



# Criminal Justice and Immigration Act 2008

## 2008 CHAPTER 4

An Act to make further provision about criminal justice (including provision about the police) and dealing with offenders and defaulters; to make further provision about the management of offenders; to amend the criminal law; to make further provision for combatting crime and disorder; to make provision about the mutual recognition of financial penalties; to amend the Repatriation of Prisoners Act 1984; to make provision for a new immigration status in certain cases involving criminality; to make provision about the automatic deportation of criminals under the UK Borders Act 2007; to amend section 127 of the Criminal Justice and Public Order Act 1994 and to confer power to suspend the operation of that section; and for connected purposes. [8th May 2008]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART 1

#### YOUTH REHABILITATION ORDERS

##### *Youth rehabilitation orders*

#### <sup>F1</sup> Youth rehabilitation orders

.....

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

**Textual Amendments**

**F1** Ss. 1-5 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F12 Breach, revocation or amendment of youth rehabilitation orders**

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**Textual Amendments**

**F1** Ss. 1-5 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F13 Transfer of youth rehabilitation orders to Northern Ireland**

.....

**Textual Amendments**

**F1** Ss. 1-5 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F24 Meaning of “the responsible officer”**

.....

**Textual Amendments**

**F2** Ss. 1-5 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2; s. 4(1)(a) is expressed to be omitted (28.6.2022) by virtue of Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(u), **Sch. 17 para. 22(2)**

**F35 Responsible officer and offender: duties in relation to the other**

.....

**Textual Amendments**

**F3** Ss. 1-5 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2; s. 5(2) expressed to be omitted (28.6.2022) by virtue of Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(u), **Sch. 17 para. 22(3)**

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## Supplementary

### 6 Abolition of certain youth orders and related amendments

- (1) Chapters 1, 2, 4 and 5 of Part 4 of (and Schedules 3 and 5 to 7 to) the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (curfew orders, exclusion orders, attendance centre orders, supervision orders and action plan orders) cease to have effect.
- (2) Part 1 of Schedule 4 makes amendments consequential on provisions of this Part.
- (3) Part 2 of Schedule 4 makes minor amendments regarding other community orders which are related to the consequential amendments in Part 1 of that Schedule.

#### Commencement Information

- II** S. 6(1) in force at 30.11.2009 for specified purposes by [S.I. 2009/3074](#), **art. 2(f)** (with [art. 4](#))

### <sup>F47</sup> Youth rehabilitation orders: interpretation

#### Textual Amendments

- F4** S. 7 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

### <sup>F58</sup> Isles of Scilly

#### Textual Amendments

- F5** S. 8 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(5), 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

## PART 2

### SENTENCING

#### General sentencing provisions

PROSPECTIVE

### 9 Purposes etc. of sentencing: offenders under 18

<sup>F6</sup>(1) .....

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<sup>F6</sup>(2) .....

(3) In section 44 of the Children and Young Persons Act 1933 (c. 12) (general considerations) after subsection (1) insert—

“(1A) Subsection (1) is to be read with paragraphs (a) and (c) of section 142A(2) of the Criminal Justice Act 2003 (which require a court dealing with an offender aged under 18 also to have regard to the principal aim of the youth justice system and the specified purposes of sentencing).

(1B) Accordingly, in determining in the case of an offender whether it should take steps as mentioned in subsection (1), the court shall also have regard to the matters mentioned in those paragraphs.”

(4) In section 42(1) of the Crime and Disorder Act 1998 (c. 37) (interpretation of Part 3 of Act), after the definition of “local authority” insert—

““offending” includes re-offending;”.

**Textual Amendments**

**F6** S. 9(1)(2) repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

**Modifications etc. (not altering text)**

**C1** S. 9 modified in part (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2) (3) and 2020 c. 17, ss. 2, 416)) by [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), **ss. 1**, 5(2)(3); [S.I. 2012/1236](#), reg. 2

<sup>F7</sup>**10 Effect of restriction on imposing community sentences**

.....

**Textual Amendments**

**F7** Ss. 10-12 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

<sup>F7</sup>**11 Restriction on power to make a community order**

.....

**Textual Amendments**

**F7** Ss. 10-12 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

<sup>F7</sup>**12 Pre-sentence reports**

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**Textual Amendments**

**F7** Ss. 10-12 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

*Custodial sentences*

**F8 13 Sentences of imprisonment for public protection**

.....

**Textual Amendments**

**F8** S. 13 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 21 para. 35(b)(i)**; S.I. 2012/2906, art. 2(s)

**F9 14 Sentences of detention for public protection**

.....

**Textual Amendments**

**F9** S. 14 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 21 para. 35(b)(i)**; S.I. 2012/2906, art. 2(s)

**F10 15 Extended sentences for certain violent or sexual offences: persons 18 or over**

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**Textual Amendments**

**F10** S. 15 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 21 para. 35(b)(i)**; S.I. 2012/2906, art. 2(s)

**F11 16 Extended sentences for certain violent or sexual offences: persons under 18**

.....

**Textual Amendments**

**F11** S. 16 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 21 para. 35(b)(i)**; S.I. 2012/2906, art. 2(s)

**F12 17 The assessment of dangerousness**

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**Textual Amendments**

**F12** Ss. 17-20 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F12 18 Further amendments relating to sentences for public protection**

.....

**Textual Amendments**

**F12** Ss. 17-20 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

PROSPECTIVE

**F12 19 Indeterminate sentences: determination of tariffs**

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**Textual Amendments**

**F12** Ss. 17-20 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F12 20 Consecutive terms of imprisonment**

.....

**Textual Amendments**

**F12** Ss. 17-20 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

*Release and recall of prisoners*

**21 Credit for period of remand on bail: terms of imprisonment and detention**

(1) The Criminal Justice Act 2003 (c. 44) is amended as follows.

**F13**(2) .....

(3) In the italic heading before section 240, after “*custody*” insert “*or on bail subject to certain types of condition*”.

(4) After section 240 insert—

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### **“240A Crediting periods of remand on bail: terms of imprisonment and detention**

- (1) This section applies where—
  - (a) a court sentences an offender to imprisonment for a term in respect of an offence committed on or after 4th April 2005,
  - (b) the offender was remanded on bail by a court in course of or in connection with proceedings for the offence, or any related offence, after the coming into force of section 21 of the Criminal Justice and Immigration Act 2008, and
  - (c) the offender's bail was subject to a qualifying curfew condition and an electronic monitoring condition (“the relevant conditions”).
- (2) Subject to subsection (4), the court must direct that the credit period is to count as time served by the offender as part of the sentence.
- (3) The “credit period” is the number of days represented by half of the sum of—
  - (a) the day on which the offender's bail was first subject to conditions that, had they applied throughout the day in question, would have been relevant conditions, and
  - (b) the number of other days on which the offender's bail was subject to those conditions (excluding the last day on which it was so subject), rounded up to the nearest whole number.
- (4) Subsection (2) does not apply if and to the extent that—
  - (a) rules made by the Secretary of State so provide, or
  - (b) it is in the opinion of the court just in all the circumstances not to give a direction under that subsection.
- (5) Where as a result of paragraph (a) or (b) of subsection (4) the court does not give a direction under subsection (2), it may give a direction in accordance with either of those paragraphs to the effect that a period of days which is less than the credit period is to count as time served by the offender as part of the sentence.
- (6) Rules made under subsection (4)(a) may, in particular, make provision in relation to—
  - (a) sentences of imprisonment for consecutive terms;
  - (b) sentences of imprisonment for terms which are wholly or partly concurrent;
  - (c) periods during which a person granted bail subject to the relevant conditions is also subject to electronic monitoring required by an order made by a court or the Secretary of State.
- (7) In considering whether it is of the opinion mentioned in subsection (4)(b) the court must, in particular, take into account whether or not the offender has, at any time whilst on bail subject to the relevant conditions, broken either or both of them.
- (8) Where the court gives a direction under subsection (2) or (5) it shall state in open court—

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- (a) the number of days on which the offender was subject to the relevant conditions, and
  - (b) the number of days in relation to which the direction is given.
- (9) Subsection (10) applies where the court—
- (a) does not give a direction under subsection (2) but gives a direction under subsection (5), or
  - (b) decides not to give a direction under this section.
- (10) The court shall state in open court—
- (a) that its decision is in accordance with rules made under paragraph (a) of subsection (4), or
  - (b) that it is of the opinion mentioned in paragraph (b) of that subsection and what the circumstances are.
- (11) Subsections (7) to (10) of section 240 apply for the purposes of this section as they apply for the purposes of that section but as if—
- (a) in subsection (7)—
    - (i) the reference to a suspended sentence is to be read as including a reference to a sentence to which an order under section 118(1) of the Sentencing Act relates;
    - (ii) in paragraph (a) after “Schedule 12” there were inserted “ or section 119(1)(a) or (b) of the Sentencing Act ”; and
  - (b) in subsection (8) the reference to subsection (3) of section 240 is to be read as a reference to subsection (2) of this section and, in paragraph (b), after “Chapter” there were inserted “ or Part 2 of the Criminal Justice Act 1991 ”.
- (12) In this section—
- “electronic monitoring condition” means any electronic monitoring requirements imposed under section 3(6ZAA) of the Bail Act 1976 for the purpose of securing the electronic monitoring of a person's compliance with a qualifying curfew condition;
  - “qualifying curfew condition” means a condition of bail which requires the person granted bail to remain at one or more specified places for a total of not less than 9 hours in any given day; and
  - “related offence” means an offence, other than the offence for which the sentence is imposed (“offence A”), with which the offender was charged and the charge for which was founded on the same facts or evidence as offence A.”

<sup>F14</sup>(5) .....

(6) In section 242 (interpretation of sections 240 and 241), in the title and in subsection (1), after “sections 240” insert “ , 240A ”.

<sup>F15</sup>(7) .....

