sentenced to detention in a young offenders institution for that term.

(3) If in the case of a person who is not less than seventeen years of age, who is detained in a detention centre, it is reported to the Secretary of State by the visiting committee that he is not amenable to the discipline of the centre by reason of his health, the Secretary of State may transfer that person to a young offenders institution and there detain him for a period not exceeding the unexpired part of the term for which the said person was sentenced to be detained in the detention centre.

(4) The powers conferred upon the Secretary of State by the last foregoing subsection may be exercised in the case of a person who has not attained the age of seventeen years if the Secretary of State is satisfied, having regard to the character and development of the person, that it is appropriate that he should be detained in a young offenders institution."

(2) On the coming into operation of the provisions of section 1 of this Act, the Secretary of State shall have power, in the case of any person who is under twenty-one years of age and who is serving a sentence of imprisonment under which he would not normally be released within the next three months, to transfer that person to a young offenders institution; and for the purposes of this Act and of the Prisons (Scotland) Act 1952, any person so transferred shall be treated as if he had been sentenced to detention in a young offenders institution.

(3) Where an order has been made under any of the enactments specified in the next following subsection for the committal or transfer to a civil prison in Scotland of a person who is under twenty-one years of age, that person shall be taken to a young offenders institution.

(4) (a) The enactments referred to in the last foregoing subsection are—

the Army Act 1955

the Air Force Act 1955

the Naval Discipline Act 1957,

and any rules made thereunder.

(b) For the purposes of the aforesaid enactments, any reference therein to a like sentence of a civil court shall include, in relation to a person taken to a young offenders institution under the last foregoing subsection, a reference to a sentence of detention in a young offenders institution, and references to a civil prison and to imprisonment and any cognate references shall be construed accordingly.

10.—(1) Subject to the provisions of this section, where a person serving a sentence of detention in a young offenders institution has attained the age of twenty-one years, the Secretary of State shall have power to transfer him to prison.

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Transfer to
prison of
persons over
twenty-one,
and maximum
age for
detention in
young
offenders
institution.

(2) No person shall be detained in a young offenders institution after he has attained the age of twenty-three years, and accordingly any person so detained shall, not later than the day immediately preceding his twenty-third birthday, be transferred to prison.

(3) Where a person has been transferred to prison under this section, he shall be treated for the purpose of his serving the unexpired part of his sentence and of his supervision on release as if the sentence of detention passed upon him were a sentence of imprisonment for a like term, and the provisions of this Act and of the Prisons (Scotland) Act 1952 relating to the treatment and supervision of prisoners shall apply to him accordingly.

Supervision of Offenders on Release

11.—(1) A person detained in a detention centre in pursuance of a sentence under section 7 of this Act, or transferred therefrom to a young offenders institution under section 32 (3) of the Prisons (Scotland) Act 1952, shall, after his release and until the expiration of a period of twelve months from the date of his release, be required to be under the supervision of such person as may be specified in the notice to be given to him by the Secretary of State on his release, and shall, while under that supervision, comply with such other requirements as may be so specified :

Supervision
of persons
released from
detention
centres.

Provided that the Secretary of State may, at any time, modify or cancel any of the said requirements or order that a person who is under supervision as aforesaid shall cease to be under supervision.

(2) Subject to the provisions of the next following subsection, if before the expiration of the said period of twelve months the Secretary of State is satisfied that a person under supervision under the last foregoing subsection has failed to comply with any requirement for the time being specified in the notice given to him under that subsection, he may, after the commencement of section 1 of this Act, by order recall him to a young offenders institution if the offender has attained the age of seventeen years or, where the offender is less than seventeen years of age, to a detention centre ; and thereupon he shall be liable to be detained in that institution or centre until the expiration of the period of fourteen days from the date of his being taken into custody under the order, and if at large he shall be deemed to be unlawfully at large :

Provided that—

(a) any such order shall, at the expiration of the said period of twelve months, cease to have effect unless

PART I

the person to whom it relates is then in custody thereunder ; and

- (b) a person shall not be recalled more than once under this subsection by virtue of the same sentence under section 7 of this Act.

(3) The power conferred upon the Secretary of State by the last foregoing subsection to recall an offender to a young offenders institution may be exercised in the case of a person who has not attained the age of seventeen years if the Secretary of State is satisfied, having regard to the character and development of the person, that it is appropriate that he should be detained in a young offenders institution.

(4) The Secretary of State may, at any time, release a person who is detained after recall as aforesaid ; and the provisions of this section shall apply to a person released by virtue of this subsection, subject to the modification that the period referred to in subsection (1) shall be calculated from the date of his original release.

(5) Where a person who has attained the age of seventeen years is recalled under this section before the commencement of section 1 of this Act, he shall be recalled to a detention centre instead of to a young offenders institution.

Supervision
of persons
released from
young
offenders
institutions.

12.—(1) A person detained in a young offenders institution in pursuance of a sentence shall, where the term of his detention is six months or more, after his release and until the expiration of a period of twelve months from the date of his release, be required to be under the supervision of such person as may be specified in the notice to be given to him by the Secretary of State on his release, and shall, while under that supervision, comply with such other requirements as may be so specified :

Provided that the Secretary of State may, at any time, modify or cancel any of the said requirements or order that a person who is under supervision as aforesaid shall cease to be under supervision.

(2) The Secretary of State may by order extend the provisions of the last foregoing subsection to persons detained as aforesaid whose term of detention is less than six months but not less than three.

(3) If before the expiration of the said period of twelve months the Secretary of State is satisfied that a person under supervision under subsection (1) of this section has failed to comply with any requirement for the time being specified in the notice given to him under that subsection, he may by order recall him to a young offenders institution ; and thereupon he

shall be liable to be detained in that institution, and if at large he shall be deemed to be unlawfully at large :

Provided that any such order shall, at the expiration of the said period of twelve months, cease to have effect unless the person to whom it relates is then in custody thereunder.

(4) The period for which a person may be detained under the last foregoing subsection shall not exceed three months.

(5) The Secretary of State may, at any time, release a person who is detained under this section ; and the provisions of this section shall apply in the case of a person so released subject to the following modifications :—

- (a) the period referred to in subsection (1) shall be calculated from the date of his original release ; and
- (b) the period during which he shall be liable to be detained on further recall shall be the period referred to in subsection (4) reduced by any time during which he has previously been detained under this section.

13.—(1) Where a person sentenced to detention in a young offenders institution, being under supervision after his release from such an institution, is convicted of an offence punishable with imprisonment, the court may, instead of dealing with him in any other manner, make an order for his recall. Recall to young offenders institution on re-conviction.

(2) An order for the recall of a person made as aforesaid shall have the like effect as an order for recall made by the Secretary of State under section 12 of this Act.

14.—(1) If it appears to the Secretary of State that a person serving a sentence of imprisonment is a person to whom this section applies, he shall, by notice given to such person in accordance with paragraph 2 of Schedule 1 to this Act, place him under supervision under that Schedule on his release from prison. Supervision of certain prisoners after release.

(2) Subject to the provisions of subsection (4) thereof, this section applies—

- (a) to any person serving a sentence of imprisonment for a term of three years or more ;
- (b) to any person serving a sentence of imprisonment for a term of not less than six months, but less than three years, who is under the age of twenty-six years at the commencement of the sentence ;

but does not apply to a person serving a sentence of imprisonment for life.

(3) The Secretary of State may by order substitute a lower limit of three months instead of six months in paragraph (b) of subsection (2) above.

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(4) This section shall not apply to persons serving a sentence of imprisonment commencing before such date as may be prescribed by order of the Secretary of State under this subsection; and any such order may prescribe different dates in respect of sentences described in paragraphs (a) and (b) respectively of subsection (2) of this section, and, in respect of sentences comprised in the said paragraph (b), either according to the length of the term of imprisonment under a sentence or to the age of the person on whom it is passed.

Termination of supervisory functions of After Care Council.

15.—(1) Subject to the provisions of this section, the powers of the Secretary of State under the Prisons (Scotland) Act 1952 shall include power to make such arrangements as appear to him to be necessary for the supervision of offenders released from institutions provided under that Act.

(2) The Secretary of State may no longer place offenders under the supervision of the After Care Council in pursuance of section 18(2) of the Prisons (Scotland) Act 1952, and accordingly for that subsection there shall be substituted the following subsection:—

“(2) It shall be the duty of the After Care Council to advise the Secretary of State on any question relating to the after-care of offenders which he may refer to them, and to bring to his attention any matter relating to after-care of which in their opinion he ought to be apprised”.

Miscellaneous

Amendment of s. 8 of the Summary Jurisdiction (Scotland) Act 1954.

16. In section 8 of the Summary Jurisdiction (Scotland) Act 1954 (which provides in certain cases where the person convicted has two previous convictions for a maximum sentence of six months imprisonment), for paragraphs (a) and (b) there shall be substituted the following paragraphs:—

“(a) a second or subsequent offence inferring dishonest appropriation of property, or attempt thereat, or

(b) a second or subsequent offence inferring personal violence”.

Amendment of First Offenders (Scotland) Act 1960.

17.—(1) For the purposes of the First Offenders (Scotland) Act 1960, any order made by a court of summary jurisdiction under section 1 or section 2 of the Criminal Justice (Scotland) Act 1949 (which provide for absolute discharge and probation) shall be treated as a conviction.

(2) For the purpose of determining whether a person is a first offender within the meaning of that Act, a previous conviction shall be disregarded after the expiration of a period of ten years from the date of that conviction, being a period exclusive of any period spent by him in custody under sentence in respect of the conviction.

PART II

APPROVED SCHOOLS

18.—(1) At any time during the period of a person's detention in an approved school the managers of the school may, and if the Secretary of State so directs shall, release him: Release and supervision.

