CRIMINAL PROCEDURE

[*See* also ARMY AND AIR FORCE, p. 492 above ; BORSTAL INSTITUTIONS, p. 501 above ; and NAVY, below.]

COMMENCEMENT OF 1948 ACT

The Criminal Justice Act, 1948 (Date of Commencement) Order, 1949

1949 No. 139

Made - - - - 28th January, 1949

At the Court at Sandringham, the 28th day of January, 1949

Present,

The King's Most Excellent Majesty in Council

Whereas by subsection (2) of section eighty-three of the Criminal Justice Act, 1948(a) (hereafter in this Order called " the Act "), it is provided that the Act shall come into operation on such day as His Majesty may by Order in Council appoint and that different days may be appointed for the purposes of different provisions of the Act:

Now, therefore, His Majesty in pursuance of the power vested in Him by the said section eighty-three is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. The provisions of the Act specified in the first column of the First Schedule hereto (which relate to the matters specified in the second column of the said Schedule) shall come into operation on the first day of April, 1949.

2. The provisions of the Act specified in the first column of the Second Schedule hereto (which relate to the matters specified in the second column of the said Schedule) shall come into operation on the eighteenth day of April, 1949.

3. This Order may be cited as the Criminal Justice Act, 1948 (Date of Commencement) Order, 1949.

Edward Ford.

(a) 11 & 12 Geo. 6. c. 58.

FIRST SCHEDULE

Provisions of the Act	Subject matter of provisions
Section sixty-two	Discontinuance of terms "criminal lunatic" and "criminal lunatic asylum".
Section sixty-three	Removal of Broadmoor patients, etc.
Section sixty-four	Treatment of persons transferred from prisons, etc. to institutions for mental defectives.
Subsection (2) of section seventy-seven.	Expenses and grants payable out of moneys provided by Parliament.
Section seventy-nine and so much of the Ninth Schedule as relates to the Criminal Lunatic Asylums Act, 1860.	Consequential and minor amendments.
So much of section eighty-one as relates to section sixty-three.	Application to Scotland.
So much of subsection (3) of section eighty-three as relates to the Tenth Schedule and so much of Part I of the said Schedule as relates to the Criminal Lunatic Asylums Act, 1860.	Repeals.

SECOND SCHEDULE

Provisions of the Act	Subject matter of provisions
Section one	Abolition of penal servitude, hard labour and prison divisions.
Section eighteen	Detention in a detention centre.
Section nineteen	Attendance at an attendance centre.
Section twenty-one and Third Schedule.	Corrective training and preventive detention.
Section twenty-two and Fourth Schedule.	Power to order certain discharged prisoners to notify address.
Section twenty-three ...	Proof of previous convictions etc. for purposes of sections twenty-one and twenty-two.
Section thirty-seven... ...	Bail on appeal, case stated or application for certiorari.
Section fifty-one	Abolition of office of directors of convict prisons and application of Prison Acts to convict prisons.
Section fifty-four	Corporal punishment in prisons.
Section fifty-six and Sixth Schedule.	Remission for good conduct and release on licence of young prisoners.
Section fifty-seven	Release on licence of persons serving imprisonment for life.
Section sixty-one and paragraphs 2 to 6 and 8 to 10 of the Seventh Schedule.	Removal of prisoners, etc. to and from Scotland and from the Isle of Man or Channel Islands; provisions relating to persons in England after discharge from prisons in Scotland and vice versa.
Section sixty-nine	Commutation of death sentence to sentence of imprisonment.
Subsection (1) of section seventy.	Amendment of Forfeiture Act, 1870.
Section seventy-three ...	Application of sections one and two to courts-martial.

Provisions of the Act	Subject matter of provisions
Subsection (7) of section seventy-seven.	Sums to be paid into Exchequer.
Section seventy-eight and paragraphs 1, 2, 3, 5, 8 and 9 of the Eighth Schedule.	Transitory provisions.
Section seventy-nine and so much of the Ninth Schedule as is set out in Appendix A hereto.	Consequential and minor amendments.
So much of section eighty-one as relates to section sixty-one, section seventy-three, Part II of the Seventh Schedule and all other provisions which, by the said Part II, are extended to Scotland.	Application to Scotland.
So much of section eighty-two as relates to section seventy-three.	Application to Northern Ireland.
So much of subsection (3) of section eighty-three as relates to the Tenth Schedule and so much of Part I of the said Schedule as is set out in Appendix B hereto.	Repeals.

