

SCHEDULES

SCHEDULE 5

Section 79(13).

CONSEQUENTIAL AMENDMENTS

PART I

ENACTMENTS

The Criminal Appeal Act 1968 (c. 19)

1 In section 50 of the Criminal Appeal Act 1968 (meaning of “sentence”), the following shall be substituted for subsection (1)—

“(1) In this Act “sentence”, in relation to an offence, includes any order made by a court when dealing with an offender including, in particular—

- (a) a hospital order under Part III of the Mental Health Act 1983, with or without a restriction order;
- (b) an interim hospital order under that Part;
- (c) a recommendation for deportation;
- (d) a confiscation order under the Drug Trafficking Offences Act 1986 other than one made by the High Court;
- (e) a confiscation order under Part VI of the Criminal Justice Act 1988;
- (f) an order varying a confiscation order of a kind which is included by virtue of paragraph (d) or (e) above;
- (g) an order made by the Crown Court varying a confiscation order which was made by the High Court by virtue of section 4A of the Act of 1986; and
- (h) a declaration of relevance under the Football Spectators Act 1989.”.

The Criminal Procedure (Scotland) Act 1975 (c. 21)

- 2 (1) The Criminal Procedure (Scotland) Act 1975 shall be amended as follows.
- (2) In each of sections 181 and 382 (admonition in, respectively, solemn and summary proceedings), for “found guilty” substitute “convicted”.
- (3) In section 191 (effects of probation and absolute discharge: solemn proceedings), for paragraph (a) of subsection (3) substitute—
- “(a) any right to appeal;”.
- (4) In section 233 (note of appeal)—
- (a) in subsection (1)—
 - (i) in paragraph (a), for “against sentence alone” substitute “under section 228(1)(b), (bb), (bc) or (bd) of this Act” and after “sentence”,

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- where it occurs for the second time, insert “(or as the case may be, of the making of the order disposing of the case or deferring sentence)”; and
- (ii) in paragraph (b), after “sentence” insert “(or as the case may be, of the making of the order disposing of the case or deferring sentence)”; and
- (b) in subsection (4), for “against sentence alone” substitute “under section 228(1)(b), (bb), (bc) or (bd)”.
- (5) In section 238(1) (admission to bail), for paragraph (b) substitute—
- “(b) any relevant appeal by the Lord Advocate under section 228A of this Act.”.
- (6) In section 244(2) (abandonment of appeal), after “sentence”—
- (a) where it first occurs, insert “(or as the case may be against both conviction and disposal or order)”; and
- (b) where it occurs for the second time, insert “(or disposal or order)”.
- (7) In section 254 (disposal of appeals in solemn proceedings)—
- (a) in subsection (2)—
- (i) after “appellant” insert “(or as the case may be any disposal or order made)”; and
- (ii) in each of paragraphs (a) and (b), after “sentence” insert “(or disposal or order)”; and
- (iii) after “sentence”, where it occurs for the fourth time, insert “or make another (but not more severe) disposal or order”; and
- (iv) after “sentence”, where it occurs for the fifth time, insert “, disposal or order”;
- (b) in subsection (4), after “appellant” insert “(or disposal or order made)”; and
- (c) after subsection (4) insert—
- “(4A) In subsection (3) above, “appeal against sentence” shall, without prejudice to the generality of the expression, be construed as including an appeal under section 228(1)(bb), (bc) or (bd), and any appeal under section 228A, of this Act; and other references to sentence in that subsection shall be construed accordingly.”.
- (8) In section 268 (reckoning of time spent in custody pending appeal), in each of subsections (1) and (2), for “appeal by the Lord Advocate against the sentence passed on conviction” substitute “relevant appeal by the Lord Advocate under section 228A of this Act”.
- (9) In section 392 (effects of probation and absolute discharge: summary proceedings) for paragraph (a) of subsection (3) substitute—
- “(a) any right to appeal.”.
- (10) In section 442B (method of appeal against sentence alone in summary proceedings)
- (a) after “person” insert “, or as the case may be a person found to have committed an offence,”;
- (b) the words “against sentence alone” shall cease to have effect; and
- (c) after “442(1)(a)(ii)” insert “or (ia)”.