Provided that no person shall be released within the first six months of that period without the consent of the Secretary of State.

(2) A person who, after the commencement of this section, is released from an approved school (whether under subsection (1) of this section or at the expiration of the period of his detention, and whether he has been released on any previous occasion or not) shall, after his release, be subject to supervision under Part I of Schedule 2 to this Act.

(3) Part II of Schedule 2 to this Act shall have effect for the purpose of enabling the managers of an approved school to exercise certain supervisory powers in relation to a person who has been under their supervision under Part I of that Schedule, if requested by him to do so.

(4) Section 78 of the Children and Young Persons (Scotland) Act 1937 and paragraph 6 of Schedule 2 to that Act (which provisions relate to supervision, licence and recall) shall cease to have effect.

19.—(1) Where, in the case of a person who is detained in an approved school, the managers of that school have decided to bring him before a court of summary jurisdiction under paragraph 8 of Schedule 2 to the Children and Young Persons (Scotland) Act 1937 on the ground of serious misconduct, that person may be dealt with in accordance with the following provisions of this section. Temporary removal from approved school.

(2) If it appears to a justice of the peace (not being a manager of the approved school), on sworn information laid by or on behalf of the managers of the school, that a person detained in the school, to whom subsection (1) above applies, should be removed therefrom without delay, the justice may issue a warrant authorising the managers or, on cause shown, directing a constable to remove that person to a place specified in the warrant in accordance with the next following subsection, and section 20 (3) of the Summary Jurisdiction (Scotland) Act 1954 (which relates to the bringing of persons in custody before a court) shall apply in relation to a person removed as aforesaid as it applies to a person apprehended under a warrant issued under that section.

PART II

(3) Any one of the following places may be specified in a warrant issued for the purposes of the last foregoing subsection, that is to say,—

- (a) remand home,
- (b) remand centre,
- (c) police station,
- (d) approved school,
- (e) hospital :

Provided that in the case of the two places last mentioned the managers or, as the case may be, the board of management are willing temporarily to receive the person named in the warrant.

(4) In this section any reference to a justice of the peace includes a reference to the sheriff and to a magistrate.

Procedure
in cases of
serious mis-
conduct, etc.

20.—(1) It shall no longer be a requirement that the managers of an approved school who bring a person before a court under paragraph 8 of Schedule 2 to the Children and Young Persons (Scotland) Act 1937 on the ground of serious misconduct shall be authorised in that behalf by the Secretary of State.

(2) A court of summary jurisdiction, in exercising its powers under section 70 of the Criminal Justice (Scotland) Act 1949 (which among other things confers certain powers on a court in relation to persons brought before it for serious misconduct while detained in an approved school or for absconding therefrom), shall have the like power to adjourn the case for inquiry, or for any other necessary cause, as it has in relation to the case of an accused or convicted person, and may, during the period of adjournment, commit a person so brought before it to any place (other than a police station) that may be specified for the purposes of section 19 (2) above.

(3) A person committed under this section to an approved school shall, while liable to be detained therein, be treated as if he were so liable by virtue of an approved school order ; and, without prejudice to the foregoing provision, the enactments relating to persons detained in approved schools shall apply in relation to any person so committed as if he were detained in and under the care of the managers of the school in which he was detained before committal.

Directions as
to management
of approved
schools.

21.—(1) If it appears to the Secretary of State that the provision made in any approved school with regard to any matter relating to the premises or equipment of the school, the number or grades of the staff employed in the school, or the education, training or welfare of persons under the care of the managers

is inadequate or unsuitable, he may give to the managers such directions as he thinks necessary for securing that proper provision is made with respect thereto.

(2) Where it appears to the Secretary of State that the managers of an approved school have failed to give effect to any directions under this section, section 83 (2) of the Children and Young Persons (Scotland) Act 1937 (which empowers the Secretary of State in certain circumstances to withdraw his certificate of approval) shall apply as it applies where he is dissatisfied as mentioned in that section.

22.—(1) The Secretary of State may by order make provision for regulating the constitution and proceedings of the managers of any approved school other than a school provided by a local authority or by a joint committee representing two or more local authorities; and any such order shall have effect notwithstanding anything in any trust deed relating to the school. Constitution of managers.

(2) Before making an order under the foregoing subsection in respect of any school, the Secretary of State shall afford to the managers of the school an opportunity for making representations with respect to the proposed order; and in making any such order the Secretary of State shall have regard to all the circumstances of the school, and to the manner in which it has been managed theretofore.

(3) In the case of an approved school, other than a school provided by a local authority or by a joint committee representing two or more local authorities, the Secretary of State may appoint one or more persons as additional members of the body constituting the managers of the school; and any person so appointed shall, notwithstanding anything in any trust deed relating to the school or in any order made in respect of the school under subsection (1) of this section, be one of the managers of the school until such time as his appointment is terminated by the Secretary of State or under subsection (4) of this section.

(4) Any order or appointment made under this section in respect of an approved school shall cease to have effect in the event of that school ceasing to be an approved school; but nothing in this subsection shall affect the validity of anything done while the order or appointment was in force.

(5) In this section “trust deed”, in relation to any school, includes any instrument (not being an order under this section) regulating the constitution of the school or its maintenance, management or conduct, or the constitution or proceedings of its managers.

PART III

FINES AND IMPRISONMENT, ETC., IN DEFAULT

Maximum
fines and
caution.

23.—(1) The limit imposed by section 3 of the Summary Jurisdiction (Scotland) Act 1954 upon the amount of the fine which may be imposed by a court of summary jurisdiction other than a sheriff court on convicting a person of a common law offence shall be raised from ten pounds to fifty pounds, and the limit on the amount of caution which any such person as aforesaid may be ordained to find shall be raised from twenty pounds to fifty pounds.

(2) The limit imposed by section 7 (1) of the said Act upon the amount of the fine which may be imposed by the sheriff on summarily convicting any person of a common law offence, and upon the amount of caution which any such person as aforesaid may be ordained to find, shall be raised from twenty-five pounds to one hundred and fifty pounds.

(3) The limit imposed by section 40 of the said Act upon the amount of the fine which may be imposed in substitution of a period of imprisonment shall be raised from twenty-five pounds to one hundred pounds.

Amendment
of s. 33 of the
Summary
Jurisdiction
(Scotland)
Act 1954.

24. The limit imposed by section 33 (1) of the Summary Jurisdiction (Scotland) Act 1954 upon the amount of the fine which may be imposed by a court upon a witness who shall be deemed guilty of contempt of court under that subsection shall be raised from three pounds to twenty-five pounds.

Restriction on
power to
impose
imprisonment
for failure to
pay fine, etc.

25. The following sections shall be substituted for sections 42 and 43 of the Summary Jurisdiction (Scotland) Act 1954:—

“ Time for
payment of
fine and
finding of
caution.

42.—(1) Where a court of summary jurisdiction has imposed a fine on an offender or ordered him to find caution, the court shall, subject to the provisions of the next following subsection, allow him at least seven days to pay the fine or the first instalment thereof or, as the case may be, to find caution; and any reference in this and the next following section to a failure to pay a fine or other like expression shall include a reference to a failure to find caution.

(2) If on the occasion of the imposition of a fine—

- (a) the offender appears to the court to possess sufficient means to enable him to pay the fine forthwith; or
- (b) on being asked by the court whether he wishes to have time for payment he does not ask for time; or

(c) he fails to satisfy the court that he has a fixed abode ; or PART III

(d) the court is satisfied for any other special reason that no time should be allowed for payment,

the court may refuse him time to pay the fine and, if the offender fails to pay, may exercise its power to impose imprisonment and, if it does so, shall state the special reason for its decision.

(3) Where time is allowed for payment of a fine or payment by instalments is ordered, a court of summary jurisdiction shall not, on the occasion of the imposition of a fine, impose imprisonment in the event of a future default in paying the fine or an instalment thereof unless the offender is before it and the court determines that, having regard to the gravity of the offence or to the character of the offender, or to other special reason, it is expedient that he should be imprisoned without further inquiry in default of payment ; and where a court so determines, it shall state the special reason for its decision.

(4) Where a court of summary jurisdiction has imposed imprisonment in accordance with the provisions of the last foregoing subsection, then, if at any time the offender asks the court to commit him to prison, the court may do so notwithstanding subsection (1) of this section.

(5) Nothing in the foregoing provisions of this section shall affect any power of a court of summary jurisdiction to order a fine to be recovered by civil diligence.

(6) Where time has been allowed for payment of a fine imposed by a court of summary jurisdiction, the court may, subject to any rules under this Act, on an application by or on behalf of the offender, and after giving the prosecutor an opportunity of being heard, allow further time for payment.

Restriction on imprisonment after imposing a fine or requirement to find caution.

43.—(1) Where a court of summary jurisdiction has imposed a fine or ordered the finding of caution without imposing imprisonment in default of payment, it shall not impose imprisonment on an offender for failing to make payment of the fine, unless on an occasion subsequent to that sentence the court has enquired into his means in his presence ; but this subsection shall not apply where the offender is in prison.

PART III

(2) A court of summary jurisdiction may, for the purpose of enabling enquiry to be made under this section—

(a) issue a citation requiring the offender to appear before the court at a time and place appointed in the citation ; or

(b) issue a warrant of apprehension.

(3) On the failure of the offender to appear before the court in response to a citation under this section, the court may issue a warrant of apprehension.

Payment of
fine by
instalments.

43A.—(1) Without prejudice to the operation of section 42 (2) of this Act, where a court of summary jurisdiction has imposed a fine on an offender, the court may, of its own motion or on the application of the offender, order payment of that fine by instalments of such amounts and at such time as it may think fit, and it shall be the duty of the court to inform the offender of his right to make an application as aforesaid.