Appendix A to Second Schedule

Act to be amended	*Amendment*
The Forfeiture Act, 1870 33 & 34 Vict. c. 23.	In section two, for the words " or penal servitude " there shall be substituted the words " preventive detention or corrective training " and the words " with hard labour, or " shall cease to have effect.
The Criminal Lunatics Act, 1884. 47 & 48 Vict. c. 64.	In section two, in subsection (2) for the words " penal servitude or imprisonment " there shall be substituted the words " imprisonment or detention " and in subsection (5) for the words from " shall be exercised ", where they first occur, to the end there shall be substituted the words " may be exercised by the Prison Commissioners or one of them ".
	In section six, for the words " penal servitude or imprisonment " there shall be substituted the words " imprisonment or detention ".
	In section seven, for the words " penal servitude or imprisonment " in both places where they occur there shall be substituted the words " imprisonment or detention ".
	In section eight, in subsection (2), for the words " penal servitude or imprisonment " there shall be substituted the words " imprisonment or detention " and for the words " council of supervision or other person having control thereof " there shall be substituted the words " Board of Control ".

Act to be amended	*Amendment*
The Criminal Lunatics Act, 1884. 47 & 48 Vict. c. 64—*cont.*	In section ten, for the words " penal servitude or imprisonment " there shall be substituted the words " imprisonment or detention ".
	In section sixteen, in the definition of " Asylum " for the words " but does not include a licensed house " there shall be substituted the words " and a licensed house " and after the word " aforesaid " there shall be inserted the words " or a licensed house ".
The Clergy Discipline Act, 1892. 55 & 56 Vict. c. 32.	In section one, the words " with hard labour " shall cease to have effect.
The Mental Deficiency Act, 1913. 3 & 4 Geo. 5. c. 28.	In section two, in subsection (1) for the words from " undergoing imprisonment " to " criminal lunatic asylum " there shall be substituted the words " detained (otherwise than on remand or while awaiting trial or sentence or under civil process) in a prison or other institution to which the Prison Acts, 1865 to 1898, apply, or in a remand home, or who is detained in a school approved under section seventy-nine of the Children and Young Persons Act, 1933, an inebriate reformatory, an institution for persons of unsound mind or a Broadmoor institution ".
	In section four, for the words from " criminal lunatic asylum " to " inebriate reformatory " there shall be substituted the words " or other institution to which the Prison Acts, 1865 to 1898, apply, or in a remand home, a school approved under section seventy-nine of the Children and Young Persons Act, 1933, an inebriate reformatory or a Broadmoor institution ".
	In section nine, for the words from " undergoing imprisonment " to " criminal lunatic asylum " there shall be substituted the words " detained (otherwise than on remand or while awaiting trial or sentence or under civil process) in a prison or other institution to which the Prison Acts, 1865 to 1898, apply, or in a remand home, or who is detained in a school approved under section seventy-nine of the Children and Young Persons Act, 1933, an inebriate reformatory or a Broadmoor institution ".
	In section forty-four, in subsection (2) for the words from " in a prison," to " place of detention," there shall be substituted the words " in a prison or other institution to which the Prison Acts, 1865 to 1898, apply, or in a remand home, inebriate reformatory or Broadmoor institution ".
The Criminal Justice Administration Act, 1914. 4 & 5 Geo 5. c. 58.	In section four, in subsection (1) after the word " prison " there shall be inserted the words " or a detention centre " and after the word " imprisonment " there shall be added the words " or detention ".

Act to be amended	*Amendment*
The Mental Deficiency Act, 1927. 17 & 18 Geo. 5. c. 33.	In section five, for paragraphs (*a*) and (*b*) there shall be substituted the following paragraphs:— "(*a*) if the place in which he is being detained under the order of the court is a prison, a remand centre or a remand home, he shall continue to be detained therein; (*b*) if the place in which he is being so detained is not a prison, remand centre or remand home, he shall be removed therefrom— (i) if he appears to be under seventeen years of age, to a remand home, or if in the opinion of the Secretary of State it is inexpedient that he should be removed to a remand home, then to such other place as the Secretary of State may by order direct; (ii) if he appears to be not less than seventeen but under twenty-one years of age and the court by which he was dealt with under the said section eight has been notified by the Secretary of State that a remand centre is available for the reception from that court of persons of his class or description, to a remand centre; (iii) in any other case, to a prison."
The Children and Young Persons Act, 1933. 23 & 24 Geo. 5. c. 12.	In section seventy-eight, for subsection (3) there shall be substituted the following subsection:— "(3) The Secretary of State shall cause remand homes to be inspected and may make rules for their inspection, regulation and management, and for the classification, treatment, employment, discipline and control of persons detained in custody therein, and for the visitation of such persons from time to time by persons appointed in accordance with the rules.".
The Firearms Act, 1937 ... 1 Edw. 8. & 1 Geo. 6. c. 12.	In section twenty-one, in subsection (1) after the words "penal servitude" there shall be inserted the words "preventive detention or corrective training", in subsection (2) for paragraph (*a*) there shall be substituted the following paragraph:— "(*a*) is the holder of a licence issued under section fifty-six or fifty-seven of the Criminal Justice Act, 1948, or the Second or Third Schedule to that Act, or section fifty-three of the Children and Young Persons Act, 1933; or" and in paragraph (*b*) the words "is subject to the supervision of the police, or" shall cease to have effect and after the word "firearm" there shall be inserted the words "or is subject to a probation order containing a requirement that he shall not possess, use or carry a firearm".

