

## SCHEDULES

### SCHEDULE 12

Section 65.

#### MINOR AND CONSEQUENTIAL AMENDMENTS

##### *NIGHT POACHING ACT 1828 (c. 69)*

- 1 In section 2 (assaults by persons committing offences under the Act), for the words from "whether it be" onwards substitute " be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £500, or to both " .
- 2 In section 9 (entering land, with others, armed and for the purpose of taking or destroying game or rabbits), for the words from "at the discretion of the court" onwards substitute " on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £500, or to both. " .

##### *METROPOLITAN POLICE COURTS ACT 1839 (c. 71)*

Section 24 (offence of possessing stolen goods without a satisfactory explanation) shall cease to have effect.

##### *ACCESSORIES AND ABETTORS ACT 1861 (c. 94)*

In section 8 (abettors in misdemeanors), for " any misdemeanor " substitute " any indictable offence ",  
and for " a misdemeanor" substitute " an offence " .

##### *OFFENCES AGAINST THE PERSON ACT 1861 (c. 100)*

For section 16 (sending letters threatening to murder) substitute—

#### **“16 Threats to kill.**

A person who without lawful excuse makes to another a threat, intending that that other would fear it would be carried out, to kill that other or a third person shall be guilty of an offence and liable on conviction on indictment to imprisonment for a term not exceeding ten years.”.

##### *PUBLIC STORES ACT 1875 (c. 25)*

Section 7 (offence of possessing, without a satisfactory explanation, public stores suspected of being stolen) and section 9 (offence, applicable to certain dealers and others, of possessing, without a satisfactory explanation, property reasonably believed to be public stores) shall cease to have effect.

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*EXPLOSIVE SUBSTANCES ACT 1883 (c. 3)*

In section 3(1) (attempt to cause explosion, or making or keeping explosive, with intent to endanger life or property in the United Kingdom or the Republic of Ireland), for " a term not exceeding twenty years " substitute " life " .

*CORONERS ACT 1887 (c. 71)*

Section 4(2) (duty of coroner to take depositions in a case of murder or manslaughter) shall cease to have effect.

*CHILDREN ACT 1948 (c. 43)*

In section 29(5) (carrying on an unregistered voluntary home) omit the words from " and to a further fine " onwards (which provide for a fine of £2 in respect of each day during which an offence under the subsection continues after conviction).

*CRIMINAL JUSTICE ACT 1948 (c. 58)*

- 1 Section 19 (attendance at an attendance centre) shall be amended as follows.
- 2 In subsection (3) (power to discharge or vary an order for attendance at a centre)—
  - (a) for the words from the beginning to " acts " (which restrict jurisdiction under the subsection to the court which made the order or a justice acting for the same petty sessional division or place as that court) substitute " A magistrates' court acting for the petty sessions area in which the attendance centre specified in an order made under subsection (1) of this section is situated " ; and
  - (b) omit " or justice " .
- 3 In subsection (7) (power to deal with offender for failure to attend, or breach of rules while attending, at centre)—
  - (a) for "the petty sessional division or place for which the court which made the order acts" substitute " the petty sessions area in which the attendance centre specified in the order is situated " ; and
  - (b) for the words from " a court" to " the justice acts" substitute " a magistrates' court acting for that area " .

*REPRESENTATION OF THE PEOPLE ACT 1949 (c. 68)*

In section 149(9) (procedure where person prosecuted before an election court subsequently attends or is brought before a magistrates' court)—

- (a) in paragraph (b), for " hear " substitute " try " ; and
- (b) after that paragraph add " and sections 19 to 26 of the Criminal Law Act 1977 shall (in either case) not apply. " .

*PRISON ACT 1952 (c. 52)*

- 1 In section 45, as amended by Schedule 4 to the Criminal Justice Act 1961 (release of persons sentenced to Borstal training), substitute " one year " for " two years "—
  - (a) in subsection (3) (where those words give the period of supervision after release);

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- (b) in the first place where they occur in subsection (4) (where they give the period of liability to recall) ; and
  - (c) wherever they occur in the proviso to subsection (4).
- 2 Paragraph 1 above shall not apply in relation to a person sentenced to Borstal training whose original release from a Borstal institution occurred before the coming into force of this paragraph.

### *MAGISTRATES' COURTS ACT 1952 (c. 55)*

- 1 In section 2 (jurisdiction to deal with charges)—
- (a) in subsection (4) jurisdiction of magistrates' court to try an indictable offence summarily), for the words from the beginning to " indictable offence " substitute—
    - “(4) Subject to sections 19 to 23 of the Criminal Law Act 1977 and any other enactment (in that Act or elsewhere) relating to the mode of trial of offences triable either way, a magistrates' court shall have jurisdiction to try summarily an offence triable either way”; and
  - (b) after subsection (4) insert—
    - “(4A) A magistrates' court shall, in the exercise of its powers under section 6 of the Children and Young Persons Act 1969 (summary trial of young persons), have jurisdiction to try summarily an indictable offence in any case in which under subsection (3) above it would have jurisdiction as examining justices.”.
- 2 In section 14(4), for the words from " if" to " examining justices " (which state the circumstances in which a court adjourning the trial of an information is obliged to remand the accused) substitute “if the offence is triable either way and—
- (a) on the occasion on which the accused first appeared, or was brought, before the court to answer to the information he was in custody or, having been released on bail, surrendered to the custody of the court ;  
or
  - (b) the accused has been remanded at any time in the course of proceedings on the information ;”.
- 3 In section 22 (effect of dismissal of information for indictable offence), for the words from " that" to " only " substitute " triable either way " .
- 4 In section 23 (using in summary trial evidence given before examining justices), for " the preceding provisions of this Act" substitute " section 25(3) or (7) of the Criminal Law Act 1977 " .
- 5 In section 29 (committal for sentence for indictable offence tried summarily), for the words from the beginning to " indictable offence " substitute " Where on the summary trial of an offence triable either way (not being an offence as regards which this section is excluded by section 29 of the Criminal Law Act 1977) " .
- 6 In section 35 (aiders and abettors), before the words "A person " insert " (1) " and at the end add—
- “(2) Any offence consisting in aiding, abetting, counselling or procuring the commission of an offence triable either way (other than an offence listed in Schedule 3 to the Criminal Law Act 1977) shall by virtue of this subsection be triable either way.”.