(2) Where any instalment is not paid by the time so ordered, the offender shall, subject to the provisions of the last foregoing section, be deemed to be in default of payment of a fine of the amount of the unpaid balance and dealt with accordingly, and where the court has already imposed imprisonment in default of payment the offender shall be liable to be imprisoned for a period that bears to the period of imprisonment so imposed the same proportion, as nearly as may be, as the amount of the unpaid balance bears to the total amount of the fine.

Supervision
pending
payment
of fine.

43B.—(1) Where an offender has been allowed time for payment of a fine by a court of summary jurisdiction, the court may, either on the occasion of the imposition of the fine or on a subsequent occasion, order that he be placed under the supervision of such person as the court may from time to time appoint for the purpose of assisting and advising the offender in regard to payment of the fine.

(2) An order made in pursuance of the last foregoing subsection shall remain in force so long as the offender to whom it relates remains liable to pay the fine or any part of it unless the order ceases to have effect or is discharged under the next following subsection.

(3) An order under this section shall cease to have effect on the making of a transfer of fine order under

section 44 of this Act in respect of the fine or may be discharged by the court that made it without prejudice, in either case, to the making of a new order.

(4) Where an offender under twenty-one years of age has been allowed time for payment of a fine by a court of summary jurisdiction, the court shall not order the form of detention appropriate to him in default of payment of the fine unless he has been placed under supervision in respect of the fine or the court is satisfied that it is impracticable to place him under supervision.

(5) Where a court, being satisfied as aforesaid, orders the detention of a person under twenty-one years of age without an order under this section having been made, the court shall state the grounds on which it is so satisfied.

(6) Where an order under this section is in force in respect of an offender, the court shall not impose imprisonment in default of the payment of the fine, unless the court has, before so doing, taken such steps as may be reasonably practicable to obtain from the person appointed for the supervision of the payment of his fine a report, which may be oral, on the offender's conduct and means and shall consider any report so obtained, in addition, in a case where an enquiry is required by section 43 of this Act, to that enquiry.

Supple-
mentary
provisions
relating to
payment of
fine.

43C.—(1) Where under the provisions of the last four foregoing sections a court is required to state a special reason for its decision or the grounds on which it is satisfied that it is undesirable or impracticable to place an offender under supervision, the reason or, as the case may be, the grounds shall be entered in the record of the proceedings along with the finding and sentence.

(2) Any reference in the sections last mentioned to imprisonment shall be construed, in the case of an offender on whom by reason of his age imprisonment may not lawfully be imposed, as a reference to the lawful form of detention in default of payment of a fine appropriate to that person, and any reference to prison shall be construed accordingly."

26.—(1) It shall no longer be a requirement that a transfer of fine order within the meaning of section 44 of the Summary Jurisdiction (Scotland) Act 1954 shall be made only on the application of the person on whom the fine was imposed, and accordingly subsection (3) of that section shall cease to have effect.

Transfer of fines (including transfer to English court for enforcement, and vice versa).

PART III

(2) For the purpose of enabling transfer of fine orders to be made—

(a) by courts of summary jurisdiction in Scotland in respect of persons residing in England and Wales; and

(b) by magistrates' courts in England and Wales in respect of persons residing in Scotland,

the section set out in Part I of Schedule 3 to this Act shall be substituted for the said section 44, and the sections set out in Part II of that Schedule shall be inserted after section 72 of the Magistrates' Courts Act 1952.

Payment of fine in part by prisoner convicted on indictment.

27. Where a person convicted on indictment has been committed to prison or otherwise detained for failure to pay a fine, the provisions of section 45 of the Summary Jurisdiction (Scotland) Act 1954 (which relates to the reduction of the term of imprisonment where payment of a fine in part is made by a prisoner) shall apply to him as if he had been summarily convicted.

Increase in fine which may be imposed instead of imprisonment on conviction on indictment for statutory offence.

28. Paragraph (3) of section 43 of the Summary Jurisdiction (Scotland) Act 1908 (which, as read with section 77 (4) of that Act, directs that a fine not exceeding twenty-five pounds may be substituted for imprisonment on conviction on indictment for the contravention of any enactment which provides no other penalty than imprisonment for such a contravention) shall be amended by the omission of the words "a fine not exceeding twenty-five pounds" and by the insertion, at the end of the paragraph, of the words "a fine as provided in the following table:—

<i>Period of imprisonment</i>	<i>Amount of fine</i>
Not exceeding three months... ..	Not exceeding £100
Exceeding three months but not exceeding six months	Not exceeding £200
Exceeding six months but not exceeding one year	Not exceeding £400
Over one year	Such fine as the court may, in its discretion, decide."

Remission of fine where young offender detained.

29. Where, in the case of an offender in a borstal institution, detention centre or approved school, or under supervision following release therefrom, who has not made payment of a fine imposed before his being so detained, it appears to the Secretary of State that remission of the fine might assist the rehabilitation of the offender, he may, after consultation where practicable with the judge by whom or the presiding chairman of the court by which sentence was passed, remit that fine in whole or in part.

PART IV

MISCELLANEOUS PROVISIONS RELATING TO PREVIOUS
CONVICTIONS, PROCEDURE, WARRANTS, ETC.

30.—(1) Any rule of law or the provisions of any enactment which enable a previous conviction to be labelled as an aggravation of an offence shall cease to have effect.

(2) Where a person is convicted of an offence, any rule of law which precludes the laying and proof before the court of any previous conviction in respect of that person shall cease to have effect, and the court may have regard to any such conviction in deciding on the disposal of the case.

(3) The provisions of any enactment relating to the laying and proof of previous convictions before a court shall apply to a conviction laid before a court in pursuance of this section.

(4) Nothing in the foregoing provisions of this section shall affect the provisions of any enactment relating to the sentence which a court may pass on a second or subsequent conviction.

31.—(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 fingerprints and those of the person convicted are the fingerprints of the same person.

(2) A certificate purporting to be signed by or on behalf of the Chief Constable of Glasgow or the Commissioner of Police of the Metropolis, containing particulars relating to a conviction extracted from the criminal records kept by the person by or on whose behalf the certificate is signed, and certifying that the copies of the fingerprints contained in the certificate are copies of the fingerprints appearing from the said records to have been taken in pursuance of regulations for the time being in force under section 11 of the Prisons (Scotland) Act 1952, or under section 16 of the Prison Act 1952, from the person convicted on the occasion of the conviction or on the occasion of his last conviction, shall be sufficient evidence of the conviction or, as the case may be, of his last conviction and of all preceding convictions and that the copies of the fingerprints produced on the certificate are copies of the fingerprints of the person convicted.

(3) Where a person has been apprehended and detained in the custody of the police in connection with any criminal proceedings, a certificate purporting to be signed by the chief constable concerned or a person authorised on his behalf, certifying that the fingerprints produced thereon were taken from him

PART IV

while he was so detained, shall be sufficient evidence in those proceedings that the fingerprints produced on the certificate are the fingerprints of that person.

(4) A certificate purporting to be signed by or on behalf of the governor of a prison or of a remand centre in which any person has been detained in connection with any criminal proceedings, certifying that the fingerprints produced thereon were taken from him while he was so detained, shall be sufficient evidence in those proceedings that the fingerprints produced on the certificate are the fingerprints of that person.

(5) A certificate purporting to be signed by or on behalf of the Chief Constable of Glasgow, and certifying that the fingerprints, copies of which are certified as aforesaid by or on behalf of the Chief Constable or the Commissioner of Police of the Metropolis to be copies of the fingerprints of a person previously convicted and the fingerprints certified by or on behalf of a chief constable or a governor as aforesaid, or otherwise shown, to be the fingerprints of the person against whom the previous conviction is sought to be proved, are the fingerprints of the same person, shall be sufficient evidence of the matter so certified.

(6) The method of proving a previous conviction authorised by this section shall be in addition to any other method of proving the conviction.

32.—(1) At the end of section 65 of the Summary Jurisdiction (Scotland) Act 1954 (which among other things relates to the procedure in courts of summary jurisdiction on the determination of an appeal) there shall be added the following subsection :—

“ (4) Where an appellant who has been granted interim liberation does not thereafter proceed with his appeal, the court from which the appeal was taken shall have power, where at the time of the abandonment of the appeal the person is serving a term or terms of imprisonment imposed subsequently to the conviction appealed against, to order that the sentence or, as the case may be, the unexpired portion of that sentence relating to that conviction should run from such date as the court may think fit, not being a date later than the date on which the term or terms of imprisonment subsequently imposed expire.”

(2) At the end of section 71 of the Summary Jurisdiction (Scotland) Act 1954 (which relates to the powers of the High Court of Justiciary on the hearing of appeals) there shall be added the following subsection :—

“ (7) Where at the time an appeal is dismissed or refused as aforesaid the appellant is serving a term or terms of imprisonment imposed subsequently to the conviction

appealed against, the High Court shall have the like powers in regard to him as may be exercised by a court of summary jurisdiction in pursuance of subsection (4) of section sixty-five of this Act."

PART IV

33. Section 22 of the Criminal Justice (Scotland) Act 1949 (which empowers a court to order certain discharged prisoners to notify their addresses) shall cease to have effect.

Repeal of s. 22 of the Criminal Justice (Scotland) Act 1949.

34. Where a court has made an order for the forfeiture of an article, the court or any justice of the peace may, if satisfied on information on oath—

Warrant of search for forfeited articles.

(a) that there is reasonable cause to believe that the article is to be found in any place or premises; and

(b) that admission to the place or premises has been refused or that a refusal of such admission is apprehended,

issue a warrant of search which may be executed according to law; and for the purposes of this section, any reference to a justice of the peace includes a reference to the sheriff and to a magistrate.

