



# Crime and Disorder Act 1998

## 1998 CHAPTER 37

### PART II

#### CRIMINAL LAW

##### *Miscellaneous*

#### **34 Abolition of rebuttable presumption that a child is doli incapax.**

The rebuttable presumption of criminal law that a child aged 10 or over is incapable of committing an offence is hereby abolished.

##### **Commencement Information**

**II** S. 34 wholly in force; S. 34 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

#### **35 Effect of child's silence at trial.**

**F1** .....

##### **Textual Amendments**

**F1** S. 35 repealed (21.7.2008) by Statute Law (Repeals) Act 2008 (c. 12), s. 1(1), Sch. 1 Pt. 3

#### **36 Abolition of death penalty for treason and piracy.**

(1) In section I of the <sup>M1</sup>Treason Act (Ireland) 1537 (practising any harm etc. to, or slandering, the King, Queen or heirs apparent punishable as high treason), for the words "have and suffer such pains of death and" there shall be substituted the words "be liable to imprisonment for life and to such".

*Changes to legislation: Crime and Disorder Act 1998, Cross Heading: Miscellaneous is up to date with all changes known to be in force on or before 21 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(2) In the following enactments, namely—

- (a) section II of the <sup>M2</sup>Crown of Ireland Act 1542 (occasioning disturbance etc. to the crown of Ireland punishable as high treason);
- (b) section XII of the <sup>M3</sup>Act of Supremacy (Ireland) 1560 (penalties for maintaining or defending foreign authority);
- (c) section 3 of the <sup>M4</sup>Treason Act 1702 (endeavouring to hinder the succession to the Crown etc. punishable as high treason);
- (d) section I of the <sup>M5</sup>Treason Act (Ireland) 1703 (which makes corresponding provision),

for the words “suffer pains of death” there shall be substituted the words “ be liable to imprisonment for life ”.

<sup>F2</sup>(3) .....

(4) In section 1 of the <sup>M6</sup>Treason Act 1814 (form of sentence in case of high treason), for the words “such person shall be hanged by the neck until such person be dead”, there shall be substituted the words “ such person shall be liable to imprisonment for life ”.

(5) In section 2 of the <sup>M7</sup>Piracy Act 1837 (punishment of piracy when murder is attempted), for the words “and being convicted thereof shall suffer death” there shall be substituted the words “ and being convicted thereof shall be liable to imprisonment for life ”.

<sup>F2</sup>(6) .....

**Textual Amendments**

**F2** S. 36(3)(6) repealed (21.7.2008) by [Statute Law \(Repeals\) Act 2008 \(c. 12\)](#), s. 1(1), **Sch. 1 Pt. 3**

**Commencement Information**

**I2** S. 36 wholly in force; s. 36 not in force at Royal Assent, see s. 121; s. 36 in force at 30.9.1998 by [S.I. 1998/2327](#), **art. 2(1)** (subject to savings in [arts. 5-8](#))

**Marginal Citations**

- M1** [1537 c.7.](#)
- M2** [1542 c.1.](#)
- M3** [1560 c.1.](#)
- M4** [1702 c.21.](#)
- M5** [1703 c. 5.](#)
- M6** [1814 c.146.](#)
- M7** [1837 c.88.](#)

**Changes to legislation:**

Crime and Disorder Act 1998, Cross Heading: Miscellaneous is up to date with all changes known to be in force on or before 21 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 1(1C) inserted by [2010 c. 17 s. 40\(2\)](#) (This amendment not applied to legislation.gov.uk. S. 40 repealed (23.3.2015) without ever being in force by 2014 c. 12, Sch. 11 para. 46; S.I. 2015/373, art. 4(f)(x))
- s. 8A inserted by [2010 c. 17 s. 41\(3\)](#) (This amendment not applied to legislation.gov.uk. S. 41 repealed (23.3.2015) without ever being in force by 2014 c. 12, Sch. 11 para. 46; S.I. 2015/373, art. 4(f)(x))
- s. 8A repealed by [2014 c. 12 Sch. 11 para. 24\(c\)](#)
- s. 9(2)(d) and word inserted by [2010 c. 17 s. 41\(4\)\(b\)](#) (This amendment not applied to legislation.gov.uk. S. 41 repealed (23.3.2015) without ever being in force by 2014 c. 12, Sch. 11 para. 46; S.I. 2015/373, art. 4(f)(x))
- s. 9(2)(d) and word omitted by [2014 c. 12 Sch. 11 para. 26\(4\)\(a\)](#)
- s. 9(2AA) inserted by [2010 c. 17 s. 41\(4\)\(c\)](#) (This amendment not applied to legislation.gov.uk. S. 41 repealed (23.3.2015) without ever being in force by 2014 c. 12, Sch. 11 para. 46; S.I. 2015/373, art. 4(f)(x))
- s. 9(2AA) repealed by [2014 c. 12 Sch. 11 para. 26\(5\)](#)
- s. 41(5)(i)(ii) words substituted by [2021 c. 11 Sch. 13 para. 37\(3\)](#)
- s. 47(A1) inserted by [2022 c. 35 s. 12\(2\)](#)
- s. 47(1)-(1F) substituted for s. 47(1) by [2022 c. 35 s. 12\(3\)](#)
- s. 47(4)(a) word substituted by [2022 c. 35 s. 12\(6\)\(b\)](#)
- s. 47(4)(a) words renumbered as s. 47(4)(a) by [2022 c. 35 s. 12\(6\)\(a\)](#)
- s. 47(4)(b) and word inserted by [2022 c. 35 s. 12\(6\)\(c\)](#)
- s. 47(4A) inserted by [2022 c. 35 s. 12\(7\)](#)
- s. 50A(6) inserted by [2022 c. 35 Sch. 2 para. 8\(2\)\(b\)](#)
- s. 51(2A)-(2E) inserted by [2022 c. 35 s. 10\(4\)](#)
- s. 51(3A)(3B) substituted for s. 51(3)-(12) by [2022 c. 35 s. 10\(5\)](#)
- s. 51A(A1) inserted by [2022 c. 35 s. 10\(7\)](#)
- s. 51A(3A)-(3E) inserted by [2022 c. 35 s. 10\(9\)](#)
- s. 51A(4A)(4B) substituted for s.0051A(4)-(10) by [2022 c. 35 s. 10\(10\)](#)
- s. 52(2A) inserted by [2022 c. 35 s. 10\(11\)](#)
- Sch. 3 para. 3(11A) inserted by [2003 c. 44 Sch. 3 para. 71\(d\)](#)