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- 7 (1) In section 87(2) (time-limit of fourteen days for applying to magistrates' court to state a case) for " fourteen days " substitute " twenty-one days " .
- (2) Sub-paragraph (1) above shall not apply in relation to a decision of a magistrates' court given before the coming into force of this paragraph.
- 8 In section 98(3)(b) (requirements as to place of sitting of magistrates' court exercising certain functions) for " an offence that is not indictable " substitute " a summary offence " .
- 9 In section 105(4) proviso (c) (power of magistrates' court to remand for more than eight days if not constituted or sitting in a place allowing it to proceed to summary trial of an offence triable either way), for the words from " on indictment " to " but " substitute " either way, then, if it falls to the court to try the case summarily but the court " .
- 10 In section 108(2) (power of a magistrates' court to impose consecutive terms of imprisonment for an indictable offence tried summarily subject to an overall limit of 12 months), for the words " an indictable offence tried summarily under section 19 of this Act " substitute " an offence triable either way which was tried summarily otherwise than in pursuance of section 23(2) of the Criminal Law Act 1977 " .
- 11 After section 130 insert—

**“130A Magistrates' court may sit on Sundays public holidays.**

It is hereby declared that a magistrates' court may sit on any day of the year, and in particular (if the court thinks fit) on Christmas Day, Good Friday or any Sunday.”.

- 12 In Schedule 2 (corporations)—
- (a) in paragraph 3, for sub-paragraph (b) (representative of corporation may consent or object to summary trial or claim trial by jury), substitute—
- “(b) consent to the corporation being tried summarily.”;
- (b) for paragraph 9 (corporation and individual jointly charged with corporation not to be tried summarily unless both consent or neither claims jury trial) substitute—
- “9 Where a corporation and an individual who has attained the age of seventeen are jointly charged before a magistrates' court with an offence triable either way, the court shall not try either of the accused summarily unless each of them consents to be so tried.”.

*BIRTHS AND DEATHS REGISTRATION ACT 1953 (c.20)*

In section 29(4) (correction of error in register resulting from error in information given by a coroner's certificate), for the words preceding " the coroner, if satisfied ", substitute—

- “(4) Where—
- (a) an error of fact or substance (other than an error relating to the cause of death) occurs in the information given by a coroner's certificate concerning a dead body upon which or a death touching which he has held an inquest; or
- (b) such an error relating to the cause of death occurs in the information given by a coroner's certificate issued under section 20(4) of the Coroners (Amendment)

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Act 1926 in the case of an inquest which was adjourned in compliance with section 20(1) of that Act (adjournment in cases of murder etc. or at request of D.P.P.) but was subsequently resumed”.

*SEXUAL OFFENCES ACT 1956 (c. 69)*

1 A prosecution for an offence to which paragraph 14 or 15 (incest and attempts thereat) of Part II of Schedule 2 (table of offences with mode of prosecution) relates shall not be commenced except by or with the consent of the Director of Public Prosecutions ; and accordingly in sub-paragraph (a) and (b) of each of those paragraphs, in the second column, for the words from " without" to " behalf " substitute " except by or with the consent " .

2 In paragraphs 17 and 18 of the said Part II (indecent assault)—  
(a) for sub-paragraph (ii) in the second column substitute—

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(ii) “summarily (by virtue of section 16(2) of the Criminal Law Act 1977).”;

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(b) in the third column, for the words from " As provided " to " or both)" substitute—

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“As provided by section 28(1) of that Act (that is to say, six months or the prescribed sum within the meaning of that section, or both).”

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*ADOPTION ACT 1958 (7 & 8 Eliz.2.c.5.)*

In section 50 (prohibition of certain payments), after subsection (3) insert—

“(3A) This section does not apply to—

- (a) any payment made by an adoption agency to a person who has applied or proposes to apply to a court for an adoption order or an order under section 53 of this Act (provisional adoption orders), being a payment of or towards any legal or medical expenses incurred or to be incurred by that person in connection with the application; or
- (b) any payment made by an adoption agency to another adoption agency in consideration of the placing of a child in the actual custody of any person with a view to the child's adoption ; or
- (c) any payment made by an adoption agency to a voluntary organisation for the time being approved for the purposes of this paragraph by the Secretary of State as a fee for the services of that organisation in putting that adoption agency into contact with another adoption agency with a view to the making of arrangements between the adoption agencies for the adoption of a child,

and never has applied to payments of the kinds mentioned in paragraphs (a) and (b) of this subsection.

In paragraph (c) of this subsection "voluntary organisation" means a body, other than a public or local authority, the activities of which are not carried on for profit.”

*OBSCENE PUBLICATIONS ACT 1959 (c.66)*

In section 3(3) (powers of search and seizure) at end add—

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“Provided also that this subsection does not apply in relation to any article seized under subsection (1) of this section which is returned to the occupier of the premises or, as the case may be, to the user of the stall or vehicle in or on which it was found.”.