35. For section 26 of the Criminal Procedure (Scotland) Act 1887 (which relates to the giving of notice to an accused of the first diet in solemn procedure) there shall be substituted the following section:—

Amendment of s. 26 of the Criminal Procedure (Scotland) Act 1887.

" Notice for first diet.

26.—(1) Where a person is charged on indictment, the notice for the first diet of compareance shall call on that person to appear in the sheriff court before which he appeared on judicial examination unless the Lord Advocate otherwise directs.

(2) The Lord Advocate may make a direction that the first diet of compareance may be taken at a sheriff court other than the sheriff court where the accused appeared on judicial examination either in respect of a class of cases or in respect of particular cases."

36. A court, on conviction of a person on indictment, shall have power to correct an error or defect in a notice of previous conviction relating to the person convicted, and accordingly after section 39 (1) (e) of the Criminal Justice (Scotland) Act 1949 there shall be inserted the following paragraph:—

Amendment of notice of previous conviction in trial on indictment.

" (ee) on the conviction of an accused person, it shall be competent for a court to amend a notice of previous conviction so laid by deletion or alteration for the purpose of curing any error or defect therein:

Provided that no such amendment shall be made to the prejudice of the accused."

PART IV
Bail and
caution.

37.—(1) The following provisions of this section shall apply where a court has refused to admit a person to bail or, where a court has so admitted a person, the bail fixed in his case has not been found.

(2) A court shall, on the application of any such person as aforesaid, have power to review its decision to admit to bail or its decision as to the bail fixed and may, on cause shown, admit the person to bail or, as the case may be, fix bail at a lower amount.

(3) An application under this section, where it relates to the original decision of the court, shall not be made before the fifth day after that decision and, where it relates to a subsequent decision, before the fifteenth day thereafter.

(4) Nothing in the provisions of this section shall affect any right of a person to appeal against the decision of a court in relation to admitting to bail or to the bail fixed.

(5) In the foregoing provisions of this section, any reference to bail includes a reference to caution for interim liberation and any reference to admitting to bail shall include a reference to ordering the finding of caution as aforesaid.

Backing of
certain
warrants from
the Isle of
Man.

38.—(1) A warrant issued in the Isle of Man for the arrest of a person charged with an offence may, after it has been endorsed by a justice of the peace in Scotland, be executed there by the person bringing that warrant, by any person to whom the warrant was originally directed or by any officer of law of the county or place where the warrant has been endorsed as aforesaid in like manner as any such warrant issued in Scotland.

(2) In this section—

“endorsed” means endorsed in the like manner as a process to which section 4 of the Summary Jurisdiction (Process) Act 1881 applies ;

“justice of the peace” includes a sheriff and a magistrate ;

“officer of law” includes a constable within the meaning of the Police (Scotland) Act 1956, a sheriff officer, prison officer and any other person having authority to execute a warrant of court.

Execution of
Scottish
warrants in
England and
vice versa.

39.—(1) A warrant issued in Scotland for the apprehension of a person charged with an offence may be executed in England and Wales by any constable acting within his police area ; and subsections (3) and (4) of section 102 of the Magistrates’ Courts Act 1952 (execution on Sunday and execution without possession of the warrant) shall apply to the execution in England and Wales of any such warrant.

(2) A warrant issued in England and Wales for the arrest of a person charged with an offence may be executed in Scotland by any constable appointed for a police area in like manner as any such warrant issued in Scotland.

(3) A warrant may be executed by virtue of this section whether or not it has been endorsed under section 14 or section 15 of the Indictable Offences Act 1848.

(4) Nothing in this section affects the execution in Scotland of a warrant to which section 123 of the Bankruptcy Act 1914 applies.

(5) Section 12 of the Metropolitan Police Act 1839 shall cease to have effect.

40. Nothing in section 6(3) (extent) of the Magistrates' Courts Act 1957 or in the Summary Jurisdiction (Process) Act 1881 shall be construed as precluding the service in Scotland, with a summons which is so served under the said Act of 1881, of any such notice or statement as is mentioned in subsection (1) of section 1 of the said Act of 1957 (plea of guilty in absence of accused). Service in Scotland of documents under the Magistrates' Courts Act 1957.

41. A warrant of apprehension issued by the sheriff, to which section 25 of the Sheriff Courts (Scotland) Act 1838 applies, may be executed throughout Scotland in like manner as it may be executed within his jurisdiction, and accordingly the proviso to the said section 25 (which proviso restricts the execution of such a warrant without endorsement) shall cease to have effect. Execution of warrant of sheriff in solemn procedure.

42. Section 6 of the Prevention of Crimes Act 1871 (which among other things provides for the keeping of a register for Scotland of all persons convicted of crimes, to be kept in Edinburgh) shall, so far as it relates to Scotland, cease to have effect. Repeal of s. 6 of the Prevention of Crimes Act 1871.

43. The power to make rules conferred on the High Court of Justiciary by section 76 (1) of the Summary Jurisdiction (Scotland) Act 1954 shall, without prejudice to the generality of that subsection, include power to make provision for the manner in which an accused person or witness may be cited in any proceedings under that Act, and accordingly section 18 (3) of that Act (which regulates citation) shall cease to have effect. Citation in summary proceedings.

44. For the removal of doubt it is hereby declared that it is competent to prosecute summarily in the sheriff court crimes of robbery and assault with intent to rob. Summary prosecution of robbery and assault.

PART IV
Amendment
of s. 4 of the
Summary
Jurisdiction
(Scotland)
Act 1954.

45. In paragraphs (c), (d) and (e) of section 4 (2) of the Summary Jurisdiction (Scotland) Act 1954 (which subsection places certain restrictions on the jurisdiction of a court of summary jurisdiction other than the sheriff court)—

(a) the limit on the amount involved in certain offences specified shall be raised from ten pounds to twenty-five pounds; and

(b) for the restriction by reference to two previous convictions of any offence inferring dishonest appropriation of property there shall be substituted a restriction by reference to one previous conviction of such an offence.

Increase
in maximum
period of
adjournment
on special
cause shown.

46. The maximum period for which a court of summary jurisdiction may continue a case on special cause shown under section 21 of the Summary Jurisdiction (Scotland) Act 1954 shall be increased from fourteen days to twenty-one days.

Deferred
sentence.

47. For the removal of doubt it is hereby declared that it is competent for any Scottish court to defer sentence after conviction for a period and on such conditions as the court may determine.

PART V

LEGAL AID IN CRIMINAL PROCEEDINGS

Legal aid in
criminal
proceedings.

48. The Legal Aid (Scotland) Act 1949 shall have effect in relation to legal aid in connection with criminal proceedings subject to the amendments set out in Schedule 4 to this Act.

PART VI

SUPPLEMENTAL

Provision for
additional
judges.

49. The number of judges of the Court of Session who may be appointed shall be increased to seventeen, and accordingly section 1 (1) of the Administration of Justice (Scotland) Act 1948 shall have effect as if for the word "sixteen" there were substituted the word "seventeen".

General
provisions as
to orders.

50.—(1) Any power of the Secretary of State to make orders under this Act (other than orders made under section 11, section 12(1) or (3) or section 22) shall be exercisable by statutory instrument.

(2) A statutory instrument containing an order under section 12(2) or section 14 of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Interpretation

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

"fine" includes an instalment of a fine;

“impose detention” or “impose imprisonment” means pass a sentence of detention or imprisonment, as the case may be, or make an order for committal 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 ;

“prison” does not include a naval, military or air force prison.

(2) References in this Act to a court do not include references to a court-martial ; and nothing in this Act shall be construed as affecting the punishment which may be awarded by a court-martial under the Naval Discipline Act 1957, the Army Act 1955 or the Air Force Act 1955 for a civil offence within the meaning of those Acts.

(3) For the purposes of any reference in this Act to a term of imprisonment or to a term of detention in a young offenders institution, consecutive terms and terms which are wholly or partly concurrent shall be treated as a single term.

(4) Where the age of any person at any time is material for the purposes of any provision of this Act 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.

(5) 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 section 1 of this Act and by section 18 (1) of the Criminal Justice (Scotland) Act 1949 (which subsection prohibits the imprisonment of persons under seventeen years of age) upon the imprisonment of offenders of his age.

(6) Any reference in this Act to any other enactment is a reference thereto as amended, and includes a reference thereto as extended or applied, by or under any other enactment, including this Act.

52.—(1) The enactments described in Schedule 5 to this Act shall have effect subject to the amendments specified therein, being minor amendments and amendments consequential on the foregoing provisions of this Act. Minor and consequential amendments and repeals.

(2) The enactments described in Schedule 6 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(3) The amendment or repeal by this Act of any enactment described in the said Schedule 5 or Schedule 6 (except the amendment to section 33 (4) of the Prisons (Scotland) Act 1952

PART VI relating to young offenders institutions) shall not extend to that enactment in so far as it applies to any person—

- (a) by virtue of his having been sentenced to borstal training before the commencement of section 4 of this Act; or
- (b) by virtue of his having been released from an approved school before, and not having again been so released after, the commencement of section 18 of this Act.

Extension to England, Northern Ireland, the Isle of Man and the Channel Islands.

53.—(1) The following provisions of this Act shall extend to England and Wales, that is to say:—

- section 26;
- sections 39 and 40;
- section 52;
- Schedules 3, 5 and 6, so far as they relate to enactments which extend to England and Wales.

(2) The following provisions of this Act shall extend to Northern Ireland and the Channel Islands, that is to say—

- section 52;
- Schedule 5, so far as it relates to enactments which extend to Northern Ireland and the Channel Islands.

(3) The following provisions of this Act shall extend to the Isle of Man, that is to say—

- section 38;
- section 52;
- Schedule 5, so far as it relates to enactments which extend to the Isle of Man.