**Textual Amendments**

**F13** S. 21(2) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 110\(14\)\(a\), 151\(1\)](#) (with [Sch. 15](#)); [S.I. 2012/2906](#), art. 2(d)



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**F14** S. 21(5) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 110(14)(a)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)

**F15** S. 21(7) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 110(14)(a)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)

#### Commencement Information

**I2** S. 21(1)(3)-(7) in force at 3.11.2008 by [S.I. 2008/2712](#), art. 2, **Sch. para. 1**

**I3** S. 21(2) in force at 31.10.2009 by [S.I. 2009/2606](#), **art. 3(a)**

## 22 Credit for period of remand on bail: other cases

(1) The Criminal Justice Act 2003 (c. 44) is amended in accordance with subsections (2) and (3).

**F16**(2) .....

**F16**(3) .....

(4) In paragraph 2 of Schedule 2 to the Criminal Appeal Act 1968 (c. 19) (sentence on conviction at retrial), in sub-paragraph (4), for the words from the beginning to “custody:” substitute “ Sections 240 and 240A of the Criminal Justice Act 2003 (crediting of periods of remand in custody or on bail subject to certain types of condition: ”.

**F17**(5) .....

**F17**(6) .....

(7) In paragraph 2(1) of Schedule 7 to the International Criminal Court Act 2001 (c. 17) (provisions of law of England and Wales affecting length of sentence which are not applicable to ICC prisoners), for paragraph (d) substitute—

“(d) sections 240 and 240A of the Criminal Justice Act 2003 (crediting of periods spent on remand in custody or on bail subject to certain types of condition: terms of imprisonment and detention).”

#### Textual Amendments

**F16** S. 22(2)(3) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 110(14)(b)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)

**F17** S. 22(5)(6) repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

#### Modifications etc. (not altering text)

**C2** S. 22 modified in part (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2) (3) and 2020 c. 17, ss. 2, 416)) by [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), **ss. 1**, 5(2)(3); S.I. 2012/1236, reg. 2

#### Commencement Information

**I4** S. 22 in force at 3.11.2008 by [S.I. 2008/2712](#), art. 2, **Sch. para. 2**

## **F18** 23 Credit for period of remand on bail: transitional provisions

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#### Textual Amendments

**F18** S. 23 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), [ss. 110\(14\)\(c\), 151\(1\)](#) (with [Sch. 15](#)); S.I. 2012/2906, art. 2(d)

### 24 Minimum conditions for early release under section 246(1) of Criminal Justice Act 2003

In section 246(2) of the Criminal Justice Act 2003 (c. 44) (minimum conditions for early release of fixed-term prisoner other than intermittent custody prisoner) for paragraph (b) substitute “and

- (b) he has served—
- (i) at least 4 weeks of that period, and
  - (ii) at least one-half of that period.”

#### Commencement Information

**I5** S. 24 in force at 14.7.2008 by [S.I. 2008/1586](#), art. 2(1), [Sch. 1 para. 11](#)

### 25 Release on licence under Criminal Justice Act 2003 of prisoners serving extended sentences

- (1) Section 247 of the Criminal Justice Act 2003 (release on licence of prisoner serving extended sentence) is amended as follows.
- (2) In subsection (2)—
  - (a) the word “and” at the end of paragraph (a) is omitted, and
  - (b) paragraph (b) is omitted.
- (3) Subsections (3), (4), (5) and (6) are omitted.

#### Commencement Information

**I6** S. 25 in force at 14.7.2008 by [S.I. 2008/1586](#), art. 2(1), [Sch. 1 para. 12](#) (with savings in [Sch. 2 para. 2](#))

**I7** S. 25 in force at 3.12.2012 in so far as not already in force by [2012 c. 10](#), [Sch. 16 para. 15\(1\)](#); S.I. [2012/2096](#), art. 2(n)

### <sup>F19</sup>26 Release of certain long-term prisoners under Criminal Justice Act 1991

.....

#### Textual Amendments

**F19** Ss. 26-28 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), s. 151(1), [Sch. 16 para. 20\(a\)](#); S.I. 2012/2906, art. 2(n)

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**F19 27 Application of section 35(1) of Criminal Justice Act 1991 to prisoners liable to removal from the UK**

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**Textual Amendments**

**F19** Ss. 26-28 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 16 para. 20\(a\)](#); S.I. 2012/2906, art. 2(n)

**F19 28 Release of fine defaulters and contemnors under Criminal Justice Act 1991**

.....

**Textual Amendments**

**F19** Ss. 26-28 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 16 para. 20\(a\)](#); S.I. 2012/2906, art. 2(n)

**29 Release of prisoners after recall**

(1) In section 254 of the Criminal Justice Act 2003 (c. 44) (recall of prisoners while on licence)—

- (a) subsections (3) to (5) cease to have effect;
- (b) in subsection (7) for “subsections (2) to (6)” substitute “this section”.

**F20**(2) .....

**F20**(3) .....

**Textual Amendments**

**F20** S. 29(2)(3) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 114\(5\)](#), 151(1) (with [Sch. 15](#)); S.I. 2012/2906, art. 2(d)

**Commencement Information**

**I8** S. 29 in force at 14.7.2008 for specified purposes by [S.I. 2008/1586](#), art. 2(1), [Sch. 1 para. 15](#) (with [Sch. 2 para. 3](#))

**I9** S. 29 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/2606](#), [art. 3\(c\)](#)

**30 Further review and release of prisoners after recall**

(1) Section 256 of the Criminal Justice Act 2003 (c. 44) (further release after recall) is amended as follows.

(2) In subsection (1) for paragraph (b) substitute—

“(b) determine the reference by making no recommendation as to his release.”

(3) In subsection (2) omit “or (b)”.

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- (4) Subsections (3) and (5) cease to have effect.
- (5) In consequence of the amendments made by section 29 and this section, the heading to section 256 becomes “ Review by the Board ”.
- (6) After section 256 insert—

**“256A Further review**

- (1) The Secretary of State must, not later than the first anniversary of a determination by the Board under section 256(1) or subsection (4) below, refer the person's case to the Board.
- (2) The Secretary of State may, at any time before that anniversary, refer the person's case to the Board.
- (3) The Board may at any time recommend to the Secretary of State that a person's case be referred under subsection (2).
- (4) On a reference under subsection (1) or (2), the Board must determine the reference by—
  - (a) recommending the person's immediate release on licence under this Chapter,
  - (b) fixing a date for his release on licence, or
  - (c) making no recommendation as to his release.
- (5) The Secretary of State—
  - (a) where the Board makes a recommendation under subsection (4)(a) for the person's immediate release on licence, must give effect to the recommendation; and
  - (b) where the Board fixes a release date under subsection (4)(b), must release the person on licence on that date.”

**Commencement Information**

**I10** S. 30 in force at 14.7.2008 by [S.I. 2008/1586](#), art. 2(1), [Sch. 1 para. 16](#) (with [Sch. 2 para. 3](#))

**31 Recall of life prisoners: abolition of requirement for recommendation by Parole Board**

- (1) Section 32 of the Crime (Sentences) Act 1997 (c. 43) (recall of life prisoners while on licence) is amended as follows.
- (2) For subsections (1) and (2) (power of Secretary of State to revoke licence) substitute—
 

“(1) The Secretary of State may, in the case of any life prisoner who has been released on licence under this Chapter, revoke his licence and recall him to prison.”
- (3) In subsection (3) (representations by prisoner) for “subsection (1) or (2) above” substitute “ this section ”.

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- (4) In subsection (4) (reference to Parole Board by Secretary of State) for paragraphs (a) and (b) substitute “ the case of a life prisoner recalled under this section ”.

**Commencement Information**

**I11** S. 31 in force at 14.7.2008 by [S.I. 2008/1586](#), art. 2(1), [Sch. 1 para. 17](#)

**F21 32 Release of prisoners recalled following release under Criminal Justice Act 1991**

**Textual Amendments**

**F21** S. 32 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), s. 151(1), [Sch. 16 para. 20\(a\)](#); [S.I. 2012/2906](#), art. 2(n)

*Early removal of prisoners from the United Kingdom*

**33 Removal under Criminal Justice Act 1991**

- F22(1) .....
- F23(2) .....
- F22(3) .....
- F23(4) .....
- F22(5) .....
- F22(6) .....
- F23(7) .....
- F23(8) .....

**Textual Amendments**

**F22** S. 33(1)(3)(5)(6) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), s. 151(1), [Sch. 16 para. 20\(a\)](#); [S.I. 2012/2906](#), art. 2(n)  
**F23** S. 33(2)(4)(7)(8) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), [ss. 118\(4\)\(a\)](#), 151(1) (with [Sch. 15](#)); [S.I. 2012/2906](#), art. 2(d)

**34 Removal under Criminal Justice Act 2003**

- (1) In Part 12 of the Criminal Justice Act 2003 (c. 44) (sentencing) Chapter 6 (release on licence) is amended as follows.

F24(2) .....

- (3) Section 260 (early removal of prisoners liable to removal from United Kingdom) is amended as follows.

*Status: This version of this Act contains provisions that are prospective.*

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(4) In subsection (1) (the power of removal)—

(a) for “subsections (2) and (3)” substitute “ subsection (2) ”, and

<sup>F25</sup>(b) .....

(5) For subsection (2) (conditions relating to time) substitute—

“(2) Subsection (1) does not apply in relation to a prisoner unless he has served at least one-half of the requisite custodial period.”

(6) Subsections (3) and (3A) (cases where subsection (1) does not apply) cease to have effect.

<sup>F26</sup>(7) .....

(8) In subsection (6) (order-making powers)—

(a) in paragraph (a) omit “or (3)(e)”,

(b) omit paragraph (b), and

(c) in paragraph (c) for “subsection (2)(b)(ii)” substitute “ subsection (2) ”.

(9) For subsection (7) (meaning of “requisite custodial period”) substitute—

“(7) In this section “requisite custodial period”—

(a) in relation to a prisoner serving an extended sentence imposed under section 227 or 228, means one-half of the appropriate custodial term (determined by the court under that section);

(b) in any other case, has the meaning given by paragraph (a), (b) or (d) of section 244(3).”

<sup>F27</sup>(10) .....