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- (11) In section 443A (suspension of disqualification, forfeiture, etc.), in each of subsections (1) and (2), at the end add “(or disposal or order)”.
- (12) In section 444(1)(b) (contents of application for stated case), after “sentence” insert “or disposal or order”.
- (13) In section 452A (disposal of stated case)—
- (a) in subsection (2), after “sentence”, where it first occurs, insert “(“sentence” being construed in this subsection and in subsection (3) below as including disposal or order)”; and
 - (b) after subsection (4) insert—

“(4A) Any reference in subsection (4) above to convicting and sentencing shall be construed as including a reference to convicting and making some other disposal or convicting and deferring sentence.”
- (14) In section 453B (appeals against sentence only in summary proceedings)—
- (a) in each of subsections (1), (2), (7) and (8), after “442(1)(a)(ii)” insert “or (iia)”; and
 - (b) in subsection (2)—
 - (i) in paragraph (a), after “sentence” insert “(or as the case may be of the making of the order disposing of the case or deferring sentence)”; and
 - (ii) in paragraph (b), at the end add “(or making)”; and
 - (c) in subsection (3)(b), at the end add “(or as the case may be who disposed of the case or deferred sentence)”; and
 - (d) in subsection (4), after “sentence” add “(or within two weeks of the disposal or order)”.
- (15) In section 453C (disposal in summary proceedings of appeal by note of appeal)—
- (a) in subsection (3), after “442(1)(a)(ii)” insert “or (iia)”; and
 - (b) at the end add—

“(4) In subsection (1) above, “appeal against sentence” shall, without prejudice to the generality of the expression, be construed as including an appeal under section 442(1)(a)(iia), and any appeal under section 442(1)(c), of this Act; and without prejudice to subsection (5) below, other references to sentence in that subsection and in subsection (3) above shall be construed accordingly.

(5) In disposing of any appeal in a case where the accused has not been convicted, the High Court may proceed to convict him; and where it does, the reference in subsection (3) above to the conviction in respect of which the sentence appealed against was imposed shall be construed as a reference to the disposal or order appealed against.”.

The Criminal Appeal (Northern Ireland) Act 1980 (c. 47)

- 3 The provisions of section 30 of the Criminal Appeal (Northern Ireland) Act 1980 (interpretation of Part I) shall become subsection (1) of that section and the following subsection shall be added—

“(2) In this Part of this Act “sentence” also includes—

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- (a) a confiscation order made by the Crown Court under the Northern Ireland (Emergency Provisions) Act 1991;
- (b) an order varying such an order; and
- (c) an order made by the Crown Court varying a confiscation order made by the High Court by virtue of section 52B of the Act of 1991.”.

The Companies Act 1985 (c. 6)

- 4 (1) In section 744 of the Companies Act 1985 (interpretation), for the definition of “the Insider Dealing Act”, there shall be substituted—

““the insider dealing legislation” means Part V of the Criminal Justice Act 1993 (insider dealing).”

- (2) In the 1985 Act for “Insider Dealing Act”, wherever it occurs, there shall be substituted “insider dealing legislation”.

The Drug Trafficking Offences Act 1986 (c. 32)

- 5 In section 3(3) of the Drug Trafficking Offences Act 1986 (statements relating to drug trafficking) for “(2)” there shall be substituted “(1D)”.

- 6 In section 38(1) of the 1986 Act (interpretation), the following definitions shall be inserted at the appropriate places—

““confiscation order” means an order under section 1 of this Act and includes, in particular, an order under that section which is made by virtue of section 4A, 5A or 5B;”

““defendant” means a person against whom proceedings have been instituted for a drug trafficking offence (whether or not he has been convicted);”.

The Financial Services Act 1986 (c. 60)

- 7 The Financial Services Act 1986 shall be amended as follows.

- 8 In section 128C(3)(b) (enforcement in support of overseas regulatory authority) for “the Company Securities (Insider Dealing) Act 1985” there shall be substituted “Part V of the Criminal Justice Act 1993 (insider dealing)”.

- 9 (1) In section 177 (investigations into insider dealing), in subsection (1)—
- (a) for the words “there may have been a contravention of section 1, 2, 4 or 5 of the Company Securities (Insider Dealing) Act 1985” there shall be substituted “an offence under Part V of the Criminal Justice Act 1993 (insider dealing) may have been committed”; and
 - (b) for the words “contravention has occurred” there shall be substituted “offence has been committed”.
- (2) In subsection (3) of that section—
- (a) for the word “contravention” there shall be substituted “offence”; and
 - (b) in paragraph (a) for the words from “relating to” to the end there shall be substituted “which appear to them to be relevant to the investigation”.

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- (3) In subsection (4) of that section for the word “contravention” there shall be substituted “offence”.
- 10 (1) In section 178 (penalties for failure to co-operate with s. 177 investigations), in subsection (1) for the words “contravention has occurred” there shall be substituted “offence has been committed”.
- (2) In subsection (6) of that section for the words “contravention or suspected contravention” there shall be substituted “offence or suspected offence”.
- 11 In subsection (1) of section 189 (restriction of Rehabilitation of Offenders Act 1974), in paragraph (b) “(including insider dealing)” shall be omitted and at the end there shall be inserted “or insider dealing”.
- 12 (1) In section 199 (powers of entry), in subsection (1) for paragraph (b) there shall be substituted—
- “(b) under Part V of the Criminal Justice Act 1993 (insider dealing).”.
- (2) After subsection (8) of that section there shall be inserted—
- “(8A) In the application of this section to Northern Ireland for the references to information on oath substitute references to complaint on oath.”.

