

SCHEDULES

SCHEDULE 7

Section 67.

TRANSITIONAL PROVISIONS AND SAVINGS

Interpretation

- 1 (1) In this Schedule—
- “the 1988 Act” means the Criminal Justice Act 1988;
 - “commencement date”, in relation to any provisions of this Act and proceedings of any description, means the date on which those provisions come into force in relation to such proceedings;
 - “continuing proceedings” (except in paragraph 3) means proceedings instituted before the commencement date;
 - “existing special measures power” means any power of the court to make an order or give leave, in the exercise of its inherent jurisdiction, for the taking of measures in relation to a witness which are similar to those which could be provided for by a special measures direction.
- (2) For the purposes of this Schedule—
- (a) proceedings other than proceedings on appeal are to be taken to be instituted at the time when they would be taken to be instituted for the purposes of Part I of the Prosecution of Offences Act 1985 in accordance with section 15(2) of that Act; and
 - (b) proceedings on appeal are to be taken to be instituted at the time when the notice of appeal is given or (as the case may be) the reference under section 9 or 11 of the Criminal Appeal Act 1995 is made.
- (3) Expressions used in this Schedule which are also used in Part II of this Act have the same meaning in this Schedule as in that Part.

Referral orders under Part I

- 2 No referral order (within the meaning of Part I) may be made in respect of any offence committed before the commencement date for section 1.

Special measures under Chapter I of Part II

- 3 (1) A special measures direction may be given in relation to a witness in continuing proceedings unless the court has before the specified date—
- (a) given leave in relation to the witness in connection with those proceedings under section 32 (evidence through television links) or section 32A (video recordings of testimony of child witnesses) of the 1988 Act, or
 - (b) exercised any existing special measures power in relation to the witness in connection with those proceedings.

Status: This is the original version (as it was originally enacted).

- (2) The repeals made by this Act shall not affect the continued operation in relation to a witness in continuing proceedings of section 32 or 32A of the 1988 Act where before the specified date leave was given in relation to the witness in connection with those proceedings by virtue of section 32(1)(b) or section 32A, as the case may be.
- (3) Nothing in this Act affects the continued operation in relation to a witness in continuing proceedings of any order made or leave given under any existing special measures power exercised by the court before the specified date in relation to the witness in connection with those proceedings.
- (4) In this paragraph—
- (a) “continuing proceedings” means proceedings instituted before the specified date;
 - (b) “the specified date”, in relation to a witness in any proceedings, means such date as may be specified by the Secretary of State in a notice given to the court in question under section 18(2), where the date is expressed to apply—
 - (i) for the purposes of this paragraph, and
 - (ii) in relation to any description of witnesses and proceedings within which the witness and the proceedings fall.

Protection of witnesses from cross-examination by accused in person

- 4 Nothing in Chapter II of Part II applies in relation to proceedings instituted before the commencement date for that Chapter.

Protection of complainants in proceedings for sexual offences

- 5 (1) Nothing in Chapter III of Part II applies in relation to continuing proceedings in which leave has been given before the commencement date for that Chapter—
- (a) under section 2 of the Sexual Offences (Amendment) Act 1976, or
 - (b) (in the case of proceedings to which section 2 does not apply) in the exercise of any similar power of the court exercisable by virtue of its inherent jurisdiction.
- (2) Nothing in this Act affects the continued operation of any leave so given in relation to any such proceedings.

Reporting restrictions

- 6 (1) Section 44 applies in relation to an alleged offence whether the criminal investigation into it is begun before or after the coming into force of that section.
- (2) The restrictions imposed by subsection (2) of section 44 do not apply to the inclusion of matter in a publication if—
- (a) where the publication is a relevant programme, it is transmitted, or
 - (b) in the case of any other publication, it is published,
- before the coming into force of that section.
- (3) Nothing in section 45 or 46 applies in relation to proceedings instituted before the commencement date for that section.
- (4) In sub-paragraph (3) the reference to the institution of proceedings shall be construed—

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

- (a) in the case of proceedings in England in Wales (other than proceedings before a service court), in accordance with paragraph 1(2);
 - (b) in the case of proceedings in Northern Ireland (other than proceedings before a service court), in accordance with sub-paragraph (5);
 - (c) in the case of proceedings before a service court (wherever held) in accordance with sub-paragraph (6).
- (5) In the case of proceedings falling within sub-paragraph (4)(b)—
- (a) proceedings other than proceedings on appeal are to be taken to be instituted—
 - (i) where a justice of the peace issues a summons under Article 20 of the Magistrates' Courts (Northern Ireland) Order 1981, when the complaint for the offence is made;
 - (ii) where a justice of the peace issues a warrant for the arrest of any person under that Article, when the complaint for the offence is made;
 - (iii) where a person is charged with the offence after being taken into custody without a warrant, when he is informed of the particulars of the charge;
 - (iv) where an indictment is presented under the authority of section 2(2) (c), (d), (e) or (f) of the Grand Jury (Abolition) Act (Northern Ireland) 1969, when the indictment is presented to the court;and where the application of this paragraph would result in there being more than one time for the institution of the proceedings, they shall be taken to have been instituted at the earliest of those times; and
 - (b) proceedings on appeal are to be taken to be instituted at the time when the notice of appeal is given or (as the case may be) the reference under section 10 or 12 of the Criminal Appeal Act 1995 is made.
- (6) In the case of proceedings falling within sub-paragraph (4)(c)—
- (a) proceedings other than proceedings on appeal are to be taken to be instituted when the prosecuting authority prefers a charge in respect of the offence under section 83B(4) of the Army Act 1955, section 83B(4) of the Air Force Act 1955 or section 52I(4) of the Naval Discipline Act 1957; and
 - (b) proceedings on appeal are to be taken to be instituted when the application for leave to appeal is lodged in accordance with section 9 of the Courts-Martial (Appeals) Act 1968 or (as the case may be) the reference under section 34 of that Act is made.

Competence of witnesses and capacity to be sworn

- 7 Nothing in Chapter V of Part II applies in relation to proceedings instituted before the commencement date for that Chapter.

Inferences from silence

- 8 The amendments made by section 58—
- (a) apply only to proceedings instituted on or after the commencement date for that section; but
 - (b) so apply whether the relevant failure or refusal on the part of the accused took place before or after that date.