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STATUTORY INSTRUMENTS

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1983 No. 1580 (C. 45)(S. 148)

CRIMINAL LAW, SCOTLAND

**The Criminal Justice (Scotland) Act 1980 (Commencement No. 5)  
Order 1983**

Made - - - - 20th October 1983

In exercise of the powers conferred upon me by section 84(2) and (3) of the Criminal Justice (Scotland) Act 1980(a) and of all other powers enabling me in that behalf, I hereby make the following order:—

1.—(1) This order may be cited as the Criminal Justice (Scotland) Act 1980 (Commencement No. 5) Order 1983.

(2) In this order, “the Act” means the Criminal Justice (Scotland) Act 1980.

2. Subject to article 3 of this order, the provisions of the Act which are referred to in column 1 of the Schedule to this order (which relate to the matter described in column 2 of that Schedule) shall come into force on 15th November 1983.

3. Without prejudice to paragraph 5 of Schedule 6 to the Act, where a person, immediately before 15th November 1983—

- (a) is serving, or liable to be detained in pursuance of, a sentence of borstal training or is, after his release from a borstal institution, under supervision; or
- (b) is detained, or liable to be detained, in a young offenders institution in pursuance of a sentence or order under section 208, 212, 416 or 421 of the Criminal Procedure (Scotland) Act 1975(b) or in a detention centre in pursuance of a sentence under section 209 or 418 of the said Act of 1975; or
- (c) is released under supervision in terms of section 11 or 12 of the Criminal Justice (Scotland) Act 1963(c); or
- (d) is detained, or liable to be detained, in a young offenders institution in pursuance of section 11(2) or 12(3) of the said Act of 1963,

he shall be liable to be dealt with as if section 45 of the Act (detention of young offenders), and any related amendment or repeal provided for in Schedule 5, 7

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(a) 1980 c. 62.  
(b) 1975 c. 21.  
(c) 1963 c. 39.

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or 8 of the Act which is referred to in column 1 of the Schedule to this order, had not come into force by virtue of this order.

New St Andrew's House,  
Edinburgh.  
20 October 1983.

*George Younger,*  
One of Her Majesty's  
Principal Secretaries of State.

## SCHEDULE

PROVISIONS OF THE ACT COMING INTO FORCE ON 15TH NOVEMBER 1983

Column 1 Provisions of the Act	Column 2 Subject Matter of Provisions
Section 45.	Detention of young offenders.
Schedule 5.	Young Offenders.
Section 83(2) to the extent necessary to give effect to the paragraphs of Schedule 7 specified in column 1 of Appendix A hereto.	Minor and consequential amendments.
Section 83(3) to the extent necessary to give effect to the repeal of the enactments in Schedule 8 specified in Appendix B hereto.	Repeals.
Section 84(5) for the purpose of extending to England and Wales the provisions specified in column 1 of Appendix C hereto.	Extension to England and Wales.
Section 84(6) for the purpose of extending to Northern Ireland the provisions specified in column 1 of Appendix D hereto.	Extension to Northern Ireland.
Section 84(7) for the purpose of extending to the Channel Islands and the Isle of Man the provisions specified in column 1 of Appendix E hereto.	Extension to the Channel Islands and the Isle of Man.
In Schedule 7 the paragraphs specified in column 1 of Appendix A hereto (which amend the enactments specified in column 2 of the Appendix).	Minor and consequential amendments.
Schedule 8 to the extent specified in Appendix B hereto.	Repeals.

## APPENDIX A

## PROVISIONS OF SCHEDULE 7 TO THE ACT COMING INTO FORCE ON 15TH NOVEMBER 1983

Column 1 Provisions of Schedule 7 to the Act	Column 2 Enactment to be Amended
Paragraphs 2, 3, 4, 5(a) and (c) and 6(a) and (b).	The Prisons (Scotland) Act 1952 (c. 61).
Paragraph 10.	The Criminal Justice Act 1961 (c. 39).
Paragraphs 14 and 15(b).	The Criminal Justice (Scotland) Act 1963 (c. 39).
Paragraph 17 and paragraph 19(b) so far as not already in force.	The Criminal Justice Act 1967 (c. 80).
Paragraph 24(b) (ii) and (d) (i).	The Rehabilitation of Offenders Act 1974 (c. 53).
Paragraphs 38, 40, 46, 60, 67, 68, 70, 73 and 74.	The Criminal Procedure (Scotland) Act 1975 (c. 21).