The Banking Act 1987 (c. 22)

- 13 In section 84(6)(b) of the Banking Act 1987 (disclosure for facilitating discharge of functions by other supervisory authorities) for “the Company Securities (Insider Dealing) Act 1985” there shall be substituted “Part V of the Criminal Justice Act 1993 (insider dealing)”.

The Criminal Justice Act 1988 (c. 33)

- 14 (1) Section 98 of the Criminal Justice Act 1988 (disclosure of information subject to contractual restriction on disclosure) shall cease to have effect.
- (2) In section 172 of the 1988 Act (extent)—
- (a) in subsection (2), after “84 to 88” there shall be inserted “sections 93A to 93D; sections 93F and 93G”; and
- (b) in subsection (4), after “sections 90 to 93” there shall be inserted “section 93E”.

The Prevention of Terrorism (Temporary Provisions) Act 1989 (c. 4)

- 15 In section 19(1) of the Prevention of Terrorism (Temporary Provisions) Act 1989 (institution of proceedings) for the words “or 18” in both places where they occur there shall be substituted “, 18 or 18A”.

The Companies Act 1989 (c. 40)

- 16 In section 82(2)(b) of the Companies Act 1989 (request for assistance by overseas regulatory authority) for “the Company Securities (Insider Dealing) Act 1985” there shall be substituted “Part V of the Criminal Justice Act 1993 (insider dealing)”.

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The Northern Ireland (Emergency Provisions) Act 1991 (c. 24)

- 17 (1) In section 49(1)(a) of the Northern Ireland (Emergency Provisions) Act 1991 (relevant offences)—
- (a) after “(c)” there shall be inserted “, (dd)”;
 - (b) after “(k)” there shall be inserted “, (kk)”.
- (2) In section 56(1) of the 1991 Act (interpretation of confiscation provisions), at the end of the definition of “confiscation order”, there shall be added “and includes, in particular, an order under that section which is made by virtue of section 48A or 52B above”.
- (3) In section 69(2)(c) of the 1991 Act, for “paragraph 20” there shall be substituted “paragraphs 20 to 20C”.
- (4) In section 71(2) of the 1991 Act (extent), for “54” there shall be substituted “to 54A, 55A”.
- (5) In Part I of Schedule 1 (scheduled offences) to the 1991 Act—
- (a) after paragraph 20(d) there shall be inserted—
 - “(d) section 18A (failure to disclose knowledge or suspicion of financial assistance for terrorism);”
 - and
 - (b) after paragraph 22(k) there shall be inserted—
 - “(k) section 54A.”
- (6) In paragraph 2(5) of Schedule 4 to the 1991 Act (application of procedure for enforcing fines), after “made by”, where those words first occur, there shall be inserted “the High Court, by virtue of section 52B of this Act, or by”.
- (7) The following sub-paragraph shall be added at the end of paragraph 2 of Schedule 4 to the 1991 Act—
- “(7) Where the High Court makes a confiscation order by virtue of section 52B of this Act in relation to a defendant who has died, sub-paragraph (1) above shall be read as referring only to sections 35(1)(a), (b) and (d) and 35(4)(a) and (b) of the Act of 1945.”

PART II

ORDERS IN COUNCIL UNDER THE NORTHERN IRELAND ACT 1974

The Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I.6))

- 18 (1) In Article 2(3) of the Companies (Northern Ireland) Order 1986 (interpretation), for the definition of “the Insider Dealing Order” there shall be substituted—
- ““the insider dealing legislation” means Part V of the Criminal Justice Act 1993 (insider dealing)”;
- (2) In the 1986 Order, for “Insider Dealing Order”, wherever it occurs, there shall be substituted “insider dealing legislation”.

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- 19 (1) In Article 442 of that Order (provision for security of information obtained), in paragraph (1), in sub-paragraph (c) for “Article 16A of the Insider Dealing Order or section 94” there shall be substituted “section 94 or 177”.
- (2) In paragraph (3) of that Article, in sub-paragraph (b) for “Article 16A of the Insider Dealing Order or section 94” there shall be substituted “section 94 or 177”.
- 20 In paragraph (3) of Article 444A of that Order (disclosure of information by Department or inspector) in sub-paragraph (a) for “Article 16A of the Insider Dealing Order or section 94” there shall be substituted “section 94 or 177”.

The Companies (Northern Ireland) Order 1989 (S.I. 1989/2404 (N.I.18))

- 21 In Article 3(1) of the Companies (Northern Ireland) Order 1989 (interpretation), in the definition of “the companies legislation”, for “the Insider Dealing Order” there shall be substituted “Part V of the Criminal Justice Act 1993 (insider dealing)”.

The Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19))

- 22 In Article 104A(1)(c) of the Insolvency (Northern Ireland) Order 1989 (petition for winding-up on grounds of public interest) after “94” there shall be inserted “or 177”.