Act to be amended	*Amendment*
The Firearms Act, 1937 ... 1 Edw. 8. & 1 Geo. 6. c. 12. —*cont.*	In section twenty-five, in subsection (1) for the words " penal servitude " there shall be substituted the words " preventive detention, corrective training ", the words " to be subject to police supervision or " shall cease to have effect, and after the word " firearm " in the first place where it occurs there shall be inserted the words " or is subject to a probation order containing a requirement that he shall not possess, use or carry a firearm ".
The National Service Act, 1947. 10 & 11 Geo. 6. c. 31.	In the First Schedule, in paragraph 1 after the words " preventive detention " there shall be inserted the words " corrective training " and for the words " Borstal institution " there shall be substituted the words " detention centre, or was or would if he had not been unlawfully at large have been detained in a Borstal institution ".
The Police Pensions Act, 1948. 11 & 12 Geo. 6. c. 24.	In section four, in subsection (1), after the words " penal servitude " there shall be inserted the words " preventive detention or corrective training ".

APPENDIX B TO SECOND SCHEDULE

Session and Chapter	Short Title	Extent of Repeal
3 Geo. 4. c. 114	The Hard Labour Act, 1822 ...	The whole Act.
5 Geo. 4. c. 83	The Vagrancy Act, 1824 ...	In section five, the words from " and every such offender " to the end.
5 Geo. 4. c. 84	The Transportation Act, 1824...	The whole Act.
7 & 8 Geo. 4. c. 28.	The Criminal Law Act, 1827 ...	In section ten, the words from " and where " to the end.
11 Geo. 4. & 1 Will. 4. c. 39.	The Transportation Act, 1830...	The whole Act.
4 & 5 Will. 4. c. 67.	The Transportation Act, 1834	The whole Act.
1 & 2 Vict. c. 82.	The Parkhurst Prison Act, 1838	The whole Act.
2 & 3 Vict. c. 56.	The Prisons Act, 1839	The whole Act.
5 & 6 Vict. c. 29.	The Pentonville Prison Act, 1842.	The whole Act.
5 & 6 Vict. c. 61.	The South Australia Act, 1842.	The whole Act.
5 & 6 Vict. c. 98.	The Prison Act, 1842	Section twelve.
6 & 7 Vict. c. 7.	The Transportation Act, 1843...	The whole Act.
10 & 11 Vict. c. 67.	The Transportation Act, 1847...	The whole Act.
11 & 12 Vict. c. 43.	The Summary Jurisdiction Act, 1848.	In section twenty-one, the words " or to imprison him and keep him to hard labour ".
13 & 14 Vict. c. 39.	The Convict Prisons Act, 1850...	The whole Act.