## APPENDIX B

## REPEALS IN SCHEDULE 8 TO THE ACT TAKING EFFECT ON 15TH NOVEMBER 1983

Chapter	Short Title	Extent of Repeal
1952 c. 61.	The Prisons (Scotland) Act 1952.	Sections 32 and 33. In section 37(2), the words "Borstal institution" in both places where they occur.
1961 c. 39.	The Criminal Justice Act 1961.	In section 32(2), paragraph (b), and in paragraph (f) the word "11". In section 38, in subsection (3)(a), the words "corrective training, preventive detention".
1963 c. 39.	The Criminal Justice (Scotland) Act 1963.	Section 2. Sections 4 and 5. Sections 9(1) and (2). Section 11. In section 50(1), the words "(other than orders made under section 11, section 12(1) or (3) or section 22)".
1974 c. 53.	The Rehabilitation of Offenders Act 1974.	In section 5(2), in Table B the words "or under section 7 of the Criminal Justice (Scotland) Act 1963."
1975 c. 21.	The Criminal Procedure (Scotland) Act 1975.	Section 204. Sections 208 to 211. In section 218 the words "in a young offenders institution as defined in section 31(1)(d) of the Prisons (Scotland) Act 1952". Section 414. Section 416. Sections 418 to 420.

## APPENDIX C

PROVISIONS OF THE ACT WHICH COME INTO FORCE IN ENGLAND AND WALES ON  
15TH NOVEMBER 1983

Column 1 Provisions of the Act	Column 2 Subject Matter of Provisions
In Schedule 7— paragraphs 6(a), 10 and 24(a), (b) (i) and (ii) and (d) (i) and (ii).	Consequential amendments.
Schedule 8 so far as relating to the provisions of the Criminal Justice Act 1961 set out in Appendix B above.	Repeals.

## APPENDIX D

PROVISIONS OF THE ACT WHICH COME INTO FORCE IN NORTHERN IRELAND ON  
15TH NOVEMBER 1983

Column 1 Provisions of the Act	Column 2 Subject Matter of Provisions
In Schedule 7— paragraphs 6(a) and 10.	Consequential amendments.
Schedule 8 so far as relating to the provisions of the Criminal Justice Act 1961 set out in Appendix B above.	Repeals.

## APPENDIX E

PROVISIONS OF THE ACT WHICH COME INTO FORCE IN THE CHANNEL ISLANDS  
AND THE ISLE OF MAN ON 15TH NOVEMBER 1983

Column 1 Provisions of the Act	Column 2 Subject Matter of Provisions
Section 84 (1) to (4) and (7).	Short title, commencement and extent.
In Schedule 7— Paragraphs 6(a) and 10(a).	Consequential amendments.
Schedule 8 so far as relating to section 32(2)(b) of the Criminal Justice Act 1961.	Repeals.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

*(This Note is not part of the Order.)*

The following provisions of the Act have been brought into force by Commencement Orders made before the date of this Order:—

<i>Provisions</i>	<i>Date of commencement</i>	<i>S.I. No.</i>
Sections 1, 4, 7, 8, 9, 11, 14, 15, 17 to 32, 37 to 42, 46 to 50, 52 to 57, 68 to 82, 83 (partially), 84 (partially), Schedule 1, Schedule 6 (partially), Schedule 7 (partially) and Schedule 8 (partially).	1.2.1981	1981/50
Sections 10, 33, 34, 35, 43, 44, 58 to 67, 83 (partially), 84 (partially), Schedule 2, Schedule 3, Schedule 6 (partially), Schedule 7 (partially) and Schedule 8 (partially).	1.4.1981	1981/444
Sections 2, 3, 5, 51, 83 (partially), 84 (partially), Schedule 6 (partially) and Schedule 7 (partially).	1.6.1981	1981/766
Sections 6, 12, 13, 16, 36, 83 (partially), Schedule 4, Schedule 7 (partially) and Schedule 8 (partially).	1.1.1982	1981/1751

## EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order brings into force on 15th November 1983 the provisions of the Criminal Justice (Scotland) Act 1980 ("the Act") which are referred to in column 1 of the Schedule to the order (which relate to the detention of young offenders).

The provisions of the Act which are brought into force by this order extend to Scotland only, with the exception of the provisions specified in Appendices C, D and E to the Schedule to the order which also extend, respectively, to England and Wales, to Northern Ireland, and to the Channel Islands and the Isle of Man.

Article 3 of the order contains a transitional provision to ensure that, where a person immediately before 15th November 1983, is detained, or liable to be detained, in a borstal institution, a young offenders institution or a detention centre or is, after his release therefrom, under supervision, he will remain subject to the existing provisions regarding his detention, release and supervision and recall after release.

The Act has now been commenced in its entirety, with the exception of paragraphs 7 and 12 of Schedule 7 to the Act which were repealed by Schedule 16 to the Criminal Justice Act 1982 (c. 48) ("the 1982 Act") on 24th May 1983 (see S.I. 1983/758) and—

- (a) paragraph 11(b) of Schedule 7 to the Act relating to section 38(5)(a) of the Criminal Justice Act 1961 (c. 39) ("the 1961 Act");
- (b) those parts of Schedule 8 to the Act relating to sections 26(5), 38(5)(a) and 39(1) of the 1961 Act;
- (c) those parts of sections 83(2) and (3) and 84(5) and (6) of the Act relating to those provisions,

which have been superseded by the amendments and repeals made to those sections of the 1961 Act by the 1982 Act.

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