(4) Save as aforesaid, and except so far as it relates to the interpretation or commencement of the said provisions, this Act shall extend only to Scotland.

Financial provisions.

54.—(1) There shall be paid out of moneys provided by Parliament any increase attributable to the provisions of this Act in the sums which, under any other enactment, are payable out of moneys so provided.

(2) There shall be defrayed out of the Consolidated Fund of the United Kingdom and out of moneys provided by Parliament respectively any increase attributable to section 49 of this Act in the sums required to be so defrayed.

Commence-ment.

55.—(1) The foregoing provisions of this Act (including the Schedules therein referred to) shall come into operation on such date as the Secretary of State may by order appoint.

(2) Different dates may be appointed by order under this section for different purposes of this Act; and any reference in this Act to the commencement of any provision of this Act shall be construed as a reference to the date appointed for the purposes of that provision.

Short title.

56. This Act may be cited as the Criminal Justice (Scotland) Act 1963.

SCHEDULES

SCHEDULE 1

Section 14.

SUPERVISION OF CERTAIN DISCHARGED PRISONERS

PART I

SUPERVISION WITHIN SCOTLAND

General Provisions

1. Subject to the provisions of this Schedule, every person to whom section 14 of this Act applies shall, after his release from prison and until the expiration of the period of twelve months from the date of his release, be under supervision, and shall, while under that supervision, be required—

- (a) to keep in touch with his supervising officer in accordance with such instructions as may from time to time be given by that officer; and
- (b) to comply with the directions of his supervising officer as to conduct; and
- (c) to comply with such other requirements as may be specified in the notice of supervision given to him under this Schedule.

2. Before the release of any such person from prison, the Secretary of State shall cause to be given to him a notice (in this Schedule referred to as a notice of supervision) giving the name and address of the person who is to be his supervising officer in the first instance, and specifying the requirements with which he has to comply while under supervision; and a notice given to any person under this paragraph shall contain a statement that it is given to him as falling within a specified class of the persons to whom section 14 of this Act for the time being applies.

3. At any time during the period referred to in paragraph 1 of this Schedule the Secretary of State may, by notice in writing given to a person under supervision as aforesaid,—

- (a) discharge him from supervision, or
- (b) replace as from a specified date his supervising officer by another supervising officer whose name and address shall be specified in that notice, or
- (c) cancel or modify any other of the requirements specified in his notice of supervision.

Return to prison in case of breach of supervision

4.—(1) If, on sworn information laid by or on behalf of the Secretary of State, it appears to the sheriff that a person, being under supervision under this Schedule, has failed to comply with any of the requirements imposed on him by his notice of supervision, the sheriff may issue a warrant for the arrest of that person or may, if he thinks fit, instead of issuing such a warrant in the first instance, issue a citation requiring the person to appear before him at such time as may be specified in the citation.

SCH. 1

(2) If it is proved to the satisfaction of the sheriff before whom a person appears or is brought in pursuance of the last foregoing sub-paragraph that the person has failed to comply with any of the requirements of the notice of supervision, the sheriff shall, unless having regard to all the circumstances of the case he considers it unnecessary or inexpedient to do so, order that he be sent back to prison for such term as may be specified in that order, not exceeding whichever is the shorter of the following, that is to say—

(a) a period of three months ;

(b) a period equal to so much of the period of twelve months referred to in paragraph 1 of this Schedule as was unexpired on the date on which proceedings were commenced.

(3) Subject to the following provisions of this Schedule, the Summary Jurisdiction (Scotland) Act 1954 shall apply in relation to proceedings for an order as aforesaid as it applies in relation to proceedings in respect of a summary offence, and references in that Act to an offence, trial, conviction or sentence shall be construed accordingly.

5. Proceedings for an order under the last foregoing paragraph may be brought before a sheriff having jurisdiction in the area in which the supervising officer carries out his duties.

6. A warrant issued for the purposes of proceedings for an order under paragraph 4 above may, if the person laying the information so requests, bear an endorsement requiring any constable charged with its execution to communicate with the Secretary of State before arresting the person under supervision if the constable finds that that person is earning an honest livelihood or that there are other circumstances which ought to be brought to the notice of the Secretary of State.

7. Where a person while under supervision under this Schedule is convicted, whether on indictment or summarily, of an offence for which the court has power to pass sentence of imprisonment, the court may, instead of dealing with him in any other manner, make such an order as could be made by a sheriff under paragraph 4 of this Schedule in proceedings for such an order.

8. The Secretary of State may at any time release from prison a person who has been sent back to prison under paragraph 4 or paragraph 7 of this Schedule ; and the provisions of this Schedule shall apply to a person released by virtue of this paragraph, subject to the following modifications :—

(a) that the period of twelve months referred to in paragraph 1 shall be calculated from the date of his original release ;
and

(b) in relation to any further order for sending him back to prison under this Schedule, the period referred to at paragraph 4 (2) (a) shall be reduced by any time during which he has been detained by virtue of the previous order.

Supplementary

SCH. 1

9. In any proceedings, a certificate purporting to be signed by or on behalf of the Secretary of State and certifying—

- (a) that a notice of supervision was given to any person in the terms specified in the certificate and on the date so specified ; and
- (b) either that no notice has been given to him under paragraph 3 of this Schedule or that a notice has been so given in the terms specified in the certificate,

shall be sufficient evidence of the matters so certified ; and the fact that a notice of supervision was given to any person shall be sufficient evidence that he was a person to whom section 14 of this Act applies.

10. For the purposes of Part III of the Criminal Justice Act 1961, a person who has been sent back to prison under paragraph 4 or paragraph 7 of this Schedule, and has not been released again, shall be deemed to be serving part of his original sentence, whether or not the term of that sentence has in fact expired.

PART II

APPLICATION TO ENGLAND AND WALES, NORTHERN IRELAND,
CHANNEL ISLANDS AND THE ISLE OF MAN*England and Wales and Northern Ireland*

11. In relation to proceedings in England and Wales or in Northern Ireland, paragraphs 4 to 7 shall not apply, but paragraphs 5 to 10 of Schedule 3 to the Criminal Justice Act 1961 shall apply as they apply in relation to proceedings in England and Wales and Northern Ireland respectively in respect of a person under supervision under that Schedule, subject to the modification that in paragraph 5 of the said Schedule 3 for sub-paragraphs (a) and (b) there shall be substituted sub-paragraphs (a) and (b) of paragraph 4(2) of this Schedule.

12. Where an order is made by any court in England and Wales or Northern Ireland under the enactments applied by the last foregoing paragraph sending back to prison a person under supervision, the court shall commit him to a prison in England and Wales or in Northern Ireland, as the case may be ; but the responsible Minister within the meaning of section 26 of the Criminal Justice Act 1961 may, without application in that behalf, make at any time an order under that section transferring him to a prison in Scotland.

13. In relation to a person detained by virtue of such an order as aforesaid in a prison in Northern Ireland, paragraph 8 (and, if that person is released from such a prison under that paragraph, paragraph 2) of this Schedule shall have effect as if for references to the Secretary of State there were substituted references to the Ministry of Home Affairs for Northern Ireland.

SCH. 1

Channel Islands and Isle of Man

14. Her Majesty may, by Order in Council, make such provision as appears to Her to be proper for the purposes of or in connection with the application of Part I of this Schedule to any of the Channel Islands or to the Isle of Man.

General

15. The enactments authorising warrants of arrest for criminal offences issued in any country to which this Schedule extends to be executed in any other such country shall apply to any warrant issued for the purposes of proceedings under Part I of this Schedule as they apply to such warrants as aforesaid.

Section 18

SCHEDULE 2

SUPERVISION OF PERSONS RELEASED FROM APPROVED SCHOOLS

PART I

COMPULSORY SUPERVISION

1.—(1) A person released from an approved school shall until the expiration of the period of two years from the date of his release or until he attains the age of twenty-one, whichever is the earlier, be under the supervision of the managers of that school, and shall while out from the school under that supervision live with the person named in that behalf in a notice to be given by the managers to the first-mentioned person on his release or with such other person as the managers may thereafter from time to time nominate.

(2) The person with whom a person is required to live while out under supervision from his school shall be either his parent or any suitable person who is willing to receive and take charge of him.

2.—(1) The managers of an approved school from which a person is out under supervision may, at any time before the expiration of the said period of two years, by order in writing recall him to the school; and thereupon he shall be liable to be detained in the school until the expiration of the period of his detention or the expiration of six months from the date on which he returns (or is brought back) to the school, whichever is the later.

(2) A person shall not be recalled to, or be liable to be detained in, an approved school under this paragraph after he has attained the age of nineteen.

3. The managers of an approved school in which a person is detained under paragraph 2 of this Schedule may at any time release him, and paragraphs 1 and 2 of this Schedule shall apply on his release under this paragraph as they apply in the case of his original release except that the references to the period of two years from the date of his release shall be construed respectively as references to the period of two years from the date of his original release.

4. For the purposes of the application of paragraphs 1 to 3 of this Schedule to a person who was originally released from an approved school (whether on licence or under supervision) before the date

of the commencement of section 18 of this Act and who on or after that date is again released from an approved school (being either the same school or any other school in Scotland in which he is detained by virtue of the same approved school or other order), the references in the said paragraphs 1 and 2 to the period of two years from the date of his release shall be construed as references to the period of two years from the date of his original release before the commencement of that section, and, as regards the references in the said paragraph 3 to his original release, the first of them shall be construed as a reference to his earliest release after the said commencement, and the second of them shall be construed as a reference to his original release before the said commencement.

5. For the purposes of the Children and Young Persons (Scotland) Act 1937 and any other enactment (including this Act) relating to approved schools, a person under the supervision of the managers of an approved school shall, while he is out under supervision from the school, be deemed to be under the care of the managers.