**Textual Amendments**

**F24** S. 34(2) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 118\(4\)\(b\)](#), [151\(1\)](#) (with [Sch. 15](#)); S.I. 2012/2906, art. 2(d)

**F25** S. 34(4)(b) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 118\(4\)\(b\)](#), [151\(1\)](#) (with [Sch. 15](#)); S.I. 2012/2906, art. 2(d)

**F26** S. 34(7) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 118\(4\)\(b\)](#), [151\(1\)](#) (with [Sch. 15](#)); S.I. 2012/2906, art. 2(d)

**F27** S. 34(10) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 118\(4\)\(b\)](#), [151\(1\)](#) (with [Sch. 15](#)); S.I. 2012/2906, art. 2(d)

**Commencement Information**

**I12** S. 34(1)(3)(4)(a)(5)(6)(8)(9) in force at 3.11.2008 by [S.I. 2008/2712](#), art. 2, [Sch. para. 5](#)

*Referral orders*

<sup>F28</sup>**35 Referral conditions**

.....

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**Textual Amendments**

**F28** Ss. 35-38 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F28 36 Power to revoke a referral order**

.....

**Textual Amendments**

**F28** Ss. 35-38 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F28 37 Extension of period for which young offender contract has effect**

.....

**Textual Amendments**

**F28** Ss. 35-38 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

*Enforcement of sentences*

**F28 38 Imposition of unpaid work requirement for breach of community order**

.....

**Textual Amendments**

**F28** Ss. 35-38 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

PROSPECTIVE

**39 Youth default orders**

- (1) Subsection (2) applies in any case where, in respect of a person aged under 18, a magistrates' court would, but for [<sup>F29</sup>section 227 of the Sentencing Code] (restrictions on custodial sentences), have power to issue a warrant of commitment for default in paying a sum adjudged to be paid by a conviction (other than a sum ordered to be paid under section 6 of the Proceeds of Crime Act 2002 (c. 29)).
- (2) The magistrates' court may, instead of proceeding under section 81 of the Magistrates' Courts Act 1980 (enforcement of fines imposed on young offender), order the person in default to comply with—

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- (a) in the case of a person aged 16 or 17, an unpaid work requirement (see [F30Part 3 of Schedule 6 to the Sentencing Code]),
  - (b) an attendance centre requirement (see [F31Part 5] of that Schedule), or
  - (c) a curfew requirement (see [F32Part 7] of that Schedule).
- (3) In this section (and Schedule 7) “youth default order” means an order under subsection (2).
- [F33(4) A youth default order—
- (a) may, in addition to any other requirement that it imposes, impose an [F34electronic compliance monitoring requirement] (see sections 173 and 174 of the Sentencing Code), and
  - (b) must do so where, in the case of a youth rehabilitation order, such a requirement would be required by paragraph 19(3) of Schedule 6 to the Sentencing Code.]
- (5) Where a magistrates' court has power to make a youth default order, it may, if it thinks it expedient to do so, postpone the making of the order until such time and on such conditions (if any) as it thinks just.
- [F35(6) The following provisions of the Sentencing Code have effect in relation to youth default orders as they have effect in relation to youth rehabilitation orders, but subject to the modifications contained in Schedule 7 to this Act—
- (a) sections 186(2), (10) and (11), 188, 190 to 192, 197, 198(3) to (5), [F36198A,] 397(1), 400 and 403 to 405 (youth rehabilitation orders: responsible officer, interpretation and further provisions),
  - (b) Parts 3, 5 [F37and 7] of Schedule 6 (youth rehabilitation orders: requirements),
  - [F38(ba) Part 17 of that Schedule (electronic monitoring requirements), so far as it applies to electronic compliance monitoring requirements,]
  - (c) Schedule 7 (breach, revocation or amendment of youth rehabilitation order),
  - (d) Schedule 8 (transfer of youth rehabilitation orders to Northern Ireland), and
  - (e) paragraph 9 of Schedule 23 (power to amend limits).]
- (7) Where a youth default order has been made for default in paying any sum—
- (a) on payment of the whole sum to any person authorised to receive it, the order ceases to have effect, and
  - (b) on payment of a part of the sum to any such person, the total number of hours or days to which the order relates is to be taken to be reduced by a proportion corresponding to that which the part paid bears to the whole sum.
- (8) In calculating any reduction required by subsection (7)(b), any fraction of a day or hour is to be disregarded.

#### Textual Amendments

- F29** Words in s. 39(1) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 266\(2\)](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F30** Words in s. 39(2)(a) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 266\(3\)\(a\)](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F31** Words in s. 39(2)(b) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 266\(3\)\(b\)](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2



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- F32** Words in s. 39(2)(c) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 266(3)(c)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2
- F33** S. 39(4) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 266(4)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2
- F34** Words in s. 39(4)(a) substituted (28.4.2022 for specified purposes, 3.7.2023 in relation to specified areas until 3.1.2025) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 161, 208(4)(r), **Sch. 17 para. 2(2)**; S.I. 2023/705, regs. 2, 3, 4(1), Sch. (with reg. 4(2))
- F35** S. 39(6) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 266(5)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2
- F36** Word in s. 39(6)(a) inserted (28.4.2022 for specified purposes, 3.7.2023 in relation to specified areas until 3.1.2025) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 161, 208(4)(r), **Sch. 17 para. 2(3)(a)**; S.I. 2023/705, regs. 2, 3, 4(1), Sch. (with reg. 4(2))
- F37** Words in s. 39(6)(b) substituted (28.4.2022 for specified purposes, 3.7.2023 in relation to specified areas until 3.1.2025) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 161, 208(4)(r), **Sch. 17 para. 2(3)(b)**; S.I. 2023/705, regs. 2, 3, 4(1), Sch. (with reg. 4(2))
- F38** S. 39(6)(ba) inserted (28.4.2022 for specified purposes, 3.7.2023 in relation to specified areas until 3.1.2025) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 161, 208(4)(r), **Sch. 17 para. 2(3)(c)**; S.I. 2023/705, regs. 2, 3, 4(1), Sch. (with reg. 4(2))

#### **40 Power to impose attendance centre requirement on fine defaulter**

- (1) Section 300 of the Criminal Justice Act 2003 (c. 44) (power to impose unpaid work requirement or curfew requirement on fine defaulter) is amended as follows.
- (2) In the heading for “or curfew requirement” substitute “ curfew requirement or attendance centre requirement ”.
- (3) In subsection (2), at the end of paragraph (b) insert “, or
  - (c) in a case where the person is aged under 25, an attendance centre requirement (as defined by section 214)”.

#### **Commencement Information**

**I13** S. 40 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 20**

#### **41 Disclosure of information for enforcing fines**

- (1) Part 3 of Schedule 5 to the Courts Act 2003 (c. 39) (attachment of earnings orders and applications for benefit deductions) is amended as follows.
- (2) After paragraph 9 insert—

##### **9A “Disclosure of information in connection with application for benefit deductions**

- (1) The designated officer for a magistrates' court may make an information request to the Secretary of State for the purpose of facilitating the making of a decision by the court as to whether it is practicable or appropriate to make an application for benefit deductions in respect of P.
- (2) An information request is a request for the disclosure of some or all of the following information—

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- (a) P's full name;
  - (b) P's address (or any of P's addresses);
  - (c) P's date of birth;
  - (d) P's national insurance number;
  - (e) P's benefit status.
- (3) On receiving an information request, the Secretary of State may disclose the information requested to—
- (a) the officer who made the request, or
  - (b) a justices' clerk specified in the request.

#### **9B Restrictions on disclosure**

- (1) A person to whom information is disclosed under paragraph 9A(3), or this sub-paragraph, may disclose the information to any person to whom its disclosure is necessary or expedient in connection with facilitating the making of a decision by the court as to whether it is practicable or appropriate to make an application for benefit deductions in respect of P.
- (2) A person to whom such information is disclosed commits an offence if the person—
- (a) discloses or uses the information, and
  - (b) the disclosure is not authorised by sub-paragraph (1) or (as the case may be) the use is not for the purpose of facilitating the making of such a decision as is mentioned in that sub-paragraph.
- (3) But it is not an offence under sub-paragraph (2)—
- (a) to disclose any information in accordance with any enactment or order of a court or for the purposes of any proceedings before a court; or
  - (b) to disclose any information which has previously been lawfully disclosed to the public.
- (4) It is a defence for a person charged with an offence under sub-paragraph (2) to prove that the person reasonably believed that the disclosure or use was lawful.
- (5) A person guilty of an offence under sub-paragraph (2) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

#### **9C Paragraphs 9A and 9B: supplementary**

- (1) This paragraph applies for the purposes of paragraphs 9A and 9B.
- (2) “Benefit status”, in relation to P, means whether or not P is in receipt of any prescribed benefit or benefits and, if so (in the case of each benefit)—
- (a) which benefit it is,
  - (b) where it is already subject to deductions under any enactment, the nature of the deductions concerned, and
  - (c) the amount received by P by way of the benefit, after allowing for any such deductions.
- (3) “Information” means information held in any form.

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- (4) “Prescribed” means prescribed by regulations made by the Lord Chancellor.
- (5) Nothing in paragraph 9A or 9B authorises the making of a disclosure which contravenes the Data Protection Act 1998.”

#### Commencement Information

**I14** S. 41 in force at 3.11.2008 by S.I. 2008/2712, art. 2, Sch. para. 6

### PART 3

#### APPEALS

##### *Appeals by defendant*

#### **42 Power to dismiss certain appeals following references by the CCRC: England and Wales**

After section 16B of the Criminal Appeal Act 1968 (c. 19) insert—

*“Appeals following references by the CCRC*

##### **16C Power to dismiss certain appeals following references by the CCRC**

- (1) This section applies where there is an appeal under this Part following a reference by the Criminal Cases Review Commission under section 9(1)(a), (5) or (6) of the Criminal Appeal Act 1995 or section 1(1) of the Criminal Cases Review (Insanity) Act 1999.
- (2) Notwithstanding anything in section 2, 13 or 16 of this Act, the Court of Appeal may dismiss the appeal if—
  - (a) the only ground for allowing it would be that there has been a development in the law since the date of the conviction, verdict or finding that is the subject of the appeal, and
  - (b) the condition in subsection (3) is met.
- (3) The condition in this subsection is that if—
  - (a) the reference had not been made, but
  - (b) the appellant had made (and had been entitled to make) an application for an extension of time within which to seek leave to appeal on the ground of the development in the law,the Court would not think it appropriate to grant the application by exercising the power conferred by section 18(3).”