*CRIMINAL JUSTICE ACT 1961 (c. 39)*

- 1            In section 12(1) (return to borstal institution on re-conviction) for paragraph (b) (which relates to the re-conviction of a person who has become unlawfully at large from such an institution and has not returned or been returned thereto) substitute—  
                  “(b) being detained or liable to be detained in a borstal institution.”.
- 2            (1) Section 26 (transfer of prisoner to serve sentence) shall be amended as follows.
- (2) In subsection (1) (power of responsible Minister to order transfer of prisoner from one part of the United Kingdom to another)—
- (a) after " to another part of the United Kingdom " insert " or to any of the Channel Islands or the Isle of Man " ; and
- (b) for " in that part of the United Kingdom " substitute " there ".
- (3) In subsection (4) (prisoner transferred to any part of the United Kingdom to be treated as if sentenced by a court there), after " any part of the United Kingdom " insert " or to any of the Channel Islands or the Isle of Man ", and for " in that part of the United Kingdom " substitute " there ".
- (4) In paragraphs (a) and (b) of subsection (6) (supervision on release otherwise than in place of sentence) after " United Kingdom " insert " or island " .
- 3            (1) Section 28 (transfer of prisoner for trial) shall be amended as follows.
- (2) In subsection (1) (power of responsible Minister to order transfer from one part of the United Kingdom to another)—
- (a) after " to another part of the United Kingdom " insert " or to any of the Channel Islands or the Isle of Man "; and
- (b) after " that other part" insert " or that island ".
- (3) After subsection (1) insert—
- “(1A) If it appears to the Secretary of State that a person serving a sentence of imprisonment or detention in any of the Channel Islands or the Isle of Man should be transferred to a part of the United Kingdom for the purpose of attending criminal proceedings against him there, the Secretary of State may make an order for his transfer to that part and for his removal to a prison or other institution there.”.
- (4) In subsection (2) (treatment of transferred prisoner while he remains in the part of the United Kingdom to which he has been transferred under subsection (1)), omit " subsection (1) of " and after " United Kingdom " insert " or island ".
- (5) In subsection (3) (transfer back after trial)—
- (a) after " subsection (1)", wherever occurring, insert " or (1A) ";
- (b) after " Minister " insert " (in the case of a person so transferred to any part of the United Kingdom) or the Secretary of State (in the case of a person so transferred to any of the Channel Islands or the Isle of Man) " ; and
- (c) after " country ", wherever occurring, insert " or island ".

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- 4 (1) Section 29 (removal of detained person in the interests of justice or for the purposes of a public inquiry) shall be amended as follows.
- (2) In subsection (1) (power of responsible Minister to direct removal from one place to another within the United Kingdom), after " other part of the United Kingdom " insert " or in any of the Channel Islands or the Isle of Man ".
- (3) After subsection (1) insert—
- “(1A) If the Secretary of State is satisfied, in the case of a person detained in any of the Channel Islands or the Isle of Man in a prison, remand centre or detention centre, that the attendance of that person at any place in the United Kingdom is desirable in the interests of justice or for the purposes of any public inquiry, the Secretary of State may direct that person to be taken to that place.”.
- (4) In subsection (2), for " responsible Minister" substitute " Minister by whom that direction is given ".
- 5 In section 39(1) (interpretation) in paragraph (b) of the definition of " responsible Minister" for " the Minister of Home Affairs for Northern Ireland " substitute " the Secretary of State ".

#### *LICENSING ACT 1964 (c. 26)*

- 1 In section 30(5), as inserted by paragraph 4 of Schedule 7 to the Finance Act 1967 (duty of clerk to licensing justices to send list to Collector of Customs and Excise within eight days of end of licensing sessions)—
- (a) for " eight days " substitute " fourteen days "; and
- (b) omit the words from " and the clerk " onwards (under which the clerk gets a fee for delivering a list of more than 25 names and commits an offence if he fails to comply with the subsection).
- 2 In section 169 (serving or delivering intoxicating liquor to or for consumption by persons under 18)—
- (a) in subsection (1) (which prohibits, in licensed premises, the licence holder or his servant from knowingly selling intoxicating liquor to a person under 18 or allowing such a person to consume it in a bar, and the licence holder from knowingly allowing any person to sell it to a person under 18), for " subsection (4)" substitute " subsections (4) and (10) "; and
- (b) after subsection (9) add—
- “(10) Where, as regards any licensed premises, the holder of the licence is charged with an offence under subsection (1) of this section in a case in which it is proved or admitted that he did not personally have the knowledge required for the commission of the offence charged, he shall not be convicted of the offence on the basis of another's knowledge if he proves that he exercised all due diligence to avoid the commission of an offence under that subsection.”

#### *HOUSING ACT 1964 (c. 56)*

In section 65, after subsection (1) (penalty for failure to comply with notice requiring execution of works under Part II of Housing Act 1961) insert—

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“(1A) In the case of an offence under subsection (1) above committed in respect of a notice served under section 16 of the Act of 1961, that subsection shall have effect with the substitution of the words ' £500' for the words ' one hundred pounds ' in paragraphs (a) and (b).”

*HOUSING (SCOTLAND) ACT 1966 (c. 49)*

In section 110, after subsection (1) (penalty for failure to comply with notice requiring execution of works) insert—

“(1A) In the case of an offence under subsection (1) above committed in respect of a notice served under section 107 of this Act, that subsection shall have effect with the substitution of the words ' £500' for the words ' one hundred pounds' in paragraphs (a) and (b).”.

*CRIMINAL LAW ACT 1967 (c. 58)*

In section 2(1) (under which an offence carrying a sentence of five years imprisonment or more is an arrestable offence) after " five years" insert " (or might be so sentenced but for the restrictions imposed by section 29 of the Criminal Law Act 1977) " and at the end add—

“The said restrictions are those which apply where, in pursuance of subsection (2) of section 23 of the said Act of 1977 (certain offences to be tried summarily if value involved is small) a magistrates' court summarily convicts a person of a scheduled offence within the meaning of the said section 23.”.