6.—(1) An order of the Secretary of State under paragraph 9 of Schedule 2 to the Children and Young Persons (Scotland) Act 1937 that a person under the care of the managers of an approved school be discharged or be transferred to the care of the managers of another school shall, in the case of a person who is under the supervision of the first-mentioned managers, have the effect of discharging him from their supervision as well as from their care.

(2) Where a person who is under the supervision of the managers of an approved school is transferred as aforesaid to the care of the managers of another school in Scotland, he shall remain subject to supervision under Part I of this Schedule, but as from the time of his transfer he shall be under the supervision of the managers of that other school, and Parts I and II of this Schedule shall apply to him as if his original release as mentioned in paragraph 1 of this Schedule had been from that other school, the person (if any) with whom he was, immediately before his transfer, required to live under that paragraph being treated as having been nominated in that behalf by the managers of the last-mentioned school immediately after his transfer.

PART II

FURTHER ADVICE AND ASSISTANCE

7. Where a person under the supervision of the managers of an approved school under Part I of this Schedule ceases to be under their supervision otherwise than by reason of his being transferred as mentioned in paragraph 6 (1) of this Schedule, then during the period beginning with the day on which he so ceases and ending with the date of the third anniversary of the expiration of the period of his detention or the date on which he attains the age of twenty-one, whichever is the earlier, the managers, if so requested by him, may, to the extent that they think it appropriate to do so, cause him to be visited, advised and befriended or give him assistance (including, if they think fit, financial assistance) in maintaining himself and finding suitable employment.

SCH. 2

8. Where, in the case of a person to whom paragraph 4 of this Schedule applies, his earliest release from an approved school after the commencement of section 18 of this Act occurs after the expiration of the period of two years from the date of his original release but not later than whichever of the dates mentioned in paragraph 7 of this Schedule is the earlier in his case, he shall be treated for the purposes of the said paragraph 7 as ceasing to be under the supervision of the managers of the school under Part I of this Schedule on the day of his earliest release as aforesaid.

Section 26.

SCHEDULE 3

TRANSFER OF FINES

PART I

The Summary Jurisdiction (Scotland) Act 1954
(2 & 3 Eliz. 2. c. 48)

For section 44 there shall be substituted the following section:—

“Transfer
of fine
orders.

44.—(1) Where a court of summary jurisdiction has imposed a fine on a person convicted of an offence and it appears to the court that he is residing—

(a) within the jurisdiction of another court of summary jurisdiction in Scotland, or

(b) in any petty sessions area in England and Wales,

the court, if no term of imprisonment has been fixed by the court in default of payment of the fine, may order that payment of the fine shall be enforceable by that other court of summary jurisdiction or in that petty sessions area, as the case may be.

(2) An order under this section (in this section referred to as a transfer of fine order) shall specify the court by which or the petty sessions area in which payment is to be enforceable and, where the court to be specified in a transfer of fine order is a court of summary jurisdiction, it shall, in any case where the fine was imposed by the sheriff court, be a sheriff court.

(3) Where a transfer of fine order is made with respect to any fine under this section, any functions under any enactment relating to that sum which, if no such order had been made, would have been exercisable by the court imposing the fine or by the clerk of that court shall cease to be so exercisable.

(4) Where a transfer of fine order within the meaning of this section or of section 72A of the Magistrates' Courts Act 1952, as amended by the Criminal Justice (Scotland) Act 1963, specifies a court of summary jurisdiction in Scotland, that court and the clerk of that court shall have all the like functions under this Part of this Act in respect of the fine or the sum in respect of which that order was made (including the power to make

any further order under this section) as if the fine or the sum were a fine imposed by that court and as if any order made under this section or the said Act of 1952 in respect of the fine or the sum before the making of the transfer of fine order had been made by that court :

Provided that for the purpose of determining the period of imprisonment which may be imposed under this Act by any court having jurisdiction in respect of a sum adjudged to be paid by a conviction of a magistrates' court acting for a petty sessions area, section 49 of this Act shall have effect as if for the Table set out in subsection (1) of that section there were substituted the Table set out in paragraph 1 of Schedule 3 to the said Act of 1952 or that Table as modified by paragraph 3 of that Schedule, as the case may be."

PART II

The Magistrates' Courts Act, 1952

(15 & 16 Geo. 6. & 1 Eliz. 2. c. 55)

After section 72 there shall be inserted the following sections:—

“ Transfer
of fine
orders,
Scotland.

72A.—(1) Where a magistrates' court has by a conviction adjudged a person to pay a sum and it appears to the court that the offender is residing in Scotland, the court may, unless a term of imprisonment has been fixed in the event of a future default in paying the sum in question, by order direct that payment of that sum shall be enforceable by a court of summary jurisdiction in Scotland, being a court within whose jurisdiction it appears as aforesaid that the offender is residing.

(2) Any order under this section shall specify the court of summary jurisdiction by which payment of the sum in question is to be enforceable, and if that sum is twenty pounds or more, the court to be so specified shall be the sheriff court.

(3) Where an order is made under this section with respect to any sum, any functions under this Part of this Act relating to that sum which, if no such order had been made, would have been exercisable by the convicting court, or the clerk of that court, shall cease to be so exercisable.

Transfer
of fine
orders from
Scotland.

72B.—(1) Where a transfer of fine order within the meaning of section 44 of the Summary Jurisdiction (Scotland) Act 1954 orders that payment of a fine shall be enforceable in a specified petty sessions area in England and Wales, a magistrates' court acting for that area, and the clerk of that court, shall, subject to the provisions of this section, have all like functions under this Part of this Act in respect of the fine (including power to make a transfer of fine order under section 72 or section 72A of this Act) as if the fine were a sum adjudged to be paid

SCH. 3

by a conviction of that court and as if any order made under the said Act of 1954 in respect of the fine before the making of the transfer of fine order had been made by that court.

(2) For the purpose of determining the period of imprisonment which may be imposed under this Act by any court having jurisdiction by virtue of such a transfer of fine order as aforesaid in default of payment of the fine to which the order relates (including any court having such jurisdiction by virtue of an order made in respect of that fine under section 72 of this Act), Schedule 3 to this Act shall have effect as if for the Table set out in paragraph 1 there were substituted the Table set out in section 49 (1) of the said Act of 1954 and as if paragraph 3 of that Schedule were omitted."

Section 48.

SCHEDULE 4

AMENDMENT OF LEGAL AID (SCOTLAND) ACT 1949

Legal Aid in Criminal Proceedings

In section 1, in subsection (6), the words from "or in connection" to "indictment)" shall be omitted and at the end of that subsection there shall be inserted the following subsection:—

"(6A) In criminal proceedings, a person shall not be given legal aid in connection with—

(i) summary proceedings unless—

(a) he is entitled to receive such aid by virtue of subsection (2) of the next following section, or

(b) the court considers that in all the circumstances of the case it is in the interests of justice that legal aid should be available to the accused and grants a legal aid certificate ;

(ii) proceedings by way of appeal against conviction or sentence (whether in summary proceedings or in proceedings on indictment) unless it appears that he has substantial grounds for taking those proceedings, and that it is reasonable that he should receive legal aid in the particular circumstances of the case."

In section 2,—

in subsection (1), after the word "aid", where first occurring, there shall be inserted the words "in connection with any civil proceedings", and at the end of that subsection there shall be inserted the following subsections:—

"(1A) Subject to this Part of this Act, legal aid in connection with criminal proceedings shall be available to an accused person where the court is satisfied after consideration of his financial circumstances that he is unable without undue hardship to himself or his dependants to meet the expenses of the case.

(1B) In the last foregoing subsection, "court" means—

(a) in relation to summary proceedings, the court before which the proceedings are being taken ;

(b) in relation to proceedings on indictment, the sheriff before whom the accused is taken for judicial examination ;

(c) in relation to an appeal by way of stated case from a court of summary jurisdiction, that court ;

(d) in relation to any other form of appeal, the court to which the appeal is made.

(1C) Where—

(a) in any case the court mentioned in paragraphs (a) or (b) of the last foregoing subsection has made legal aid available to an accused person in pursuance of this section, that person shall continue to be regarded as financially eligible for legal aid in connection with any subsequent proceedings (including proceedings by way of appeal) arising from the case ;

(b) legal aid has not been made available to an accused person and his case comes before the High Court of Justiciary, legal aid shall be available to him if that Court is satisfied of his financial eligibility as aforesaid ;

for subsection (2) there shall be substituted the following subsection :—

"(2) Notwithstanding the provisions of subsection (1A) of this section, legal aid shall be available in connection with criminal proceedings to an accused person without inquiry into his resources—

(a) where his case is being prosecuted under solemn procedure, and where no determination as to his eligibility for legal aid has been made for the purposes of that subsection, until, after being brought before the court for examination on declaration, he is admitted to bail or committed until liberated in due course of law, or

(b) where he is in custody and is being prosecuted summarily before the sheriff or in a juvenile court constituted in pursuance of section 51 of the Children and Young Persons (Scotland) Act 1937, until the conclusion of the first diet at which he is called upon to plead and of any application for liberation which may follow thereon or, where he has pleaded guilty at that diet, until the conclusion of the last subsequent diet fixed for the disposal of his case." ;

in subsection (3), in paragraph (c), after the word "contribution" there shall be inserted the words "in accordance with the next two following sections", and at the end of that paragraph there shall be inserted the words "in connection with any civil proceedings".

SCH. 4

In section 6, in subsection (3), in the proviso, for paragraph (a) there shall be substituted the following paragraph:—

“(a) where in pursuance of arrangements made by the Law Society in accordance with any scheme for the time being in force under section 8 of this Act a solicitor is available in any court for the special purpose of giving legal aid in connection with criminal proceedings in that court, the scheme may specify proceedings in which an accused person shall not be entitled to legal aid in that court otherwise than by representation by that solicitor; and”.

