
STATUTORY INSTRUMENTS

2006 No. 1116

**CRIMINAL LAW, ENGLAND AND WALES
CRIMINAL LAW, NORTHERN IRELAND**

The Criminal Justice Act 1988
(Reviews of Sentencing) Order 2006

<i>Made</i>	- - - -	<i>18th April 2006</i>
<i>Laid before Parliament</i>		<i>21st April 2006</i>
<i>Coming into force</i>	- -	<i>16th May 2006</i>

The Secretary of State, in exercise of the powers conferred by section 35(4) of the Criminal Justice Act 1988(1), makes the following Order:

Citation, commencement and extent

1.—(1) This Order may be cited as the Criminal Justice Act 1988 (Reviews of Sentencing) Order 2006 and shall come into force on 16th May 2006.

(2) This Order extends to England, Wales and Northern Ireland.

Part IV of the Criminal Justice Act 1988

2. Part IV of the Criminal Justice Act 1988 (reviews of sentencing) shall apply to any case of a description specified in Schedule 1.

Revocations

3. The Orders set out in Schedule 2 to this Order are revoked.

Home Office
18th April 2006

Fiona Mactaggart
Parliamentary Under Secretary of State

(1) 1988 c. 33; section 35 was amended by the Criminal Justice and Public Order Act 1994 (c. 33), section 168(1) and Schedule 9, paragraph 34.

SCHEDULE 1

Article 2

Descriptions of cases to which Part IV of the Criminal Justice Act 1988 is to apply

1. Any case tried on indictment—
 - (a) following a notice of transfer given under section 4 of the Criminal Justice Act 1987⁽²⁾ (notices of transfer and designated authorities) by an authority designated for that purpose under subsection (2) of that section; or
 - (b) in which one or more of the counts in respect of which sentence is passed relates to a charge which was dismissed under section 6(1) of the Criminal Justice Act 1987 (applications for dismissal) and on which further proceedings were brought by means of preferment of a voluntary bill of indictment.
2. Any case in which sentence is passed on a person for one of the following offences:
 - (a) an offence under section 16 of the Offences against the Person Act 1861⁽³⁾ (threats to kill);
 - (b) an offence under section 5(1) of the Criminal Law Amendment Act 1885⁽⁴⁾ (defilement of a girl between 14 and 17);
 - (c) an offence under section 1 of the Children and Young Persons Act 1933⁽⁵⁾ (cruelty to persons under 16) or section 20 of the Children and Young Persons Act (Northern Ireland) 1968⁽⁶⁾ (cruelty to persons under 16);
 - (d) an offence under section 6 of the Sexual Offences Act 1956⁽⁷⁾ (unlawful sexual intercourse with a girl under 16), section 14 or 15 of that Act (indecent assault on a woman or on a man), section 52 of the Offences against the Person Act 1861 (indecent assault upon a female), or Article 21 of the Criminal Justice (Northern Ireland) Order 2003⁽⁸⁾ (indecent assault on a male);
 - (e) an offence under section 1 of the Indecency with Children Act 1960⁽⁹⁾ or section 22 of the Children and Young Persons Act (Northern Ireland) 1968 (indecent conduct with a child);
 - (f) an offence under section 4(2) or (3) (production or supply of a controlled drug), section 5(3) (possession of a controlled drug with intent to supply) or section 6(2) (cultivation of cannabis plant) of the Misuse of Drugs Act 1971⁽¹⁰⁾;
 - (g) an offence under section 54 of the Criminal Law Act 1977⁽¹¹⁾ or Article 9 of the Criminal Justice (Northern Ireland) Order 1980⁽¹²⁾ (inciting a girl under 16 to have incestuous sexual intercourse);
 - (h) an offence under section 50(2) or (3), section 68(2) or section 170(1) or (2) of the Customs and Excise Management Act 1979⁽¹³⁾, insofar as those offences are in connection with a prohibition or restriction on importation or exportation of either:
 - (i) a controlled drug within the meaning of section 2 of the Misuse of Drugs Act 1971, such prohibition or restriction having effect by virtue of section 3 of that Act; or

⁽²⁾ 1987 c. 38; section 4 is prospectively repealed by the Criminal Justice Act 2003 (c. 44), sections 41, 332, Schedule 3, Part II paragraph 58(1) and (2), Schedule 37, Part IV.

⁽³⁾ 1861 c. 100.

⁽⁴⁾ 1885 c. 69.

⁽⁵⁾ 1933 c. 12.

⁽⁶⁾ 1968 c. 34 (N.I.).

⁽⁷⁾ 1956 c. 69.

⁽⁸⁾ S.I.2003/1247 (NI 13).