*ROAD TRAFFIC REGULATION ACT 1967 (c. 76)*

- 1 In section 43(2) (penalty for contravention of designation order having effect by virtue of section 39(1)(a)) the words from "in the case of" to " carriageway" (the consequential omission of which was inadvertently not provided for in column 5 of Part II of Schedule 5 to the Road Traffic Act 1974) shall be omitted.
- 2 In section 78A (exceeding a speed limit imposed by or under certain enactments), in subsection (3)—
  - (a) in paragraph (a), after " Act" insert " , except section 13(4); "; and
  - (b) in paragraph (c), after " 1960 " insert " (except section 13(4) of this Act).
- 3 In subsection (5) of section 80 as amended by section 131(2) of the Transport Act 1968 (which provides for payment of a fixed penalty under section 80 to be made to such justices' clerk as may be prescribed)—
  - (a) for " prescribed" substitute " specified in the notice under subsection (2) above relating to that penalty ";
  - (b) for " the prescribed justices' clerk " substitute " the justices' clerk so specified ";
  - (c) omit " by virtue of regulations made for the purposes of this subsection ".
- 4 In section 92, for " Summary Jurisdiction (Scotland) Act 1954 " substitute " Criminal Procedure (Scotland) Act 1975 ".

*CRIMINAL JUSTICE ACT 1967 (c. 80)*

- 1 Section 3 (restrictions on reports of committal proceedings) shall be amended as follows—



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- (a) in subsection (1), for " subsections (2) and (3) " substitute " subsections (2), (3) and (8) " ;
- (b) in subsection (3) (under which it is not unlawful to report, " as part of a report of a summary trial, so much of any committal proceedings as precedes a determination by the court to proceed to try the case summarily) for the words from " section 18 " to " 1969 " substitute " section 25(3) or (7) of the Criminal Law Act 1977 (power to change from committal proceedings to summary trial) " ;
- (c) after subsection (7) add—

“(8) For the purposes of this section committal proceedings shall, in relation to an information charging an indictable offence, be deemed to include any proceedings in the magistrates' court before the court proceeds to inquire into the information as examining justices; but where a magistrates' court which has begun to try an information summarily discontinues the summary trial in pursuance of section 25(2) or (6) of the Criminal Law Act 1977 and proceeds to inquire into the information as examining justices, that circumstance shall not make it unlawful under this section for a report of any proceedings on the information which was published or broadcast before the court determined to proceed as aforesaid to have been so published or broadcast.”.

- 2 In section 22, as amended by paragraph 37 of Schedule 2 to the Bail Act 1976, (extension of power of High Court to grant, or vary conditions of, bail)—

- (a) in subsections (1) and (2) for " inferior court " substitute " magistrates' court " ; and
- (b) in subsection (4) omit " ' inferior court' means a magistrates' court or a coroner and " .

- 3 In section 23(2) (requirements as to bringing before a justice of the peace or court a person arrested after admission to bail), after paragraph (b) insert—

“In reckoning for the purposes of this subsection any period of twenty-four hours, no account shall be taken of Christmas Day, Good Friday or any Sunday.”

- 4 (1) Section 24 (process for minor offences) shall be amended as follows.

- (2) In subsection (3) (under which proceedings are void if the defendant makes a statutory declaration that he did not know of the proceedings until a date after the trial of the information was begun and that declaration is served on the clerk to the justices within fourteen days of that date) for " fourteen days " substitute " twenty-one days " .

- (3) After subsection (4) (service of statutory declaration) insert—

“(4A) If, on the application of the defendant it appears to a magistrates' court (which for this purpose may be composed of a single justice) that it was not reasonable to expect the defendant to serve such a statutory declaration as is mentioned in subsection (3) above within the period allowed by that subsection, the court may accept service of such a declaration by the defendant after that period has expired ; and a statutory declaration accepted under this subsection shall be deemed to have been served as required by that subsection.”.

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- (4) The preceding provisions of this paragraph shall not apply in relation to proceedings commenced before the coming into force of this paragraph.
- 5        In section 44(5) (restrictions on magistrates' court's power to issue a warrant of commitment for a default in paying a sum adjudged to be paid by a conviction), for paragraph (b) substitute—
- “(b) the court—
- (i) is satisfied that the default is due to the offender's wilful refusal or culpable neglect; and
- (ii) has considered or tried all other methods of enforcing payment of the sum and it appears to the court that they are inappropriate or unsuccessful.”
- 6        After section 44 insert as section 44A—

**“44A Power of magistrates' court to fix day for appearance of offender at means inquiry etc.**

- (1) Where under section 63(1) of the Magistrates' Courts Act 1952 a magistrates' court allows time for payment of a sum adjudged to be paid by a conviction of the court (' the adjudged sum'), the court may on that or any subsequent occasion fix a day on which, if any part of that sum remains unpaid on that day, the offender must appear in person before the court for either or both of the following purposes, namely—
- (a) to enable an inquiry into his means to be made under section 44 of this Act;
- (b) to enable a hearing required by subsection (6) of the said section 44 to be held.
- (2) Except as provided in subsection (3) of this section, the power to fix a day under this section shall be exercisable only in the presence of the offender.
- (3) Where a day has been fixed under this section, the court may fix a later day in substitution for the day previously fixed, and may do so—
- (a) when composed of a single justice ; and
- (b) whether the offender is present or not.
- (4) Subject to subsection (5) of this section, if on the day fixed under this section—
- (a) any part of the adjudged sum remains unpaid; and
- (b) the offender fails to appear in person before the court,
- the court may issue a warrant to arrest him and bring him before the court; and subsections (4) and (5) of section 70 of the Magistrates' Courts Act 1952 (execution of warrant for securing appearance of offender at means inquiry) shall apply in relation to a warrant issued under this section.
- (5) Where under subsection (3) above a later day has in the absence of the offender been fixed in substitution for a day previously fixed under this section, the court shall not issue a warrant under this section unless it is proved to the satisfaction of the court, on oath or in such other manner as may be prescribed, that notice in writing of the substituted day was served on the offender not less than what appears to the court to be a reasonable time before that day.”.