In section 15, in subsection (1), in paragraph (b), after the word “litigandi” there shall be inserted the words “or whether he has substantial grounds for taking proceedings by way of appeal against conviction or sentence”.

Section 52.

SCHEDULE 5

MINOR AND CONSEQUENTIAL AMENDMENTS

The Criminal Appeal (Scotland) Act 1926(16 & 17 *Geo. 5. c. 15*)

In section 11 (2), the words “for his use” shall be omitted.

The Children and Young Persons (Scotland) Act 1937(1 *Edw. 8 & 1 Geo. 6 c. 37*)

In section 86 (1) (b), for the words “or on licence” there shall be substituted the words “or under supervision”.

In section 87—

in subsection (1), after the word “Act”, there shall be inserted the words “and of the Criminal Justice (Scotland) Act 1963”;

in subsection (3), for the words “on licence” there shall be substituted the words “under supervision”, and after the word “Act”, there shall be inserted the words “and of the Criminal Justice (Scotland) Act 1963”.

In Schedule 2, in paragraph 9 (3), for the words “this Act shall have effect” there shall be substituted the words “this Act and the Criminal Justice (Scotland) Act 1963 shall have effect”.

The Family Allowances Act 1945(8 & 9 *Geo. 6 c. 41*)

In section 26, after subsection (8), there shall be inserted the following subsection:—

“(8A) Section 11 shall have effect as if for paragraph (a) of subsection (1) there were substituted the following paragraph—

‘(a) during which the child’s detention in an approved school is authorised by an order made under any provision of the Children and Young Persons (Scotland) Act 1937, or by virtue of section 77 of that Act or of Part 1 of Schedule 2 to the Criminal Justice

(Scotland) Act 1963, and the child is not absent from the school under supervision ;' ;

and as if for the references to the Children and Young Persons Act 1933 and to section 53 thereof there were substituted respectively references to the Children and Young Persons (Scotland) Act 1937 and to section 57 thereof".

The Children Act 1948
(11 & 12 Geo. 6 c. 43)

In section 6 (4), for the words from the beginning of the subsection to the words "said paragraph 6" there shall be substituted the words "Where under Part I of Schedule 2 to the Criminal Justice Act 1961 or, as the case may be, to the Criminal Justice (Scotland) Act 1963 a child is under the supervision of the managers of an approved school, and it appears to the managers that the child has no home or that his home is unsatisfactory, then with the consent of the managers".

The Criminal Justice (Scotland) Act 1949
(12, 13 & 14 Geo. 6. c. 94)

In section 9 (1), for the words from "and of any subsequent proceedings" to "aggravation" there shall be substituted the words "and of laying it before a court as a previous conviction in subsequent proceedings for another offence".

In section 20 (1), after the words "institution, the court" there shall be inserted the words "subject to section 3 of the Criminal Justice (Scotland) Act 1963".

In section 21 (2) (a), after the word "more" there shall be inserted the words "or remitted thereto for sentence in respect of such an offence".

In section 70 (2), for the words "seventy-seven and seventy-eight" there shall be substituted the words "and seventy-seven".

In section 78 (4), after the word "under" there shall be inserted the words "any enactment including".

The Prisons (Scotland) Act 1952
(15 & 16 Geo. 6. & 1 Eliz. 2. c. 61.)

In section 9, the words "the whole of" shall be omitted.

For section 16 (1) there shall be substituted the following subsections—

"(1) Where a prisoner who is serving a sentence of thirty-one days or less would, but for this subsection, be discharged on a Sunday, he shall be discharged on the immediately preceding Saturday.

(1A) Where a prisoner who is serving a sentence of more than thirty-one days would, but for this subsection, be discharged on a Saturday or Sunday, he shall be discharged on the preceding Friday."

In section 18—

in subsection (1), for the words from "and a secretary" to the end of the subsection there shall be substituted the words "of the Council";

SCH. 5

in subsection (3), the words from “and (b)” to the word “subsistence” shall be omitted;

after subsection (3), there shall be inserted the following subsection:—

“(3A) The Secretary of State may provide the services of a secretary and such office accommodation at which communications will be received, as the Council may require”.

In section 19 (3), for the words from “the supervision” to the word “specified” there shall be substituted the word “supervision”.

In section 28 (2), after the words “detention centre” there shall be inserted the words “young offenders institution”.

In section 31—

in subsection (1), at the end of paragraph (b) the word “and” shall be omitted;

in subsections (3) and (4) (other than paragraph (iv) of the proviso to subsection (4)), after the words “detention centre” or “detention centres”, wherever occurring, there shall be inserted respectively the words “young offenders institution” and “young offenders institutions”, and in the said paragraph (iv) for the words “or detention centres” there shall be substituted the words “detention centres or young offenders institutions”.

In section 33—

in subsection (2), for the words “three years” there shall be substituted the words “two years”;

in subsection (3), for the words from the beginning to the words “so specified” there shall be substituted the words “A person shall, after his release from a borstal institution and until the expiration of one year from the date of his release, be required to be under the supervision of such person as may be specified in a notice to be given to him by the Secretary of State on his release, and shall, while under that supervision, comply with such other requirements as may be so specified”.

in subsection (4), for the words “Borstal institution”, except where those words first occur, there shall be substituted the words “young offenders institution”, for the words “one year” there shall be substituted the words “three months” and, in proviso (a), for the words “three years from the date of the sentence” there shall be substituted the words “one year from the date of his release”.

in subsection (5), for the words “Borstal institution” there shall be substituted the words “young offenders institution”.

In section 34, after the word “institution” there shall be inserted the words “or a young offenders institution”.

In section 35—

in subsection (1), after the words “detention centres” there shall be inserted the words “young offenders institutions”;

in subsection (6), after the words "preventive detention" there shall be inserted the words "detention in a young offenders institution".

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In section 37—

in subsection (1), after the words "preventive detention" there shall be inserted the words "detention in a young offenders institution";

in subsection (2), after the words "preventive detention", there shall be inserted the words "detention in a young offenders institution", and after the word "prison", in both places where it occurs, there shall be inserted the words "young offenders institution".

The Summary Jurisdiction (Scotland) Act 1954

(2 & 3 Eliz. 2. c. 48.)

In section 3, in paragraph (b), for the words "ten pounds" there shall be substituted the words "fifty pounds", and in paragraph (c), for the words "twenty pounds" there shall be substituted the words "fifty pounds".

In section 4, in subsection (2), for paragraphs (c), (d) and (e) there shall be substituted the following paragraphs—

"(c) theft or reset of theft,
falsehood, fraud or wilful imposition,
breach of trust or embezzlement,

all to an amount exceeding twenty-five pounds;

(d) any of the offences specified in the last foregoing paragraph, or any attempt thereat, where the accused is known to have been previously convicted of any offence inferring dishonest appropriation of property."

In section 7 (1), in paragraphs (a) and (b), for the words "twenty-five pounds" there shall be substituted the words "one hundred and fifty pounds".

In section 20 (1), for the words "such warrant" there shall be substituted the words "warrant of apprehension or search".

In section 21, for the word "fourteen" there shall be substituted the word "twenty-one".

In section 26 (4), after the words "detention centre" there shall be inserted the words "young offenders institution".

In section 31 (1), for the words "forming an aggravation of any offence libelled in the complaint" there shall be substituted the words "and the prosecutor has decided to lay a previous conviction before the court".

In section 33 (1), for the words "three pounds" there shall be substituted the words "twenty-five pounds".

In section 40, in paragraph (b), for the words "twenty-five pounds" there shall be substituted the words "one hundred pounds".

In section 45 (2), for the words "legalised police cells" there shall be substituted the words "any other place in which a person may be lawfully detained in default of payment of a fine".

SCH. 5

For section 48 there shall be substituted the following section:—

“Imprison- 48. Subject to the provisions of sections 42 to 43C of
ment in this Act, where a court of summary jurisdiction has
default of imposed a fine on any person, the court may impose a
payment period of imprisonment in default of payment thereof,
of fine. whether or not the statute or order under which the fine
is imposed makes any provision for its recovery, but
that period shall not exceed the maximum period applic-
able to the fine under section 49 of this Act.”

In section 50, at the end there shall be added the following subsection:—

“(3) Proceedings by civil diligence under this section may be adopted at any time after the imposition of the fine to which they relate :

Provided that no such proceedings shall be authorised after the court has imposed imprisonment in default of payment of the fine.”

In section 76 (1) (a), at the end there shall be inserted “or, so far as they relate to summary jurisdiction or procedure, of the Criminal Justice (Scotland) Act 1949 or the Criminal Justice (Scotland) Act 1963.”

In section 77, after the definition of “Borstal training” and “Detention centre” there shall be inserted the following definition:—

“‘Complaint’ includes a copy of the complaint laid before the court :”.

The First Offenders Act 1958

(6 & 7 Eliz. 2, c. 31.)

For section 1 (3), there shall be substituted the following sub-sections:—

“(3) A person falling to be dealt with for an offence shall be treated for the purposes of this Act as a first offender if, but only if, he has not since attaining the age of seventeen been convicted by a court in any part of the United Kingdom of any other offence except an offence not punishable with imprisonment.

(4) In determining for the purposes of this section whether a person has been convicted of an offence, no account shall be taken of any of the following enactments, that is to say—

(a) section 12 of the Criminal Justice Act 1948 (under which a conviction leading to probation or discharge is to be disregarded except as therein mentioned) ;

(b) section 9 of the Criminal Justice (Scotland) Act 1949 (which makes similar provision in respect of convictions on indictment in Scotland) ;

(c) section 8 of the Probation Act (Northern Ireland) 1950 (which corresponds with the said section 12) or any corresponding enactment of the Parliament of Northern Ireland for the time being in force ;

and any order made by a court of summary jurisdiction in Scotland under section 1 or section 2 of the said Act of 1949 shall be treated as a conviction.