⁽⁹⁾ 1960 c. 33.

⁽¹⁰⁾ 1971 c. 38.

⁽¹¹⁾ 1977 c. 45.

⁽¹²⁾ S.I. 1980/704 (NI 6).

⁽¹³⁾ 1979 c. 2.

- (ii) an article prohibited by virtue of section 42 of the Customs Consolidation Act 1876⁽¹⁴⁾ but only insofar as it relates to or depicts a person under the age of 16;
 - (i) offences under sections 29 to 32 of the Crime and Disorder Act 1998⁽¹⁵⁾ (racially or religiously aggravated assaults; racially or religiously aggravated criminal damage; racially or religiously aggravated public order offences; racially or religiously aggravated harassment etc).
- 3.** To the extent that Part IV of the Criminal Justice Act 1988 does not apply by virtue of section 35(3)(b)(i), any case in which sentence is passed on a person for an offence under one of the following sections of the Sexual Offences Act 2003⁽¹⁶⁾:
- (a) section 3 (sexual assault);
 - (b) section 4 (causing a person to engage in sexual activity without consent);
 - (c) section 7 (sexual assault of a child under 13);
 - (d) section 8 (causing or inciting a child under 13 to engage in sexual activity);
 - (e) section 9 (sexual activity with a child);
 - (f) section 10 (causing or inciting a child to engage in sexual activity);
 - (g) section 11 (engaging in sexual activity in the presence of a child);
 - (h) section 12 (causing a child to watch a sexual act);
 - (i) section 14 (arranging or facilitating commission of a child sex offence);
 - (j) section 15 (meeting a child following sexual grooming etc);
 - (k) section 25 (sexual activity with a child family member);
 - (l) section 47 (paying for sexual services of a child);
 - (m) section 48 (causing or inciting child prostitution or pornography);
 - (n) section 49 (controlling a child prostitute or a child involved in pornography);
 - (o) section 50 (arranging or facilitating child prostitution or pornography);
 - (p) section 52 (causing or inciting prostitution for gain);
 - (q) section 57 (trafficking into the UK for sexual exploitation);
 - (r) section 58 (trafficking within the UK for sexual exploitation);
 - (s) section 59 (trafficking out of the UK for sexual exploitation);
 - (t) section 61 (administering a substance with intent).
- 4.** Any case in which sentence is passed on a person for attempting to commit or inciting the commission of an offence set out in paragraph 2(a) to (h) or paragraph 3.

⁽¹⁴⁾ 1876 c. 36.

⁽¹⁵⁾ 1998 c. 37.

⁽¹⁶⁾ 2003 c. 42.

SCHEDULE 2

Article 3

Revocations

<i>Orders Revoked</i>	<i>References</i>
The Criminal Justice Act 1988 (Reviews of Sentencing) Order 1994	S.I. 1994/119
The Criminal Justice Act 1988 (Reviews of Sentencing) Order 1995	S.I. 1995/10
The Criminal Justice Act 1988 (Reviews of Sentencing) Order 2000	S.I. 2000/1924
The Criminal Justice Act 1988 (Reviews of Sentencing) Order 2003	S.I. 2003/2267

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

Part IV of the Criminal Justice Act 1988 (“the Act”) empowers the Attorney General to refer certain criminal cases to the Court of Appeal, with the leave of that Court, where he considers that the sentences imposed were unduly lenient. By virtue of section 35(3)(b)(i) of the Act, Part IV applies to offences which are triable on indictment only. The Secretary of State may by Order, made under section 35(4) of the Act, specify further cases to which Part IV is to apply. Article 2 of this Order provides that Part IV is to apply to the cases specified in Schedule 1.

Paragraph 1 of Schedule 1 specifies serious fraud cases which have been transferred to the Crown Court by way of a notice of transfer made under section 4 of the Criminal Justice Act 1987, and serious fraud cases in which proceedings were brought by way of a voluntary bill of indictment following dismissal of charges which were the subject of a notice of transfer.

Paragraph 2 of Schedule 1 specifies cases in which a sentence has been passed for one of the miscellaneous offences listed. Paragraph 3 of Schedule 1 specifies cases in which a sentence has been passed for one of the offences listed, all of which are offences under the Sexual Offences Act 2003.

Paragraph 4 of Schedule 1 specifies cases in which a sentence has been passed for attempting to commit or inciting the commission of any of the offences listed in paragraphs 2 and 3 other than those at paragraph 2(i).

This Order revokes the Orders set out in Schedule 2 and consolidates their contents. It also adds further offences to those which Part IV applies, the majority of which derive from the Sexual Offences Act 2003.

This Order applies to England, Wales and Northern Ireland.