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- 7 (1) Section 60 (release on licence of persons serving determinate sentences) shall be amended as follows.
- (2) In subsection (3) (which by virtue of paragraph (b) provides for the release on licence of a person serving a sentence of imprisonment for a term of eighteen months or more who was under the age of twenty-one when the sentence was passed), at the end add—

“Provided that in England and Wales a person within paragraph (b) of this subsection shall not be released on licence by virtue of this subsection after he has attained the age of twenty-two.”.

- (3) After subsection (5) insert—

“(5A) A licence granted to any person under this section in England and Wales shall, unless previously revoked under section 62 of this Act, remain in force until a date specified in the licence, being—

- (a) in the case of a licence granted to a person in respect of whom an extended sentence certificate was issued when sentence was passed on him, the date of the expiration of the sentence ;
- (b) in the case of a licence granted under subsection (1) of this section to a person who was under the age of twenty-one when sentence was passed on him and is released on licence before attaining the age of twenty-two—
  - (i) if the date on which he attains the age of twenty-two is earlier than the remission date, the remission date ;
  - (ii) if the date on which he attains the age of twenty-two is not earlier than the remission date, the date on which he attains the age of twenty-two or the date of the expiration of the sentence, whichever is the earlier ;
- (c) in the case of a licence granted by virtue of subsection (3)(b) of this section to a person who was under the age of twenty-one when sentence was passed on him, the date on which he attains the age of twenty-two or the date of the expiration of the sentence, whichever is the earlier;
- (d) in a case not within any of the preceding paragraphs, the remission date.

In this subsection ' the remission date', in relation to a person released on licence under this section, means the date on which he could have been discharged from prison on remission of part of his sentence under the prison rules, if, after the date of his release on licence, he had not forfeited remission of any part of the sentence under the rules.”.

- (4) In subsection (6) (duration of licence, after "this section" insert " in Scotland " and, in paragraph (a), omit the words from " to a person " where they first occur to " or " .
- (5) Omit subsection (8)(d).
- (6) The preceding provisions of this paragraph shall not apply in relation to a licence granted before the coming into force of this paragraph.
- 8 (1) Section 63 (supervision of young, short-term prisoners after release) shall be amended as follows.

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- (2) In subsection (1), for " shall be subject after his release from prison " substitute " shall, if released from prison before he has attained the age of twenty-two, be subject after his release ".
- (3) After subsection (1) insert—
- “(1A) A person who is under supervision as aforesaid by virtue of subsection (1) above at the time when he attains the age of twenty-two shall cease to be under supervision at that time, and accordingly, in their application to a person by virtue of that subsection, the provisions of the said Schedule 1 shall apply with the further modification that references to the period of twelve months from the date of his release shall be read as references to that period or the period from the date of his release to the date on which he attains the age of twenty-two, whichever is the shorter.”.
- (4) In subsection (2), for " the foregoing subsection" substitute " subsection (1) of this section ".
- (5) The preceding provisions of this paragraph shall not apply in relation to a person whose period of supervision under Schedule 1 to the Criminal Justice Act 1961 began before the coming into force of this paragraph.
- 9        In section 91 (drunkenness in a public place) omit subsection (5).

*COMPANIES ACT 1967 (c.81)*

- 1        In section 49(1) (certain offences to be triable summarily), after " triable " insert " only ".
- 2        Paragraph 1 above shall be deemed to have had effect as from the passing of the Companies Act 1967.

*FIREARMS ACT 1968 (c. 27)*

For paragraph 3 of Part II of Schedule 6 (under which a person charged with an offence specified in Schedule 1 to the Magistrates' Courts Act 1952 and an offence under section 17(1) or (2) of the Firearms Act 1968 (using firearm to resist arrest, and possessing firearm while committing certain offences) may not be tried summarily for the former if he is sent for trial for the latter) substitute the following paragraph—

- “3        (1) Where in England or Wales a person who has attained the age of seventeen is charged before a magistrates' court with an offence triable either way listed in Schedule 3 to the Criminal Law Act 1977 (' the listed offence') and is also charged before that court with an offence under section 17(1) or (2) of this Act, the following provisions of this paragraph shall apply.
- (2) Subject to the following sub-paragraph the court shall proceed as if the listed offence were triable only on indictment and sections 19 to 24 of the said Act of 1977 (procedure for determining mode of trial of offences triable either way) shall not apply in relation to that offence.
- (3) If the court determines not to commit the accused for trial in respect of the offence under section 17(1) or (2), or if proceedings before the court for that offence are otherwise discontinued, the preceding sub-paragraph shall cease to apply as from the time when this occurs and—

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- (a) if at that time the court has not yet begun to inquire into the listed offence as examining justices, the court shall, in the case of the listed offence, proceed in the ordinary way in accordance with the said sections 19 to 24 ; but
- (b) if at that time the court has begun so to inquire into the listed offence, those sections shall continue not to apply and the court shall proceed with its inquiry into that offence as examining justices, but shall have power in accordance with section 25(3) and (4) of the said Act of 1977 to change to summary trial with the accused's consent.”.

#### *THEFT ACT 1968 (c. 60)*

In section 28(1) (orders for the restitution of stolen goods), after " on the conviction " insert " (whether or not the passing of sentence is in other respects deferred) ".