#### Commencement Information

**I15** S. 42 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 21

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#### 43 **Power to dismiss certain appeals following references by the CCRC: Northern Ireland**

After section 13A of the Criminal Appeal (Northern Ireland) Act 1980 (c. 47) insert—

*“Appeals following references by the CCRC*

##### **13B Power to dismiss certain appeals following references by the CCRC**

- (1) This section applies where there is an appeal under this Part following a reference by the Criminal Cases Review Commission under section 10(1)(a), (6) or (7) of the Criminal Appeal Act 1995 or section 1(1) of the Criminal Cases Review (Insanity) Act 1999.
- (2) Notwithstanding anything in section 2, 12 or 13A of this Act, the Court of Appeal may dismiss the appeal if—
  - (a) the only ground for allowing it would be that there has been a development in the law since the date of the conviction, verdict or finding that is the subject of the appeal, and
  - (b) the condition in subsection (3) is met.
- (3) The condition in this subsection is that if—
  - (a) the reference had not been made, but
  - (b) the appellant had made (and had been entitled to make) an application for an extension of time within which to seek leave to appeal on the ground of the development in the law,
 the Court would not think it appropriate to grant the application by exercising the power conferred by section 16(2).”

##### **Commencement Information**

**I16** S. 43 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 22

*Appeals by prosecution*

#### 44 **Determination of prosecution appeals: England and Wales**

In section 61 of the Criminal Justice Act 2003 (c. 44) (determination of prosecution appeal by Court of Appeal) for subsection (5) substitute—

“(5) But the Court of Appeal may not make an order under subsection (4)(c) in respect of an offence unless it considers that the defendant could not receive a fair trial if an order were made under subsection (4)(a) or (b).”

##### **Commencement Information**

**I17** S. 44 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 23

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#### 45 Determination of prosecution appeals: Northern Ireland

In Article 20 of the Criminal Justice (Northern Ireland) Order 2004 (S.I. 2004/1500 (N.I.9)) (determination of prosecution appeal by Court of Appeal) for paragraph (5) substitute—

“(5) But the Court of Appeal may not make an order under paragraph (4)(c) in respect of an offence unless it considers that the defendant could not receive a fair trial if an order were made under paragraph (4)(a) or (b).”

##### Commencement Information

**I18** S. 45 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 24

#### Miscellaneous

#### 46 Review of sentence on reference by Attorney General

(1) Section 36 of the Criminal Justice Act 1988 (c. 33) (reviews of sentencing) is amended as follows.

[<sup>F39</sup>(2) In subsection (3A) (as amended by paragraph 89(3) of Schedule 24 to the Sentencing Act 2020) omit “in respect of an offence the sentence for which is fixed by law]

(3) In subsection (9) after paragraph (b) insert “, and

(c) the reference in subsection (3A) to an order specified in subsection (3B) shall be construed as a reference to an order under Article 5(1) of the Life Sentences (Northern Ireland) Order 2001.”

##### Textual Amendments

**F39** S. 46(2) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 267 (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

##### Commencement Information

**I19** S. 46(1)(3) in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 25

#### 47 Further amendments relating to appeals in criminal cases

Schedule 8 amends the Criminal Appeal Act 1968 (c. 19), the Criminal Appeal (Northern Ireland) Act 1980 (c. 47) and other Acts relating to appeals in criminal cases.

##### Commencement Information

**I20** S. 47 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 26

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## PART 4

### OTHER CRIMINAL JUSTICE PROVISIONS

#### *Alternatives to prosecution*

#### 48 Alternatives to prosecution for offenders under 18

- (1) Schedule 9 amends the Crime and Disorder Act 1998 (c. 37)—
- (a) to make provision for the giving of youth conditional cautions to children and young persons, <sup>F40</sup> ...
  - <sup>F40</sup>(b) .....
- (2) The Secretary of State may by order amend the Crime and Disorder Act 1998 (c. 37), as amended by Schedule 9, so as to vary the provision made by it for the giving of youth conditional cautions to children and young persons under the age of 16 (including doing so by adding or omitting any provision).

#### Textual Amendments

- F40** S. 48(1)(b) and preceding word omitted (8.4.2013) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 24 para. 29](#) (with s. 135(4)); S.I. 2013/453, art. 4(f)

#### Commencement Information

- I21** S. 48(1)(a) in force at 1.2.2009 by [S.I. 2009/140](#), art. 2(a)
- I22** S. 48(1)(b) in force at 16.11.2009 for specified purposes by [S.I. 2009/2780](#), art. 2(1)(a)

#### 49 Protection for spent cautions under Rehabilitation of Offenders Act 1974

- (1) Schedule 10 amends the Rehabilitation of Offenders Act 1974 (c. 53) so as to provide for the protection of spent cautions.
- (2) The provisions of Schedule 10 (and this section) extend only to England and Wales.

#### Commencement Information

- I23** S. 49 in force at 19.12.2008 by [S.I. 2008/3260](#), art. 2(1)(a)

#### 50 Criminal conviction certificates and criminal record certificates

- (1) Part 5 of the Police Act 1997 (c. 50) (certificates of criminal records) is amended as follows.
- (2) In section 112 (criminal conviction certificates)—
- (a) in the definition of “central records”, after “convictions” insert “ and conditional cautions ”;
  - (b) after that definition insert—
 

““conditional caution” means a caution given under section 22 of the Criminal Justice Act 2003 (c. 44) or section 66A of the Crime and

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Disorder Act 1998, other than one that is spent for the purposes of Schedule 2 to the Rehabilitation of Offenders Act 1974.”

- (3) In section 113A(6) (criminal record certificates)—
- (a) in the definition of “exempted question”, after “a question” insert “which—  
 (“) so far as it applies to convictions, is a question”;
  - (b) in that definition, at the end insert “; and—  
 (“) so far as it applies to cautions, is a question to which paragraph 3(3) or (4) of Schedule 2 to that Act has been excluded by an order of the Secretary of State under paragraph 4 of that Schedule;”;
  - (c) in the definition of “relevant matter”, after “caution” insert “ , including a caution that is spent for the purposes of Schedule 2 to that Act ”.
- (4) This section extends to England and Wales only.

**Commencement Information**

**I24** S. 50 in force at 19.12.2008 by S.I. 2008/3260, art. 2(1)(b)

*Bail*

**51 Bail conditions: electronic monitoring**

Schedule 11 makes provision in connection with the electronic monitoring of persons released on bail subject to conditions.

**Commencement Information**

**I25** S. 51 in force at 3.11.2008 by S.I. 2008/2712, art. 2, Sch. para. 7

**52 Bail for summary offences and certain other offences to be tried summarily**

Schedule 12—

- (a) imposes a duty on a magistrates' court considering whether to withhold or grant bail in relation to a person under 18 accused of an offence mentioned in Schedule 2 to the Magistrates' Courts Act 1980 (c. 43) (offences for which the value involved is relevant to the mode of trial) to consider the value involved in the offence; and
- (b) amends Schedule 1 to the Bail Act 1976 (persons entitled to bail: supplementary provisions).

**Commencement Information**

**I26** S. 52 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 27

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*Proceedings in magistrates' courts*

**53 Allocation of offences triable either way etc.**

Schedule 13 amends Schedule 3 to the Criminal Justice Act 2003 (c. 44) (which makes provision in relation to the allocation and other treatment of offences triable either way, and the sending of cases to the Crown Court).

**54 Trial or sentencing in absence of accused in magistrates' courts**

- (1) Section 11 of the Magistrates' Courts Act 1980 (non-appearance of accused) is amended as follows.
- (2) In subsection (1), for “the court may proceed in his absence” substitute “—
  - (a) if the accused is under 18 years of age, the court may proceed in his absence; and
  - (b) if the accused has attained the age of 18 years, the court shall proceed in his absence unless it appears to the court to be contrary to the interests of justice to do so.

This is subject to subsections (2), (2A), (3) and (4). ”

- (3) After subsection (2) insert—

“(2A) The court shall not proceed in the absence of the accused if it considers that there is an acceptable reason for his failure to appear.”

- (4) In each of subsections (3) and (4), for “A magistrates' court” substitute “ In proceedings to which this subsection applies, the court. ”

- (5) After subsection (3) insert—

“(3A) But where a sentence or order of a kind mentioned in subsection (3) is imposed or given in the absence of the offender, the offender must be brought before the court before being taken to a prison or other institution to begin serving his sentence (and the sentence or order is not to be regarded as taking effect until he is brought before the court).”

- (6) After subsection (4) insert—

“(5) Subsections (3) and (4) apply to—

- (a) proceedings instituted by an information, where a summons has been issued; and
- (b) proceedings instituted by a written charge.

- (6) Nothing in this section requires the court to enquire into the reasons for the accused's failure to appear before deciding whether to proceed in his absence.

- (7) The court shall state in open court its reasons for not proceeding under this section in the absence of an accused who has attained the age of 18 years; and the court shall cause those reasons to be entered in its register of proceedings.”

- (7) Section 13(5) of that Act (non-appearance of accused: issue of warrant) ceases to have effect.



*Status:* This version of this Act contains provisions that are prospective.

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

#### Commencement Information

I27 S. 54 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 28

### 55 Extension of powers of non-legal staff

(1) Section 7A of the Prosecution of Offences Act 1985 (c. 23) (powers of non-legal staff) is amended as follows.

