

2004 No. 176 (C. 12)

CRIMINAL LAW

**The Crime and Punishment (Scotland) Act 1997
(Commencement No. 6 and Savings) Order 2004**

Made

2nd April 2004

The Scottish Ministers, in exercise of the powers conferred by section 65(2) and (4) of the Crime and Punishment (Scotland) Act 1997(a), hereby make the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Crime and Punishment (Scotland) Act 1997 (Commencement No. 6 and Savings) Order 2004.

(2) In this Order, “the 1995 Act” means the Criminal Procedure (Scotland) Act 1995(b).

Appointed day

2. The day appointed for the coming into force of section 13(1), (3) and (4) of the Crime and Punishment (Scotland) Act 1997 is 1st May 2004.

Savings

3. Sections 3 and 195(2) of the 1995 Act and paragraph 12 of Schedule 3 to the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995(c) shall continue to have effect as if this Order had not been made in relation to any case where—

- (a) the first diet to which the accused is cited in accordance with section 66 of the 1995 Act; or
- (b) the diet in respect of which notice to appear is given to the accused in terms of section 76(1) or 81(1) of the 1995 Act,

is before 1st May 2004.

HUGH HENRY

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
2nd April 2004

(a) 1997 c.48. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) 1995 c.46.

(c) 1995 c.40.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force section 13(1), (3) and (4) of the Crime and Punishment (Scotland) Act 1997 ("the Act") on 1st May 2004 (article 2). Section 13(1) of the Act amends section 3 of the Criminal Procedure (Scotland) Act 1995 ("the 1995 Act") to increase the sentencing power of the sheriff on conviction on indictment from three to five years. Section 13(3) and (4) of the Act make consequential amendments to, respectively, section 195(2) (remit to the High Court for sentence) of the 1995 Act and paragraph 12 (construction of references to penal servitude and hard labour) of Schedule 3 to the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995.

The Order saves the effect of sections 3 and 195(2) of the 1995 Act and of paragraph 12 of Schedule 3 to the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 for cases where the first diet to which the accused is cited in accordance with section 66 of the 1995 Act or the diet in respect of which notice is given in terms of section 76(1) or 81(1) of that Act is before 1st May 2004 (article 3).

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 order made before the date of this Order:-

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 12, 14, 17, 20 (partially), 21, 23, 24 (partially), 26 to 32, 47 (partially), 55 to 61, 62 (partially), 63 (partially), 64, 65 (partially) and Schedules 1 (partially) and 3 (partially)	1st August 1997	1997/1712
Section 49 (partially), 50 to 54, 62(1) (partially), 63(1)(b) and Schedule 1 (partially)	1st October 1997	1997/2323
Sections 2 and 3 (partially), 5 (partially), 15 (partially), 16 (partially), 18 (partially), 19 (partially), 62 (partially), 63(1)(a)(i) and Schedules 1 (partially) and 3 (partially)	20th October 1997	1997/2323
Section 47 (partially), 48, 62(2) (partially) and Schedule 3 (partially)	17th November 1997	1997/2694
Sections 6 to 11, 15 (partially), 22, 42 to 44, 62 (partially) and Schedules 1 (partially) and 3 (partially)	1st January 1998	1997/2323
Sections 25 (partially), 62(1) (partially), 63(1)(a)(ii) and Schedule 1 (partially)	1st January 1998	1997/3004
Section 49 (partially)	1st April 1998	1997/2323
Sections 5 (partially), 24 (partially), 62 (partially) and Schedule 1 (partially)	1st July 1998	1997/2323

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 49 (partially)	1st October 1998	1997/2323
Sections 20 (so far as not already in force), 25, 62 (partially) and Schedules 1 (partially) and 3 (partially)	1st April 1999	1999/652

SCOTTISH STATUTORY INSTRUMENTS

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