#### *GAMING ACT 1968 (c.65)*

In section 8(7) (offences) for " section 67" substitute " section 68 ".

#### *CHILDREN AND YOUNG PERSONS ACT 1969 (c. 54)*

- 1 (1) Section 12 (power to include requirements in supervision orders) shall be amended as follows.
  - (2) In subsection (2) (directions which order may empower supervisor to give), omit paragraph (a) (directions to live for a single period at a place specified by the supervisor) and for " paragraph (a) or (b) or paragraph (a) and (b) " substitute " paragraph (b) ".
  - (3) In subsection (3) (restrictions as to periods specified in supervisor's directions)—
    - (a) for paragraph (a) substitute—
      - “(a) the aggregate of the periods specified in directions given by virtue of that subsection shall not exceed ninety days or such shorter period, if any, as the order may specify for the purposes of this paragraph ;”;
    - (b) omit paragraphs (b), (c) and (d) and, in paragraph (e), the words from " and if " onwards.
- 2 In section 13(3) (selection of supervisor for person placed under supervision of probation officer), omit the words from " or if " to " place" (which provide for the selected officer to be changed at the instance of the case committee).
- 3 In section 15(1) (variation and discharge of supervision order where supervised person is under the age of eighteen) for the words from "twelve months" to "with that date" substitute " three months beginning with the date when the order was originally made ",  
and omit " in either case ".
- 4 In section 16(10) (meaning of "attendance centre order" etc. for purposes of section 15(4)(a))—
  - (a) after " In ", where it first occurs, insert " paragraph (b) of subsection (2A) and ";
  - (b) for " that paragraph" substitute " each of those paragraphs ";
  - (c) for " section 15(4) " substitute " section 15(2A) or (4) ".

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- 5 In paragraph 6 of Schedule 4 (restriction on power to make attendance centre order), at the end add " other than one consisting in failure to pay, or want of sufficient distress to satisfy, a sum adjudged to be paid by a conviction ".
- 6 Paragraphs 1 and 3 above, and any related repeal provided for in Schedule 13 to this Act, shall not apply in relation to supervision orders made before the coming into force of those paragraphs.

*ROAD TRAFFIC ACT 1972 (c. 20)*

- 1 In section 179 (restrictions on prosecutions for certain offences), in subsection (1) (offences to which section applies), after paragraph (a) insert—
- “(aa) any offence under subsection (4) of section 13 of the Road Traffic Regulation Act 1967 (traffic regulation on special roads) consisting of failure to observe a speed limit imposed by regulations under that section ; and”.
- 2 In Part I of Schedule 4 (prosecution and punishment of offences), in column 7 (additional provisions)—
- (a) in the entry relating to section 3, for " 4 " substitute " 3A, 4, 5 " ;
- (b) in the entry relating to section 18, after " paragraphs " insert " 3A ".
- 3 (1) Part IV of Schedule 4 (supplementary provisions as to prosecution, trial and punishment of offences) shall be amended as follows.
- (2) After paragraph 3 insert the following paragraph—
- “3A (1) Where on a person's trial on indictment in England or Wales for an offence under section 1, 2, or 17 the jury find him not guilty of the offence specifically charged in the indictment, they may (without prejudice to section 6(3) of the Criminal Law Act 1967) find him guilty—
- (a) if the offence so charged is an offence under section 1 or 2, of an offence under section 3 ; or
- (b) if the offence so charged is an offence under section 17, of an offence under section 18.
- (2) The Crown Court shall have the like powers and duties in the case of a person who is by virtue of this paragraph convicted before it of an offence under section 3 or 18 as a magistrates' court would have had on convicting him of that offence.
- (3) In paragraph 5 (by virtue of which, on a prosecution on indictment for an offence to which section 179 does not apply, subsection (2) of that section does not prejudice any power of the jury to find him guilty of an offence under section 2)—
- (a) (a) after " apply ", insert " or (if that section does not apply) as regards which the requirement of section 179(2) has been satisfied, or does not apply, " ;
- (b) after " section 2 ", add " or 3 " .”

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### *FINANCE ACT 1972 (c. 41)*

Paragraph 9 of Schedule 6 (right of members of value added tax tribunals to refuse to serve on juries) shall cease to have effect as regards juries in England and Wales.

### *CRIMINAL JUSTICE ACT 1972 (c. 71)*

- 1 In section 34(1) (power of constable to take drunken offender to a place approved by the Secretary of State as a medical treatment centre for alcoholics), omit " medical ".
- 2 In section 41(4) (time-limit of fourteen days for the exercise of power of magistrates' court to re-open a case to rectify mistakes etc.) for " fourteen days " substitute " twenty-eight days ".
- 3 Paragraph 2 above shall not apply in relation to sentences or other orders imposed or made, or findings of guilt pronounced, before the coming into force of this paragraph.

### *ADMINISTRATION OF JUSTICE ACT 1973 (c. 15)*

- 1 In section 9(4) (abatement of salaries of holders of certain judicial offices, including the stipendiary magistrates mentioned in subsection (1)(e) and (f), by reference to pensions payable in respect of any public office in the United Kingdom or elsewhere), after " United Kingdom or " insert " , except as respects any holder of judicial office mentioned in subsection (1)(e) or (f) above, ".
- 2 Paragraph 1 above shall be deemed to have had effect as from the passing of the Administration of Justice Act 1973.