(2) In subsection (2) (powers of designated non-legal staff)—

(a) in paragraph (a)(ii), after “trials” insert “ of offences triable either way or offences which are punishable with imprisonment in the case of persons aged 21 or over ”;

(b) after paragraph (a)(ii) insert—

“(iii) the conduct of applications or other proceedings relating to preventative civil orders;

(iv) the conduct of proceedings (other than criminal proceedings) in, or in connection with, the discharge of functions assigned to the Director under section 3(2)(g) above.”;

(c) for paragraph (b) substitute—

“(b) any powers of a Crown Prosecutor that do not involve the exercise of such rights of audience as are mentioned in paragraph (a) above but are exercisable in relation to the conduct of—

(i) criminal proceedings in magistrates' courts, or

(ii) applications or proceedings falling within paragraph (a)(iii) or (iv).”

(3) For subsection (5) (interpretation) substitute—

“(5) In this section—

“bail in criminal proceedings” has the same meaning as in the Bail Act 1976 (see section 1 of that Act);

“preventative civil orders” means—

(a) orders within section 3(2)(fa) to (fe) above;

(b) orders under section 5 or 5A of the Protection from Harassment Act 1997 (restraining orders); or

(c) orders under section 8 of the Crime and Disorder Act 1998 (parenting orders).

(5A) For the purposes of this section a trial begins with the opening of the prosecution case after the entry of a plea of not guilty and ends with the conviction or acquittal of the accused.”

(4) Omit subsection (6) (powers not applicable to offences triable only on indictment etc.).

(5) After subsection (7) insert—

“(8) As from 1 May 2011 nothing in this section confers on persons designated under this section—

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- (a) any rights of audience, or
  - (b) any right to conduct litigation,
- for the purposes of Part 3 of the Legal Services Act 2007 (reserved legal activities).
- (9) As from that date the following provisions of that Act accordingly do not apply to persons designated under this section—
- (a) paragraph 1(3) of Schedule 3 (exemption for persons with statutory rights of audience), and
  - (b) paragraph 2(3) of that Schedule (exemption for persons with statutory right to conduct litigation).
- (10) The Attorney General may by order make such modifications in the application of any enactment (including this section) in relation to persons designated under this section as the Attorney General considers appropriate in consequence of, or in connection with, the matters provided for by subsections (8) and (9).
- (11) The Attorney General may also by order amend subsection (2)(a)(ii) so as to omit the words “or offences which are punishable with imprisonment in the case of persons aged 21 or over”.
- (12) The power to make an order under subsection (10) or (11) is exercisable by statutory instrument, but a statutory instrument containing such an order may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”
- (6) In section 15 of that Act (interpretation of Part 1) in subsection (4) (provisions for the purposes of which binding over proceedings are to be taken to be criminal proceedings) for “and 7(1)” substitute “ , 7(1) and 7A ”.

**Commencement Information**

**I28** S. 55 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 29

*Criminal legal aid*

**F41 56 Provisional grant of right to representation**

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**Textual Amendments**

**F41** Ss. 56-58 repealed (1.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), s. 151(1), [Sch. 5 Pt. 2](#); S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)

**F41 57 Disclosure of information to enable assessment of financial eligibility**

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*Status:* This version of this Act contains provisions that are prospective.

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**Textual Amendments**

**F41** Ss. 56-58 repealed (1.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), s. 151(1), [Sch. 5 Pt. 2](#); S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)

**F41 58 Pilot schemes**

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**Textual Amendments**

**F41** Ss. 56-58 repealed (1.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), s. 151(1), [Sch. 5 Pt. 2](#); S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)

*Miscellaneous*

**59 SFO's pre-investigation powers in relation to bribery and corruption: foreign officers etc.**

- (1) The Criminal Justice Act 1987 (c. 38) is amended as follows.
- (2) After section 2 insert—

**“2A Director's pre-investigation powers in relation to bribery and corruption: foreign officers etc**

- (1) The powers of the Director under section 2 are also exercisable for the purpose of enabling him to determine whether to start an investigation under section 1 in a case where it appears to him that conduct to which this section applies may have taken place.
- (2) But—
  - (a) the power under subsection (2) of section 2 is so exercisable only if it appears to the Director that for the purpose of enabling him to make that determination it is expedient to require any person appearing to him to have relevant information to do as mentioned in that subsection, and
  - (b) the power under subsection (3) of that section is so exercisable only if it appears to the Director that for that purpose it is expedient to require any person to do as mentioned in that subsection.
- (3) Accordingly, where the powers of the Director under section 2 are exercisable in accordance with subsections (1) and (2) above—
  - (a) the reference in subsection (2) of that section to the person under investigation or any other person whom the Director has reason to believe has relevant information is to be read as a reference to any such person as is mentioned in subsection (2)(a) above,

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- (b) the reference in subsection (3) of that section to the person under investigation or any other person is to be read as a reference to any such person as is mentioned in subsection (2)(b) above, and
  - (c) any reference in subsection (2), (3) or (4) of that section to the investigation is to be read as a reference to the making of any such determination as is mentioned in subsection (1) above.
- (4) Any reference in section 2(16) to the carrying out of an investigation by the Serious Fraud Office into serious or complex fraud includes a reference to the making of any such determination as is mentioned in subsection (1) above.
- (5) This section applies to any conduct which, as a result of section 108 of the Anti-terrorism, Crime and Security Act 2001 (bribery and corruption: foreign officers etc), constitutes a corruption offence (wherever committed).
- (6) The following are corruption offences for the purposes of this section—
- (a) any common law offence of bribery;
  - (b) the offences under section 1 of the Public Bodies Corrupt Practices Act 1889 (corruption in office); and
  - (c) the offences under section 1 of the Prevention of Corruption Act 1906 (corrupt transactions with agents)."
- (3) In section 17 (extent)—
- (a) in subsection (2) (provisions of Act extending to Scotland), for "section 2" substitute "sections 2 and 2A "; and
  - (b) in subsection (3) (provisions of Act extending to Northern Ireland), after "sections 2" insert " , 2A ".

#### Commencement Information

**I29** S. 59 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 33

## 60 Contents of an accused's defence statement

- (1) In section 6A(1) of the Criminal Procedure and Investigations Act 1996 (c. 25) (contents of defence statement), after "prosecution," in paragraph (c) insert—
- “(ca) setting out particulars of the matters of fact on which he intends to rely for the purposes of his defence,”.
- (2) In section 11(2)(f)(ii) of that Act (faults in disclosure by accused), after "matter" insert " (or any particular of any matter of fact) ”.

#### Commencement Information

**I30** S. 60 in force at 3.11.2008 by S.I. 2008/2712, art. 2, Sch. para. 8 (with art. 3)

## 61 Compensation for miscarriages of justice

- (1) The Criminal Justice Act 1988 (c. 33) has effect subject to the following amendments.
- (2) Section 133 (compensation for miscarriages of justice) is amended as follows.

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- (3) At the end of subsection (2) (compensation only payable if application for compensation is made) insert “before the end of the period of 2 years beginning with the date on which the conviction of the person concerned is reversed or he is pardoned.
- (2A) But the Secretary of State may direct that an application for compensation made after the end of that period is to be treated as if it had been made within that period if the Secretary of State considers that there are exceptional circumstances which justify doing so.”
- (4) For subsection (4A) substitute—
- “(4A) Section 133A applies in relation to the assessment of the amount of the compensation.”
- (5) After subsection (5) (meaning of “reversed” in relation to a conviction) insert—
- “(5A) But in a case where—
- (a) a person's conviction for an offence is quashed on an appeal out of time, and
- (b) the person is to be subject to a retrial,
- the conviction is not to be treated for the purposes of this section as “reversed” unless and until the person is acquitted of all offences at the retrial or the prosecution indicates that it has decided not to proceed with the retrial.
- (5B) In subsection (5A) above any reference to a retrial includes a reference to proceedings held following the remission of a matter to a magistrates' court by the Crown Court under section 48(2)(b) of the Supreme Court Act 1981.”
- (6) In subsection (6) (meaning of suffering punishment as a result of conviction) after “this section” insert “ and section 133A ”.
- (7) After section 133 insert—

**“133A Miscarriages of justice: amount of compensation**

- (1) This section applies where an assessor is required to assess the amount of compensation payable to or in respect of a person under section 133 for a miscarriage of justice.
- (2) In assessing so much of any compensation payable under section 133 as is attributable to suffering, harm to reputation or similar damage, the assessor must have regard in particular to—
- (a) the seriousness of the offence of which the person was convicted and the severity of the punishment suffered as a result of the conviction, and
- (b) the conduct of the investigation and prosecution of the offence.
- (3) The assessor may make from the total amount of compensation that the assessor would otherwise have assessed as payable under section 133 any deduction or deductions that the assessor considers appropriate by reason of either or both of the following—
- (a) any conduct of the person appearing to the assessor to have directly or indirectly caused, or contributed to, the conviction concerned; and

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- (b) any other convictions of the person and any punishment suffered as a result of them.
- (4) If, having had regard to any matters falling within subsection (3)(a) or (b), the assessor considers that there are exceptional circumstances which justify doing so, the assessor may determine that the amount of compensation payable under section 133 is to be a nominal amount only.
- (5) The total amount of compensation payable to or in respect of a person under section 133 for a particular miscarriage of justice must not exceed the overall compensation limit. That limit is—
  - (a) £1 million in a case to which section 133B applies, and
  - (b) £500,000 in any other case.
- (6) The total amount of compensation payable under section 133 for a person's loss of earnings or earnings capacity in respect of any one year must not exceed the earnings compensation limit.
 

That limit is an amount equal to 1.5 times the median annual gross earnings according to the latest figures published by the Office of National Statistics at the time of the assessment.
- (7) The Secretary of State may by order made by statutory instrument amend subsection (5) or (6) so as to alter any amount for the time being specified as the overall compensation limit or the earnings compensation limit.
- (8) No order may be made under subsection (7) unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.