(5) In this section 'court' does not include a court-martial, and 'offence not punishable with imprisonment' means an offence for which no offender may be sentenced to imprisonment."

First Offenders (Scotland) Act 1960
(8 & 9 Eliz. 2 c. 23)

In section 1—

in subsection (1), for the words from "eighteen" to the words "1949" there shall be substituted the words "1 of the Criminal Justice (Scotland) Act 1963";

in subsection (2), for the words from "eighteen" to the word "proceedings" there shall be substituted the word "1";

for subsection (3), there shall be substituted the following subsections:—

"(3) A person falling to be dealt with for an offence shall be treated for the purposes of this Act as a first offender if, but only if, he has not since attaining the age of seventeen been convicted of any other offence, except an offence not punishable with imprisonment.

(3A) In determining for the purposes of subsection (3) of this section whether a person has been convicted of an offence, no account shall be taken of any of the following enactments, that is to say—

- (a) section 9 of the Criminal Justice (Scotland) Act 1949 (under which a conviction leading to probation or discharge is to be disregarded except as therein mentioned);
- (b) section 12 of the Criminal Justice Act 1948 (which makes similar provision in respect of convictions on indictment in England and Wales);
- (c) section 8 of the Probation Act (Northern Ireland) 1950 (which corresponds with the said section 9) or any corresponding enactment of the Parliament of Northern Ireland for the time being in force;

and any order made by a court of summary jurisdiction under section 1 or section 2 of the said Act of 1949 shall be treated as a conviction.

(3B) For the purposes of subsection (3) of this section, a previous conviction shall be disregarded after the expiration of a period of ten years from the date of that conviction, being a period exclusive of any period during which the offender was in custody under sentence in respect of the conviction.

(3C) In this section 'court' does not include a court-martial, and 'offence not punishable with imprisonment' means an offence for which no offender may be sentenced to imprisonment."

Mental Health (Scotland) Act 1960
(8 & 9 Eliz. 2 c. 61)

In Schedule 3, in paragraph 9—

in sub-paragraph (3), after the word "applies" there shall be inserted the words "or a patient who was immediately before the commencement of this Act subject to guardianship by virtue of an order under section 24 of the Criminal Justice (Scotland) Act 1949";

SCH. 5

in sub-paragraph (4), for the words from “in any” to “Schedule” there shall be substituted the words “excepted from the operation of the last foregoing sub-paragraph”.

Criminal Justice Act 1961

(9 & 10 Eliz. 2 c. 39)

In section 32 (2), in paragraph (b), the word “twenty” shall be omitted, and at the end of the paragraph there shall be inserted the words “and sections 11, 12 and 14 of the Criminal Justice (Scotland) Act 1963 and Schedule 1 to that Act.”

In section 34 (6), after the words “or detention centre” there shall be inserted the words “or who, immediately before his removal, was undergoing a sentence of detention in a young offenders institution in Scotland”, and at the end of the subsection there shall be added the words “and subsections (3) to (5) of this section shall apply to any person in whose case such a direction is given as if he had been removed under this section”.

In section 38 (5) (a), after the word “sentence”, where first occurring, there shall be inserted the words “of detention in a young offenders institution passed in Scotland, and a sentence”.

In section 39 (1), after paragraph (b) there shall be inserted the following paragraph—

“(bb) in relation to a person sentenced to imprisonment when under twenty-one years of age who is so removed to Scotland, a young offenders institution;”.

Section 52.

SCHEDULE 6

ENACTMENTS REPEALED

Session and Chapter	Short Title	Extent of Repeal
1 & 2 Vict. c. 119.	The Sheriff Courts (Scotland) Act 1838.	In section 25, the proviso.
2 & 3 Vict. c. 47.	The Metropolitan Police Act 1839.	Section 12.
34 & 35 Vict. c. 112.	The Prevention of Crimes Act 1871.	Section 6, so far as relating to Scotland.
50 & 51 Vict. c. 35.	The Criminal Procedure (Scotland) Act 1887.	Sections 63 to 65. In section 67, the words from “but where” to the end of the section.
16 & 17 Geo. 5. c. 15.	The Criminal Appeal (Scotland) Act 1926.	In section 11 (2), the words “for his use”.
1 Edw. 8 & 1 Geo. 6. c. 37.	The Children and Young Persons (Scotland) Act 1937.	Section 78. In section 86 (1) (b), the words “or upon the revocation of his licence”. In section 91 (5), the words “on licence or”. In Schedule 2, paragraph 6; in paragraph 8, the words from “if authorised” to the words “so to do”; and, in paragraph 12, the words “on licence or”, in both places where they occur.

Session and Chapter	Short Title	Extent of Repeal
8 & 9 Geo. 6. c. 41.	The Family Allowances Act 1945.	In section 26 (3), the words from the beginning of the subsection to the words "seventy-eight thereof;"
12, 13 & 14 Geo. 6. c. 94.	The Criminal Justice (Scotland) Act 1949.	<p>In section 9 (5), the words "which constitutes an aggravation of the first mentioned offence".</p> <p>Section 18 (2) to (5).</p> <p>Sections 19 and 22.</p> <p>In section 39 (1), in paragraph (b), the words "as an aggravation of any charge contained in the indictment"; in paragraph (d), the words "as an aggravation of the charge".</p> <p>In section 70 (2), the words "and to supervision and recall".</p> <p>In Schedule 7, in Form No. 1, the words "as aggravations of the said charge".</p>
15 & 16 Geo. 6. & 1 Eliz. 2. c. 55.	The Magistrates' Courts Act 1952.	Section 119 (2).
15 & 16 Geo. 6. & 1 Eliz. 2. c. 61.	The Prisons (Scotland) Act 1952.	<p>In section 9, the words "the whole of".</p> <p>In section 20, subsections (2) to (6).</p> <p>Section 23.</p> <p>Section 31 (4) (a).</p> <p>Schedule 1.</p>
2 & 3 Eliz. 2. c. 48.	The Summary Jurisdiction (Scotland) Act 1954.	<p>Section 2, so far as relating to sections 63 to 65 of the Criminal Procedure (Scotland) Act 1887.</p> <p>Section 18 (3).</p> <p>In section 22, the second sentence.</p> <p>Section 31 (5).</p> <p>Section 49 (2).</p> <p>In Schedule 1, the incorporation of sections 63 and 65 of the Criminal Procedure (Scotland) Act 1887.</p> <p>Section 1 (4).</p>
8 & 9 Eliz. 2. c. 23.	The First Offenders (Scotland) Act 1960.	Section 1 (4).
9 & 10 Eliz. 2. c. 39.	The Criminal Justice Act 1961.	<p>In Schedule 4, the amendment of section 6 of the Children Act 1948.</p> <p>In Schedule 5, the repeal in section 6 of the Children Act 1948.</p>
10 & 11 Eliz. 2. c. 59.	The Road Traffic Act 1962.	Section 39.

Table of Statutes referred to in this Act

Short Title	Session and Chapter
Sheriff Courts (Scotland) Act, 1838 ...	1 & 2 Vict. c. 119.
Metropolitan Police Act, 1839	2 & 3 Vict. c. 47.
Indictable Offences Act, 1848	11 & 12 Vict. c. 42.
Prevention of Crimes Act, 1871	34 & 35 Vict. c. 112.
Summary Jurisdiction (Process) Act, 1881	44 & 45 Vict. c. 24.
Criminal Procedure (Scotland) Act, 1887	50 & 51 Vict. c. 35.
Summary Jurisdiction (Scotland) Act, 1908	8 Edw. 7. c. 65.
Bankruptcy Act, 1914	4 & 5 Geo. 5. c. 59.
Criminal Appeal (Scotland) Act, 1926 ...	16 & 17 Geo. 5. c. 15.
Children and Young Persons (Scotland) Act, 1937	1 Edw. 8 & 1 Geo. 6. c. 37.
Criminal Justice Act, 1948	11 & 12 Geo. 6. c. 58.
Administration of Justice (Scotland) Act, 1948	12, 13 & 14 Geo. 6. c. 10.
Legal Aid (Scotland) Act, 1949	12, 13 & 14 Geo. 6. c. 63.
Criminal Justice (Scotland) Act, 1949 ...	12, 13 & 14 Geo. 6. c. 94.
Prison Act, 1952	15 & 16 Geo. 6 & 1 Eliz. 2. c. 52.
Magistrates' Courts Act, 1952	15 & 16 Geo. 6 & 1 Eliz. 2. c. 55.
Prisons (Scotland) Act, 1952	15 & 16 Geo. 6 & 1 Eliz. 2. c. 61.
Summary Jurisdiction (Scotland) Act, 1954	2 & 3 Eliz. 2. c. 48.
Army Act, 1955	3 & 4 Eliz. 2. c. 18.
Air Force Act, 1955	3 & 4 Eliz. 2. c. 19.
Police (Scotland) Act, 1956	4 & 5 Eliz. 2. c. 26.
Magistrates' Courts Act, 1957	5 & 6 Eliz. 2. c. 29.
Naval Discipline Act, 1957	5 & 6 Eliz. 2. c. 53.
First Offenders Act, 1958	6 & 7 Eliz. 2. c. 31.
First Offenders (Scotland) Act, 1960 ...	8 & 9 Eliz. 2. c. 23.
Mental Health (Scotland) Act, 1960 ...	8 & 9 Eliz. 2. c. 61.
Criminal Justice Act, 1961	9 & 10 Eliz. 2. c. 39.

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