### *POWERS OF CRIMINAL COURTS ACT 1973 (c. 62)*

- 1 (1) Section 1 (deferment of sentence) shall be amended as follows.
  - (2) In subsection (2) (under which passing sentence may not be deferred for more than six months after the date of the conviction), for " of the conviction" substitute " on which the deferment is announced by the court ".
  - (3) After subsection (4) (power of deferring court to pass sentence on offender during period of deferment if he is convicted in Great Britain of another offence) insert—

“(4A) If an offender on whom a court has under this section deferred passing sentence in respect of one or more offences is during the period of deferment convicted in England or Wales of any offence (' the subsequent offence'), then, without prejudice to subsection (4) above, the court which (whether during that period or not) passes sentence on him for the subsequent offence may also, if this has not already been done, pass sentence on him for the first-mentioned offence or offences:

Provided that—

    - (a) the power conferred by this subsection shall not be exercised by a magistrates' court if the court which deferred passing sentence was the Crown Court; and
    - (b) the Crown Court, in exercising that power in a case in which the court which deferred passing sentence was a magistrates' court, shall not pass any sentence which could not have been passed by a magistrates' court in exercising it.”.

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- (4) In subsection (5) (summons to, or warrant for arrest of, offender where the passing of sentence has been deferred) for " it" substitute " or where the offender does not appear on the date so specified, the court " .
- (5) For subsection (6) (which, where the trial of an information is adjourned by way of deferment under the section, excludes the obligation to remand the offender which would in certain circumstances be imposed by section 14(4) of the Magistrates' Courts Act 1952) substitute—
- “(6) It is hereby declared that in deferring the passing of sentence under this section a magistrates' court is to be regarded as exercising the power of adjourning the trial which is conferred by section 14(1) of the Magistrates' Courts Act 1952, and that accordingly section 15 of that Act (non-appearance of the accused) applies (without prejudice to subsection (5) above) if the offender does not appear on the date specified in pursuance of subsection (2) above.
- (6A) Notwithstanding any enactment, a court which under this section defers passing sentence on an offender shall not on the same occasion remand him.”.
- (6) After subsection (7) add—
- “(8) The power of a court under this section to pass sentence on an offender in a case where the passing of sentence has been deferred thereunder does not extend to committing him to another court for sentence but, subject to that, includes power to deal with him in any way in which the court which deferred passing sentence could have dealt with him.”.
- 2 For section 2(5)(b) (which requires a probation order requiring residence in an institution to specify the name of the institution as well as the required period of residence, and imposes a limit of twelve months on that period) substitute—
- “(b) where the order requires the offender to reside in an approved probation hostel or any other institution, the period for which he is so required to reside shall be specified in the order.”.
- 3 In section 9(1) (breach of conditional discharge by young offenders)—
- (a) for the words from " not being" to " 1952" substitute " triable only on indictment in the case of an adult, " ;
- (b) for the words from " such an offence " onwards substitute " an offence triable either way and had been tried summarily. " .
- 4 In section 15(2) (period within which work under a community service order is to be performed), at the end add " ; but, unless revoked, the order shall remain in force until the offender has worked under it for the number of hours specified in it. " .
- 5 In section 17(3) (power of Crown Court to revoke or vary community service orders), for the words from the beginning to "and it appears to the Crown Court" substitute—
- “(3) Where an offender in respect of whom such an order is in force—
- (a) is convicted of an offence before the Crown Court; or
- (b) is committed by a magistrates' court to the Crown Court for sentence and is brought or appears before the Crown Court; or



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- (c) by virtue of subsection (2)(b) above is brought or appears before the Crown Court,  
and it appears to the Crown Court”.
- 6 In section 49—
- (a) in subsection (1), for "probation hostels and probation homes " substitute " and probation hostels " ;
  - (b) in subsection (2), for " approved probation hostels and approved probation homes" substitute " and approved probation hostels " .
- 7 Section 50 (inspection of approved bail hostels and of non-approved institutions for residence of probationers) shall be amended as follows—
- (a) in subsection (1) omit the words " Any approved bail hostel and ", and after " patient" insert " or in which a person is required to reside as a condition of bail granted to him " ;
  - (b) in subsection (2), after " apply to " insert " an approved bail hostel or " .
- 8 Section 51 (expenses and grants) shall be amended as follows—
- (a) in subsections (1)(a), (3)(e) and (4)(c), after " servants serving in " insert " approved bail hostels or " ;
  - (b) in subsection (3)(b), for "probation hostels and probation homes " substitute " and probation hostels " .
- 9 In section 57(1) (interpretation)—
- (a) in the paragraph beginning with the words " ' approved probation hostel' ", for the words from the first " and " to "home approved" substitute " means a probation hostel approved " ; and
  - (b) in the paragraph beginning with the words "' probation hostel'", omit the words from " being persons who " onwards.
- 10 Paragraph 3(2)(b) of Schedule 1 (which precludes a supervising court from amending a probation order so as to require residence in an institution for more than twelve months in all) shall be omitted.
- 11 (1) Schedule 3 (the probation and after-care service and its functions) shall be amended as follows.
- (2) In paragraph 3(1)(b) (remuneration, allowances and expenses of probation officers), for " prescribed " substitute " determined by the Secretary of State under paragraph 18A below " .
  - (3) In paragraph 9 (selection of probation officer for probationer), omit the words from " or if " to "place" (which provide for the selected officer to be changed at the instance of the case committee).
  - (4) In paragraph 18(1)(b) (power to make rules prescribing conditions of service etc. of probation officers and others) omit " conditions of service " .
  - (5) At the end of paragraph 18 insert—

*“Conditions of service of probation officers*

- 18A The conditions of service of probation officers and staff appointed under paragraph 10 above shall be such as the Secretary of State may from time to time determine.”.

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- (6) Any provision as to the conditions of service of probation officers or staff appointed under paragraph 10 of Schedule 3 which is made by any rules in force under paragraph 18(1) of that Schedule at the coming into force of sub-paragraphs (4) and (5) above shall have effect as if made by a determination of the Secretary of State under paragraph 18A of that Schedule, and shall accordingly be liable to alteration or cancellation by him by subsequent determination under the said paragraph 18A.