### **133B Cases where person has been detained for at least 10 years**

- (1) For the purposes of section 133A(5) this section applies to any case where the person concerned (“P”) has been in qualifying detention for a period (or total period) of at least 10 years by the time when—
  - (a) the conviction is reversed, or
  - (b) the pardon is given,
 as mentioned in section 133(1).
- (2) P was “in qualifying detention” at any time when P was detained in a prison, a hospital or at any other place, if P was so detained—
  - (a) by virtue of a sentence passed in respect of the relevant offence,
  - (b) under mental health legislation by reason of P's conviction of that offence (disregarding any conditions other than the fact of the conviction that had to be fulfilled in order for P to be so detained), or
  - (c) as a result of P's having been remanded in custody in connection with the relevant offence or with any other offence the charge for which was founded on the same facts or evidence as that for the relevant offence.
- (3) In calculating the period (or total period) during which P has been in qualifying detention as mentioned in subsection (1), no account is to be taken of any period of time during which P was both—
  - (a) in qualifying detention, and

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- (b) in excluded concurrent detention.
- (4) P was “in excluded concurrent detention” at any time when P was detained in a prison, a hospital or at any other place, if P was so detained—
  - (a) during the term of a sentence passed in respect of an offence other than the relevant offence,
  - (b) under mental health legislation by reason of P's conviction of any such other offence (disregarding any conditions other than the fact of the conviction that had to be fulfilled in order for P to be so detained), or
  - (c) as a result of P's having been remanded in custody in connection with an offence for which P was subsequently convicted other than—
    - (i) the relevant offence, or
    - (ii) any other offence the charge for which was founded on the same facts or evidence as that for the relevant offence.
- (5) But P was not “in excluded concurrent detention” at any time by virtue of subsection (4)(a), (b) or (c) if P's conviction of the other offence mentioned in that provision was quashed on appeal, or a pardon was given in respect of it.
- (6) In this section—
  - “mental health legislation” means—
    - (a) Part 3 of the Mental Health Act 1983,
    - (b) Part 3 of the Mental Health (Northern Ireland) Order 1986, or
    - (c) the provisions of any earlier enactment corresponding to Part 3 of that Act or Part 3 of that Order;
  - “the relevant offence” means the offence in respect of which the conviction is quashed or the pardon is given (but see subsection (7));
  - “remanded in custody” is to be read in accordance with subsections (8) and (9);
  - “reversed” has the same meaning as in section 133 of this Act.
- (7) If, as a result of the miscarriage of justice—
  - (a) two or more convictions are reversed, or
  - (b) a pardon is given in respect of two or more offences,“the relevant offence” means any of the offences concerned.
- (8) In relation to England and Wales, “remanded in custody” has the meaning given by section 242(2) of the Criminal Justice Act 2003, but that subsection applies for the purposes of this section as if any reference there to a provision of the Mental Health Act 1983 included a reference to any corresponding provision of any earlier enactment.
- (9) In relation to Northern Ireland, “remanded in custody” means—
  - (a) remanded in or committed to custody by an order of a court, or
  - (b) remanded, admitted or removed to hospital under Article 42, 43, 45 or 54 of the Mental Health (Northern Ireland) Order 1986 or under any corresponding provision of any earlier enactment.”
- (8) In section 172 (extent) in subsection (3) (provisions extending to Northern Ireland as well as England and Wales) for “section 133” substitute “ sections 133 to 133B ”.
- (9) This section extends to England and Wales and Northern Ireland.

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#### Commencement Information

**I31** S. 61 in force at 1.12.2008 by S.I. 2008/2993, art. 2(1)(a)

### 62 Annual report on Criminal Justice (Terrorism and Conspiracy) Act 1998

- (1) Section 8 of the Criminal Justice (Terrorism and Conspiracy) Act 1998 (c. 40) (requirement for annual report on working of the Act) ceases to have effect.
- (2) The following provisions, namely—
  - (a) subsection (1), and
  - (b) the repeal of section 8 of that Act in Part 4 of Schedule 28,
 extend to England and Wales and Northern Ireland.

## PART 5

### CRIMINAL LAW

#### *Pornography etc.*

### 63 Possession of extreme pornographic images

- (1) It is an offence for a person to be in possession of an extreme pornographic image.
- (2) An “extreme pornographic image” is an image which is both—
  - (a) pornographic, and
  - (b) an extreme image.
- (3) An image is “pornographic” if it is of such a nature that it must reasonably be assumed to have been produced solely or principally for the purpose of sexual arousal.
- (4) Where (as found in the person's possession) an image forms part of a series of images, the question whether the image is of such a nature as is mentioned in subsection (3) is to be determined by reference to—
  - (a) the image itself, and
  - (b) (if the series of images is such as to be capable of providing a context for the image) the context in which it occurs in the series of images.
- (5) So, for example, where—
  - (a) an image forms an integral part of a narrative constituted by a series of images, and
  - (b) having regard to those images as a whole, they are not of such a nature that they must reasonably be assumed to have been produced solely or principally for the purpose of sexual arousal,
 the image may, by virtue of being part of that narrative, be found not to be pornographic, even though it might have been found to be pornographic if taken by itself.

<sup>F42</sup>(5A) In relation to possession of an image in England and Wales, an “extreme image” is an image which—



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- (a) falls within subsection (7) or (7A), and
  - (b) is grossly offensive, disgusting or otherwise of an obscene character.]
- (6) [<sup>F43</sup>In relation to possession of an image in Northern Ireland, an] “extreme image” is an image which—
- (a) falls within subsection (7) [<sup>F44</sup>or (7A)] , and
  - (b) is grossly offensive, disgusting or otherwise of an obscene character.
- (7) An image falls within this subsection if it portrays, in an explicit and realistic way, any of the following—
- (a) an act which threatens a person's life,
  - (b) an act which results, or is likely to result, in serious injury to a person's anus, breasts or genitals,
  - (c) an act which involves sexual interference with a human corpse, or
  - (d) a person performing an act of intercourse or oral sex with an animal (whether dead or alive),

and a reasonable person looking at the image would think that any such person or animal was real.

[<sup>F45</sup>(7A) An image falls within this subsection if it portrays, in an explicit and realistic way, either of the following—

- (a) an act which involves the non-consensual penetration of a person's vagina, anus or mouth by another with the other person's penis, or
- (b) an act which involves the non-consensual sexual penetration of a person's vagina or anus by another with a part of the other person's body or anything else,

and a reasonable person looking at the image would think that the persons were real.

(7B) For the purposes of subsection (7A)—

- (a) penetration is a continuing act from entry to withdrawal;
- (b) “vagina” includes vulva.]

(8) In this section “image” means—

- (a) a moving or still image (produced by any means); or
- (b) data (stored by any means) which is capable of conversion into an image within paragraph (a).

(9) In this section references to a part of the body include references to a part surgically constructed (in particular through gender reassignment surgery).

(10) Proceedings for an offence under this section may not be instituted—

- (a) in England and Wales, except by or with the consent of the Director of Public Prosecutions; or
- (b) in Northern Ireland, except by or with the consent of the Director of Public Prosecutions for Northern Ireland.

#### Textual Amendments

**F42** S. 63(5A) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), **ss. 37(2)(a)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 31 (with Sch. 2 para. 1)

**F43** Words in s. 63(6) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), **ss. 37(2)(b)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 31 (with Sch. 2 para. 1)

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- F44** Words in s. 63(6) inserted (N.I.) (13.5.2016) by [Justice Act \(NorthernIreland\) 2016 \(c. 21\)](#), **ss. 50(2), 61(1)**
- F45** S. 63(7A)(7B) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), **ss. 37(2)(c), 95(1)**; [S.I. 2015/778](#), art. 3, Sch. 1 para. 31 (with Sch. 2 para. 1)

#### Commencement Information

- I32** S. 63 in force at 26.1.2009 by [S.I. 2008/2993](#), **art. 2(2)(a)**

## 64 Exclusion of classified films etc.

- (1) Section 63 does not apply to excluded images.
- (2) An “excluded image” is an image which forms part of a series of images contained in a recording of the whole or part of a classified work.
- (3) But such an image is not an “excluded image” if—
  - (a) it is contained in a recording of an extract from a classified work, and
  - (b) it is of such a nature that it must reasonably be assumed to have been extracted (whether with or without other images) solely or principally for the purpose of sexual arousal.
- (4) Where an extracted image is one of a series of images contained in the recording, the question whether the image is of such a nature as is mentioned in subsection (3)(b) is to be determined by reference to—
  - (a) the image itself, and
  - (b) (if the series of images is such as to be capable of providing a context for the image) the context in which it occurs in the series of images;
 and section 63(5) applies in connection with determining that question as it applies in connection with determining whether an image is pornographic.
- (5) In determining for the purposes of this section whether a recording is a recording of the whole or part of a classified work, any alteration attributable to—
  - (a) a defect caused for technical reasons or by inadvertence on the part of any person, or
  - (b) the inclusion in the recording of any extraneous material (such as advertisements),
 is to be disregarded.
- (6) Nothing in this section is to be taken as affecting any duty of a designated authority to have regard to section 63 (along with other enactments creating criminal offences) in determining whether a video work is suitable for a classification certificate to be issued in respect of it.
- (7) In this section—
 

“classified work” means (subject to subsection (8)) a video work in respect of which a classification certificate has been issued by a designated authority (whether before or after the commencement of this section);

“classification certificate” and “video work” have the same meanings as in the Video Recordings Act 1984 (c. 39);

“designated authority” means an authority which has been designated by the Secretary of State under section 4 of that Act;

“extract” includes an extract consisting of a single image;

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“image” and “pornographic” have the same meanings as in section 63;  
“recording” means any disc, tape or other device capable of storing data electronically and from which images may be produced (by any means).

(8) Section 22(3) of the Video Recordings Act 1984 (effect of alterations) applies for the purposes of this section as it applies for the purposes of that Act.

#### Commencement Information

I33 S. 64 in force at 26.1.2009 by S.I. 2008/2993, art. 2(2)(b)

### 65 Defences: general

(1) Where a person is charged with an offence under section 63, it is a defence for the person to prove any of the matters mentioned in subsection (2).

