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STATUTORY INSTRUMENTS

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**1996 No. 517 (C.10) (S.51)**

**CRIMINAL LAW, SCOTLAND**

**The Criminal Justice (Scotland) Act 1995 (Commencement  
No.2, Transitional Provisions and Savings) Order 1996**

*Made* - - - - *1st March 1996*

The Secretary of State, in exercise of the powers conferred upon him by section 118(2) and (3) of the Criminal Justice (Scotland) Act 1995<sup>(1)</sup> and of all other powers enabling him in that behalf, hereby makes the following Order:

**Citation and interpretation**

1. This Order may be cited as the Criminal Justice (Scotland) Act 1995 (Commencement No.2, Transitional Provisions and Savings) Order 1996.

2.—(1) In this Order—

“the Act” means the Criminal Justice (Scotland) Act 1995,

and, unless the context otherwise requires, any reference in this Order to a numbered section or Schedule is a reference to the section or Schedule bearing that number in the Act and, in article 5 of, and Schedule 2 to, this Order, includes a reference to any related repeal in Schedule 7 to the Act.

(2) For the purposes of this Order, criminal proceedings are commenced—

- (a) in summary proceedings, on the date of the first calling of the case; and
- (b) in solemn proceedings, on the date on whichever of the following first occurs:—
  - (i) the grant of a warrant to arrest and commit;
  - (ii) the intimation of a petition;
  - (iii) the service of an indictment.

**Commencement of provisions**

3.—(1) The provisions of the Act which are specified in column 1 of Schedule 1 to this Order shall come into force on 5th March 1996 but only for the purpose of enabling subordinate legislation to be made under the provisions specified in column 2 of that Schedule so as to come into force on or after 31st March 1996.

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(2) Subject to the provisions of articles 4 to 6 of, and Schedule 2 to, this Order, all the provisions of the Act, except section 66, shall come into force on 31st March 1996 insofar as they are not then in force.

**Transitional provisions and savings**

4. The provisions of the Act specified in column 1 of Schedule 2 shall apply only in the cases, and in relation to the persons or matters, specified in column 2 of that Schedule.

5. Nothing in section 40, 54 or 113(3), Schedule 5 or paragraph 10 of Schedule 6 shall affect the powers of a court in relation to an offence committed before 31st March 1996.

6. Section 68 shall not apply in respect of the discharge of a debtor under section 54 of the Bankruptcy (Scotland) Act 1985(2) before 31st March 1996.

St Andrew's House,  
Edinburgh  
1st March 1996

*James Douglas-Hamilton*  
Minister of State, Scottish Office

## SCHEDULE 1

Article 3(1)

Column 1 Provision of the Act	Column 2 Provision enabling subordinate legislation to be made
Section 6(c)	Section 3(2) of the Jurors (Scotland) Act 1825 <sup>(3)</sup>
Section 14(4)	Section 337A(4) of the Criminal Procedure (Scotland) Act 1975 <sup>(4)</sup>
Section 61(6)	Section 56(7) of the Criminal Justice (Scotland) Act 1987 <sup>(5)</sup>

## SCHEDULE 2

Article 4

Column 1 Provision of the Act	Column 2 Application
Section 2	In relation to bail granted on or after 31st March 1996
Section 5	In relation to an application for bail made on or after 31st March 1996
Section 7(1)	In the case of a person excused from jury service on or after 31st March 1996
Section 7(2)	In the case of a person cited for jury service on or after 31st March 1996
Sections 11 and 13	In the case where the indictment is served on or after 31st March 1996
Section 15	In relation to criminal proceedings which are commenced on or after 31st March 1996
Sections 24 and 28	In the case where the trial commenced on or after 31st March 1996
Section 33	In relation to criminal proceedings which are commenced on or after 31st March 1996
Section 46	In the case of a new prosecution authorised under section 254(1)(c) or 452A(1)(c) of the Criminal Procedure (Scotland) Act 1975 <sup>(6)</sup> on or after 31st March 1996
Section 58(2) to (4)	In the case of a person who is arrested or is detained under section 2(1) of the Criminal

(3) 1825 c. 22.

(4) 1975 c. 21.

(5) 1987 c. 41.

(6) 1975 c. 21; section 254 was substituted by the Criminal Justice (Scotland) Act 1980 (c. 62) ("the 1980 Act"), Schedule 2, paragraph 18; section 452A was inserted by the 1980 Act, Schedule 3, paragraph 11.

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Column 1 Provision of the Act	Column 2 Application
Section 61	Justice (Scotland) Act 1980(7) on or after 31st March 1996  In relation to a conditional offer made under section 56 of the Criminal Justice (Scotland) Act 1987(8) on or after 31st March 1996
Section 62	In relation to proceedings for an offence committed on or after 31st March 1996
Section 64, insofar as it inserts paragraph (da) in section 22(1) of the Legal Aid (Scotland) Act 1986(9)	In relation to work done on or after 31st March 1996
In Schedule 6	In relation to criminal proceedings which are commenced on or after 31st March 1996
(a) paragraphs 14, 15 and 120	
(b) (b) paragraphs 17(a) and 105(b)	In relation to bail granted on or after 31st March 1996
(c) (c) paragraph 117(d)	In the case where a warrant under section 320 of the Criminal Procedure (Scotland) Act 1975 is served on or after 31st March 1996
(d) (d) paragraph 179(2) and (3)	In the case of a person released on licence on or after 31st March 1996

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings into force—

- (a) certain provisions of the Criminal Justice (Scotland) Act 1995 (“the Act”) which are specified in the Schedule 1 to the Order on 5 March 1996 but only for the purpose of enabling subordinate legislation to be made under the provisions specified in that Schedule so as to come into force on or after 31st March 1996 (article 3(1)), and
- (b) all the provisions of the Act, except section 66, on 31st March 1996, insofar as they are not then in force (article 3(2)).

Section 66 is the only provision of the Act which is not commenced on 31st March 1996. That section amends section 27(1) of the Social Work (Scotland) Act 1968 to make provision for the supervision and care of persons diverted from prosecution or subject to supervision requirement.

Articles 4 to 6 and Schedule 2 make transitional and savings provisions.

(7) 1980 c. 62.

(8) 1987 c. 41.

(9) 1986 c. 47.

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## NOTE AS TO EARLIER COMMENCEMENT ORDERS

*(This note is not part of the Order)*

The following provisions of the Criminal Justice (Scotland) Act 1995 have been brought into force by commencement order made before the date of this Order:—

Provision	Date of commencement	S.I.No.
ss 22(1), (3), (4), (7) and (9), 35, 42, 43, 65, 117(1) (partially), 117(2) (partially), 118, paragraph 87 of Schedule 6 and Schedule 7 (partially)	26.9.95	<a href="#">1995/2295</a>