*LEGAL AID ACT 1974 (c. 4)*

- 1 (1) Section 29 (circumstances in which legal aid may be ordered to be given) shall be amended as follows.
- (2) In subsection (4) (which provides that before making a legal aid order for the giving of aid to any person, a court must require him to furnish a written statement of his means), at the end add " unless it appears to the court that he is by reason of his physical or mental condition incapable of doing so ".
- (3) In subsection (5) (which modifies subsections (3) and (4) in their application to persons under the age of sixteen) for " for the word ' shall' in subsection (4) there were substituted the word ' may' " substitute " in subsection (4) for the word ' shall' there were substituted the word ' may' and the words from ' unless ' onwards were omitted ".
- (4) After subsection (5) insert—
- “(5A) Where a court makes a legal aid order for the giving of aid to a person who has attained the age of sixteen and does so without first requiring him to furnish such a statement as is mentioned in subsection (4) above because it appears to the court that he is by reason of his physical or mental condition incapable of doing so, then, if it subsequently appears to any court having power to make a legal aid contribution order under section 32 below in connection with that legal aid order that he has become capable of furnishing such a statement, that court may require him to furnish such a statement.”.
- 2 In section 32 (power to order payment of contributions), after subsection (1) insert—
- “(1A) If a person to whom legal aid has been ordered to be given by a legal aid order made in the circumstances mentioned in subsection (5A) of section 29 above has failed to furnish a statement which he was subsequently required to furnish in pursuance of that subsection in connection with the legal aid order, he may for the purposes of any order proposed to be made under this section in connection with the legal aid order be treated as having resources and commitments which are such that he may reasonably be ordered to pay the whole amount of the relevant costs.”.

*JURIES ACT 1974 (c. 23)*

In Schedule 1, in Group B (which disqualifies from jury service persons concerned with the administration of justice) for " Civilians employed for police purposes by a police authority" substitute " Civilians employed for police purposes under section 10 of the Police Act 1964 ".

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### *HEALTH AND SAFETY AT WORK ETC. ACT 1974 (c. 37)*

In section 15(6)(d) (power to restrict punishments which can be imposed in respect of certain offences) after " punishments" insert " (other than the maximum fine on conviction on indictment) ".

### *REHABILITATION OF OFFENDERS ACT 1974 (c. 53)*

In section 6(6)(a) (convictions in England and Wales which are to be disregarded for purposes of the provisions of section 6(4)(a) as to the extension of rehabilitation periods), for " an offence which is not triable on indictment" substitute " a summary offence or of a scheduled offence (within the meaning of section 23 of the Criminal Law Act 1977) tried summarily in pursuance of subsection (2) of that section (summary trial where value involved is small); ".

### *ADOPTION ACT 1976 (c. 36)*

- 1 In section 28(8), for " subsection (6)" substitute " subsection (7) ".
- 2 In section 57 (prohibition of certain payments), after subsection (3) insert—

“(3A) This section does not apply to—

  - (a) any payment made by an adoption agency to a person who has applied or proposes to apply to a court for an adoption order or an order under section 55 (adoption of children abroad), being a payment of or towards any legal or medical expenses incurred or to be incurred by that person in connection with the application; or
  - (b) any payment made by an adoption agency to another adoption agency in consideration of the placing of a child in the actual custody of any person with a view to the child's adoption ; or
  - (c) any payment made by an adoption agency to a voluntary organisation for the time being approved for the purposes of this paragraph by the Secretary of State as a fee for the services of that organisation in putting that adoption agency into contact with another adoption agency with a view to the making of arrangements between the adoption agencies for the adoption of a child.”

In paragraph (c) ' voluntary organisation' means a body, other than a public or local authority, the activities of which are not carried on for profit.

### *BAIL ACT 1976 (c. 63)*

- 1 In section 2(2), in the definition of "court", for "a justice of the peace or a coroner " substitute " or a justice of the peace " .
- 2 In section 3(8) (power of court granting bail to vary conditions of bail or impose conditions in respect of bail granted unconditionally)—
  - (a) for " it may " substitute " that court or, where that court has committed a person on bail to the Crown Court for trial or to be sentenced or otherwise dealt with, that court or the Crown Court may ";
  - (b) for " it was " substitute " bail was ";
  - (c) for " it has " substitute " has been ".
- 3 (1) Section 5 (supplementary provisions about bail) shall be amended as follows.

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(2) After subsection (8) insert—

“(8A) An order under subsection (7) above shall, unless previously revoked, take effect at the end of twenty-one days beginning with the day on which it is made.

(8B) A court which has ordered the forfeiture of a security under subsection (7) above may, if satisfied on an application made by or on behalf of the person who gave it that he did after all have reasonable cause for his failure to surrender to custody, by order remit the forfeiture or declare that it extends to such amount less than the full value of the security as it thinks fit to order.

(8C) An application under subsection (8B) above may be made before or after the order for forfeiture has taken effect, but shall not be entertained unless the court is satisfied that the prosecution was given reasonable notice of the applicant's intention to make it.”

(3) After subsection (9) insert—

“(9A) Where an order is made under subsection (8B) above after the order for forfeiture of the security in question has taken effect, any money which would have fallen to be repaid or paid over to the person who gave the security if the order under subsection (8B) had been made before the order for forfeiture took effect shall be repaid or paid over to him.”

4 In section 7(4) (requirements as to bringing before a justice of the peace or court a person arrested after release on bail), after paragraph (b) insert—

“In reckoning for the purposes of this subsection any period of 24 hours, no account shall be taken of Christmas Day, Good Friday or any Sunday.”