(2) The matters are—

- (a) that the person had a legitimate reason for being in possession of the image concerned;
- (b) that the person had not seen the image concerned and did not know, nor had any cause to suspect, it to be an extreme pornographic image;
- (c) that the person—
  - (i) was sent the image concerned without any prior request having been made by or on behalf of the person, and
  - (ii) did not keep it for an unreasonable time.

(3) In this section “extreme pornographic image” and “image” have the same meanings as in section 63.

#### Commencement Information

I34 S. 65 in force at 26.1.2009 by S.I. 2008/2993, art. 2(2)(c)

### 66 Defence: participation in consensual acts

[<sup>F46</sup>(A1) Subsection (A2) applies where in England and Wales—

- (a) a person (“D”) is charged with an offence under section 63, and
- (b) the offence relates to an image that portrays an act or acts within subsection (7) (a) to (c) or (7A) of that section (but does not portray an act within subsection (7)(d) of that section).

(A2) It is a defence for D to prove—

- (a) that D directly participated in the act or any of the acts portrayed, and
- (b) that the act or acts did not involve the infliction of any non-consensual harm on any person, and
- (c) if the image portrays an act within section 63(7)(c), that what is portrayed as a human corpse was not in fact a corpse, and
- (d) if the image portrays an act within section 63(7A), that what is portrayed as non-consensual penetration was in fact consensual.]

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- (1) [<sup>F47</sup>Subsection (2)] applies where [<sup>F48</sup>in Northern Ireland] —
- (a) a person (“D”) is charged with an offence under section 63, and
  - (b) the offence relates to an image that portrays an act or acts [<sup>F49</sup>within subsection (7)(a) to (c) or (7A) of that section (but does not portray an act within subsection (7)(d) of that section).]
- (2) It is a defence for D to prove—
- (a) that D directly participated in the act or any of the acts portrayed, and
  - (b) that the act or acts did not involve the infliction of any non-consensual harm on any person, and
  - (c) if the image portrays an act within section 63(7)(c), that what is portrayed as a human corpse was not in fact a corpse<sup>F50</sup>; and
  - (d) if the image portrays an act within section 63(7A), that what is portrayed as non-consensual penetration was in fact consensual.]
- (3) For the purposes of this section harm inflicted on a person is “non-consensual” harm if—
- (a) the harm is of such a nature that the person cannot, in law, consent to it being inflicted on himself or herself; or
  - (b) where the person can, in law, consent to it being so inflicted, the person does not in fact consent to it being so inflicted.

#### Textual Amendments

- F46** S. 66(A1)(A2) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 37\(3\)\(a\)](#), 95(1); [S.I. 2015/778](#), art. 3, Sch. 1 para. 31 (with Sch. 2 para. 1)
- F47** Words in s. 66(1) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 37\(3\)\(b\)\(i\)](#), 95(1); [S.I. 2015/778](#), art. 3, Sch. 1 para. 31 (with Sch. 2 para. 1)
- F48** Words in s. 66(1) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 37\(3\)\(b\)\(ii\)](#), 95(1); [S.I. 2015/778](#), art. 3, Sch. 1 para. 31 (with Sch. 2 para. 1)
- F49** Words in s. 66(1)(b) substituted (N.I.) (13.5.2016) by [Justice Act \(NorthernIreland\) 2016 \(c. 21\)](#), [ss. 50\(3\)\(a\)](#), 61(1)
- F50** S. 66(2)(d) and preceding word inserted (N.I.) (13.5.2016) by [Justice Act \(NorthernIreland\) 2016 \(c. 21\)](#), [ss. 50\(3\)\(b\)](#), 61(1)

#### Commencement Information

- I35** S. 66 in force at 26.1.2009 by [S.I. 2008/2993](#), [art. 2\(2\)\(d\)](#)

## 67 Penalties etc. for possession of extreme pornographic images

- (1) This section has effect where a person is guilty of an offence under section 63.
- (2) [<sup>F51</sup>If the offence relates to an image that portrays any relevant act (with or without other acts)], the offender is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding the relevant period or a fine not exceeding the statutory maximum or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 3 years or a fine or both.
- (3) If the offence relates to an image that does not portray any [<sup>F52</sup>relevant act], the offender is liable—

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- (a) on summary conviction, to imprisonment for a term not exceeding the relevant period or a fine not exceeding the statutory maximum or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine or both.
- (4) In subsection (2)(a) or (3)(a) “the relevant period” means—
- (a) in relation to England and Wales, [<sup>F53</sup>the general limit in a magistrates’ court];
  - (b) in relation to Northern Ireland, 6 months.
- [<sup>F54</sup>(5) In this section “relevant act” means—
- (a) in relation to England and Wales, an act within section 63(7)(a) or (b) or (7A) (a) or (b);
  - (b) in relation to Northern Ireland, an act within section 63(7)(a) or (b) [<sup>F55</sup>or (7A) (a) or (b)].]

#### Textual Amendments

- F51** Words in s. 67(2) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), **ss. 37(4)(a)**, 95(1); [S.I. 2015/778](#), art. 3, Sch. 1 para. 31 (with Sch. 2 para. 1)
- F52** Words in s. 67(3) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), **ss. 37(4)(b)**, 95(1); [S.I. 2015/778](#), art. 3, Sch. 1 para. 31 (with Sch. 2 para. 1)
- F53** Words in s. 67(4)(a) substituted (7.2.2023 at 12.00 p.m.) by [The Judicial Review and Courts Act 2022 \(Magistrates’ Court Sentencing Powers\) Regulations 2023 \(S.I. 2023/149\)](#), regs. 1(2), 2(1), **Sch. Pt. 1** table
- F54** S. 67(5) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), **ss. 37(4)(c)**, 95(1); [S.I. 2015/778](#), art. 3, Sch. 1 para. 31 (with Sch. 2 para. 1)
- F55** Words in s. 67(5)(b) added (N.I.) (13.5.2016) by [Justice Act \(NorthernIreland\) 2016 \(c. 21\)](#), **ss. 50(4)**, 61(1)

#### Commencement Information

- I36** S. 67 in force at 26.1.2009 by [S.I. 2008/2993](#), art. 2(2)(e)

### 68 Special rules relating to providers of information society services

Schedule 14 makes special provision in connection with the operation of section 63 in relation to persons providing information society services within the meaning of that Schedule.

#### Commencement Information

- I37** S. 68 in force at 26.1.2009 by [S.I. 2008/2993](#), art. 2(2)(f)

### 69 Indecent photographs of children: England and Wales

- (1) The Protection of Children Act 1978 (c. 37) is amended as follows.
- (2) In section 1B(1)(b) (exception for members of the Security Service)—
  - (a) after “Security Service” insert “ or the Secret Intelligence Service ”;
  - (b) for “the Service” substitute “ that Service ”.
- (3) After section 7(4) (meaning of photograph), insert—

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“(4A) References to a photograph also include—

- (a) a tracing or other image, whether made by electronic or other means (of whatever nature)—
  - (i) which is not itself a photograph or pseudo-photograph, but
  - (ii) which is derived from the whole or part of a photograph or pseudo-photograph (or a combination of either or both); and
- (b) data stored on a computer disc or by other electronic means which is capable of conversion into an image within paragraph (a);

and subsection (8) applies in relation to such an image as it applies in relation to a pseudo-photograph.”

- (4) In section 7(9)(b) (meaning of indecent pseudo-photograph), for “a pseudo-photograph” substitute “an indecent pseudo-photograph”.

## 70 Indecent photographs of children: Northern Ireland

- (1) The Protection of Children (Northern Ireland) Order 1978 (S.I. 1978/1047 (N.I. 17)) is amended as follows.

- (2) In Article 2(2) (interpretation) in paragraph (b) of the definition of “indecent pseudo-photograph”, for “a pseudo-photograph” substitute “an indecent pseudo-photograph”.

- (3) After Article 2(2) insert—

“(2A) In this Order, references to a photograph also include—

- (a) a tracing or other image, whether made by electronic or other means (of whatever nature)—
  - (i) which is not itself a photograph or pseudo-photograph, but
  - (ii) which is derived from the whole or part of a photograph or pseudo-photograph (or a combination of either or both); and
- (b) data stored on a computer disc or by other electronic means which is capable of conversion into an image within paragraph (a);

and paragraph (3)(c) applies in relation to such an image as it applies in relation to a pseudo-photograph.”

- (4) In article 3A(1)(b) (exception for members of the Security Service)—

- (a) after “Security Service” insert “or the Secret Intelligence Service”;
- (b) for “the Service” substitute “that Service”.

## 71 Maximum penalty for publication etc. of obscene articles

In section 2(1)(b) of the Obscene Publications Act 1959 (c. 66) (maximum penalty on indictment for publication etc. of obscene articles) for “three years” substitute “five years”.

### Commencement Information

I38 S. 71 in force at 26.1.2009 by S.I. 2008/2993, art. 2(2)(g)

*Status:* This version of this Act contains provisions that are prospective.