Session and Chapter	Short Title	Extent of Repeal
14 & 15 Vict. c. 100.	The Criminal Procedure Act, 1851.	Section twenty-nine.
16 & 17 Vict. c. 99.	The Penal Servitude Act, 1853	The whole Act.
16 & 17 Vict. c. 121.	The Convict Prisons Act, 1853	The whole Act.
20 & 21 Vict. c. 3.	The Penal Servitude Act, 1857	The whole Act, except sections two and six.
24 & 25 Vict. c. 96.	The Larceny Act, 1861... ...	In sections twelve, thirteen and sixteen, the words from " with or without hard labour " to the end.
24 & 25 Vict. c. 97.	The Malicious Damage Act, 1861	In sections twenty-two and fifty-four, the words from " with or without hard labour " to the end. In section thirty-nine, the words from " with or without hard labour " to " whipping ".
24 & 25 Vict. c. 100.	The Offences Against the Person Act, 1861.	In section sixty-four, the words from " with or without hard labour " to the end.
27 & 28 Vict. c. 47.	The Penal Servitude Act, 1864	The whole Act.
33 & 34 Vict. c. 23.	The Forfeiture Act, 1870 ...	In section two, the words " with hard labour, or ". Sections six to thirty.
34 & 35 Vict. c. 112.	The Prevention of Crimes Act, 1871.	Sections three to five and eight. In section seventeen, paragraph (4) of the proviso.
39 & 40 Vict. c. 42.	The Convict Prisons Returns Act, 1876.	The whole Act.
40 & 41 Vict. c. 21.	The Prison Act, 1877	In section nine, the words " and enforcement of hard labour ". Section forty.
42 & 43 Vict. c. 49.	The Summary Jurisdiction Act 1879.	In section four, the words " impose the same without hard labour and " and the words " or do either of such acts ".
42 & 43 Vict. c. 55.	The Prevention of Crime Act, 1879.	The whole Act.
54 & 55 Vict. c. 69.	The Penal Servitude Act, 1891...	Sections two to six and ten.
55 & 56 Vict. c. 32.	The Clergy Discipline Act, 1892	In section one, the words " with hard labour ".
61 & 62 Vict. c. 41.	The Prison Act, 1898	Sections one, four, five and six. In section seven, the words " local and convict ". Sections eight and eleven. Subsection (1) of section fourteen.
6 Edw. 7. c. 55	The Public Trustee Act, 1906...	Paragraph (*e*) of subsection (1) of section two.
8 Edw. 7. c. 59	The Prevention of Crime Act, 1908.	The whole Act.
3 & 4 Geo. 5. c. 27.	The Forgery Act, 1913... ...	In section twelve, subsection (1) and in paragraph (*b*) of subsection (2) the words " penal servitude or ".

Session and Chapter	Short Title	Extent of Repeal
3 & 4 Geo. 5. c. 28.	The Mental Deficiency Act, 1913	The proviso to subsection (2) of section twenty-five.
4 & 5 Geo. 5. c. 58.	The Criminal Justice Administration Act, 1914.	Sections sixteen and twenty-six.
6 & 7 Geo. 5. c. 50.	The Larceny Act, 1916... ...	In section thirty-seven, subsection (4) and in paragraph (*b*) of subsection (5) the words "penal servitude or ".
15 & 16 Geo. 5. c. 20.	The Law of Property Act, 1925	In section seven, paragraph (*a*) of subsection (3).
16 & 17 Geo. 5. c. 58.	The Penal Servitude Act, 1926...	The whole Act.
23 & 24 Geo. 5. c. 12.	The Children and Young Persons Act, 1933.	In section fifty-two, subsections (1) and (2).
26 Geo. 5. & 1 Edw. 8. c. 16.	The Coinage Offences Act, 1936	In section twelve, in subsection (1), the words " penal servitude or ".
1 Edw. 8. & 1 Geo. 6. c. 12.	The Firearms Act, 1937 ...	In section twenty-one, in paragraph (*b*) of subsection (2) the words " is subject to the supervision of the police or ". In section twenty-five, in subsection (1), the words " to be subject to police supervision or ".

The Criminal Justice Act, 1948 (Date of Commencement) (No. 2) Order, 1949

1949 No. 372

Made - - - - 4th March, 1949

At the Court at Buckingham Palace, the 4th day of March, 1949

Present,

The King's Most Excellent Majesty in Council

Whereas by subsection (2) of section eighty-three of the Criminal Justice Act, 1948(**a**) (hereafter in this Order called " the Act "), it is provided that the Act shall come into operation on such day as His Majesty may by Order in Council appoint and that different days may be appointed for the purposes of different provisions of the Act:

And Whereas by subsection (3) of section seventy-six of the Act it is provided that any power to make Orders in Council under the Act shall include power to revoke or vary any such Order in Council by a subsequent Order in Council:

Now, therefore, His Majesty in pursuance of the powers vested in Him by the said sections seventy-six and eighty-three is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:—

1. The Criminal Justice Act, 1948 (Date of Commencement) Order, 1949(**b**), shall be so varied that—

(*a*) section seventy-three of the Act (which provides for the application of sections one and two of the Act to courts-martial), and

(**a**) 11 & 12 Geo. 6. c. 58. (**b**) S.I. 1949 No. 139, p. 1249 above.