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## Sexual offences

### 72 Offences committed outside the United Kingdom

(1) For section 72 of the Sexual Offences Act 2003 (c. 42) substitute—

#### “72 Offences outside the United Kingdom

- (1) If—
- (a) a United Kingdom national does an act in a country outside the United Kingdom, and
  - (b) the act, if done in England and Wales or Northern Ireland, would constitute a sexual offence to which this section applies,
- the United Kingdom national is guilty in that part of the United Kingdom of that sexual offence.
- (2) If—
- (a) a United Kingdom resident does an act in a country outside the United Kingdom,
  - (b) the act constitutes an offence under the law in force in that country, and
  - (c) the act, if done in England and Wales or Northern Ireland, would constitute a sexual offence to which this section applies,
- the United Kingdom resident is guilty in that part of the United Kingdom of that sexual offence.
- (3) If—
- (a) a person does an act in a country outside the United Kingdom at a time when the person was not a United Kingdom national or a United Kingdom resident,
  - (b) the act constituted an offence under the law in force in that country,
  - (c) the act, if done in England and Wales or Northern Ireland, would have constituted a sexual offence to which this section applies, and
  - (d) the person meets the residence or nationality condition at the relevant time,
- proceedings may be brought against the person in that part of the United Kingdom for that sexual offence as if the person had done the act there.
- (4) The person meets the residence or nationality condition at the relevant time if the person is a United Kingdom national or a United Kingdom resident at the time when the proceedings are brought.
- (5) An act punishable under the law in force in any country constitutes an offence under that law for the purposes of subsections (2) and (3) however it is described in that law.
- (6) The condition in subsection (2)(b) or (3)(b) is to be taken to be met unless, not later than rules of court may provide, the defendant serves on the prosecution a notice—
- (a) stating that, on the facts as alleged with respect to the act in question, the condition is not in the defendant's opinion met,
  - (b) showing the grounds for that opinion, and

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- (c) requiring the prosecution to prove that it is met.
- (7) But the court, if it thinks fit, may permit the defendant to require the prosecution to prove that the condition is met without service of a notice under subsection (6).
- (8) In the Crown Court the question whether the condition is met is to be decided by the judge alone.
- (9) In this section—  
 “country” includes territory;  
 “United Kingdom national” means an individual who is—  
 (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen;  
 (b) a person who under the British Nationality Act 1981 is a British subject; or  
 (c) a British protected person within the meaning of that Act;  
 “United Kingdom resident” means an individual who is resident in the United Kingdom.
- (10) Schedule 2 lists the sexual offences to which this section applies.”
- (2) Schedule 2 to that Act (list of sexual offences to which section 72 applies) is amended as follows.
- (3) In paragraph 1 (offences under the law of England and Wales)—  
 (a) for paragraphs (a) and (b) substitute—  
 “(a) an offence under any of sections 5 to 19, 25 and 26 and 47 to 50;  
 (b) an offence under any of sections 1 to 4, 30 to 41 and 61 where the victim of the offence was under 18 at the time of the offence;”;  
 (b) in paragraph (c), for “16” substitute “ 18 ”; and  
 (c) in paragraph (d), omit “in relation to a photograph or pseudo-photograph showing a child under 16”.
- (4) In paragraph 2 (offences under the law of Northern Ireland)—  
 (a) in sub-paragraph (1)(c)(iv), for “17” substitute “ 18 ”; and  
 (b) in sub-paragraph (2), for “17” substitute “ 18 ”.

#### Commencement Information

**139** S. 72 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 34

## 73 Grooming and adoption

Schedule 15—

- (a) amends section 15 of the Sexual Offences Act 2003 (c. 42) (meeting a child following sexual grooming etc.),  
 (b) amends that Act in relation to adoption, and



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- (c) amends the Adoption Act 1976 (c. 36) in relation to offences under sections 64 and 65 of the Sexual Offences Act 2003.

**Commencement Information**

**I40** S. 73 partly in force; s. 73 not in force at Royal Assent; s. 73 in force for certain purposes at 8.7.2008, see s. 153(2)(e)(3)

**I41** S. 73 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 35

*Hatred on the grounds of sexual orientation*

**74 Hatred on the grounds of sexual orientation**

Schedule 16—

- (a) amends Part 3A of the Public Order Act 1986 (c. 64) (hatred against persons on religious grounds) to make provision about hatred against a group of persons defined by reference to sexual orientation, and
- (b) makes minor amendments of that Part.

**Commencement Information**

**I42** S. 74 partly in force at Royal Assent, see s. 153(1)(j)(3)

**I43** S. 74 in force at 23.3.2010 in so far as not already in force by S.I. 2010/712, art. 2(a)

*Offences relating to nuclear material and nuclear facilities*

**75 Offences relating to the physical protection of nuclear material and nuclear facilities**

- (1) Part 1 of Schedule 17 amends the Nuclear Material (Offences) Act 1983 (c. 18) to create—
- (a) further offences relating to the physical protection of nuclear material, and
- (b) offences relating to the physical protection of nuclear facilities,
- and makes other amendments to that Act.
- (2) Part 2 of that Schedule makes related amendments to the Customs and Excise Management Act 1979 (c. 2).

**Commencement Information**

**I44** S. 75 in force at 30.11.2009 by S.I. 2009/3074, art. 2(i)

*Self-defence etc.*

**76 Reasonable force for purposes of self-defence etc.**

- (1) This section applies where in proceedings for an offence—

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- (a) an issue arises as to whether a person charged with the offence (“D”) is entitled to rely on a defence within subsection (2), and
  - (b) the question arises whether the degree of force used by D against a person (“V”) was reasonable in the circumstances.
- (2) The defences are—
- (a) the common law defence of self-defence; [<sup>F56</sup>and]
  - [<sup>F57</sup>(aa) the common law defence of defence of property; and]
  - (b) the defences provided by section 3(1) of the Criminal Law Act 1967 (c. 58) or section 3(1) of the Criminal Law Act (Northern Ireland) 1967 (c. 18 (N.I.)) (use of force in prevention of crime or making arrest).
- (3) The question whether the degree of force used by D was reasonable in the circumstances is to be decided by reference to the circumstances as D believed them to be, and subsections (4) to (8) also apply in connection with deciding that question.
- (4) If D claims to have held a particular belief as regards the existence of any circumstances—
- (a) the reasonableness or otherwise of that belief is relevant to the question whether D genuinely held it; but
  - (b) if it is determined that D did genuinely hold it, D is entitled to rely on it for the purposes of subsection (3), whether or not—
    - (i) it was mistaken, or
    - (ii) (if it was mistaken) the mistake was a reasonable one to have made.
- (5) But subsection (4)(b) does not enable D to rely on any mistaken belief attributable to intoxication that was voluntarily induced.
- [<sup>F58</sup>(5A) In a householder case, the degree of force used by D is not to be regarded as having been reasonable in the circumstances as D believed them to be if it was grossly disproportionate in those circumstances.]
- (6) [<sup>F59</sup>In a case other than a householder case,] the degree of force used by D is not to be regarded as having been reasonable in the circumstances as D believed them to be if it was disproportionate in those circumstances.
- [<sup>F60</sup>(6A) In deciding the question mentioned in subsection (3), a possibility that D could have retreated is to be considered (so far as relevant) as a factor to be taken into account, rather than as giving rise to a duty to retreat.]
- (7) In deciding the question mentioned in subsection (3) the following considerations are to be taken into account (so far as relevant in the circumstances of the case)—
- (a) that a person acting for a legitimate purpose may not be able to weigh to a nicety the exact measure of any necessary action; and
  - (b) that evidence of a person's having only done what the person honestly and instinctively thought was necessary for a legitimate purpose constitutes strong evidence that only reasonable action was taken by that person for that purpose.
- (8) [<sup>F61</sup>Subsection (7) is][<sup>F61</sup>Subsections (6A) and (7) are] not to be read as preventing other matters from being taken into account where they are relevant to deciding the question mentioned in subsection (3).
- [<sup>F62</sup>(8A) For the purposes of this section “a householder case” is a case where—
- (a) the defence concerned is the common law defence of self-defence,

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- (b) the force concerned is force used by D while in or partly in a building, or part of a building, that is a dwelling or is forces accommodation (or is both),
- (c) D is not a trespasser at the time the force is used, and
- (d) at that time D believed V to be in, or entering, the building or part as a trespasser.

(8B) Where—

- (a) a part of a building is a dwelling where D dwells,
- (b) another part of the building is a place of work for D or another person who dwells in the first part, and
- (c) that other part is internally accessible from the first part,

that other part, and any internal means of access between the two parts, are each treated for the purposes of subsection (8A) as a part of a building that is a dwelling.

(8C) Where—

- (a) a part of a building is forces accommodation that is living or sleeping accommodation for D,
- (b) another part of the building is a place of work for D or another person for whom the first part is living or sleeping accommodation, and
- (c) that other part is internally accessible from the first part,

that other part, and any internal means of access between the two parts, are each treated for the purposes of subsection (8A) as a part of a building that is forces accommodation.

(8D) Subsections (4) and (5) apply for the purposes of subsection (8A)(d) as they apply for the purposes of subsection (3).

(8E) The fact that a person derives title from a trespasser, or has the permission of a trespasser, does not prevent the person from being a trespasser for the purposes of subsection (8A).

(8F) In subsections (8A) to (8C)—

“building” includes a vehicle or vessel, and

“forces accommodation” means service living accommodation for the purposes of Part 3 of the Armed Forces Act 2006 by virtue of section 96(1) (a) or (b) of that Act.]

(9) This section [<sup>F63</sup>, except so far as making different provision for householder cases,] is intended to clarify the operation of the existing defences mentioned in subsection (2).

(10) In this section—

- (a) “legitimate purpose” means—
  - (i) the purpose of self-defence under the common law, [<sup>F64</sup>or]
  - [<sup>F65</sup>(ia) the purpose of defence of property under the common law, or]
  - (ii) the prevention of crime or effecting or assisting in the lawful arrest of persons mentioned in the provisions referred to in subsection (2)(b);
- (b) references to self-defence include acting in defence of another person; and
- (c) references to the degree of force used are to the type and amount of force used.

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**Textual Amendments**

- F56** Word in s. 76(2)(a) omitted (E.W. and in relation to service offences) (14.5.2013) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 148(2)**, 151(1) (with [ss. 148\(6\)](#), 152(6)(7)); S.I. 2013/1127, art. 2
- F57** S. 76(2)(aa) inserted (E.W. and in relation to service offences) (14.5.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 148(2)**, 151(1) (with [ss. 148\(6\)](#), 152(6)(7)); S.I. 2013/1127, art. 2
- F58** S. 76(5A) inserted (E.W. and in relation to service offences) (25.4.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), **ss. 43(2)**, 61(11)(b)(15)(16) (with s. 43(6))
- F59** Words in s. 76(6) inserted (E.W. and in relation to service offences) (25.4.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), **ss. 43(3)**, 61(11)(b)(15)(16) (with s. 43(6))
- F60** S. 76(6A) inserted (E.W. and in relation to service offences) (14.5.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 148(3)**, 151(1) (with [ss. 148\(6\)](#), 152(6)(7)); S.I. 2013/1127, art. 2
- F61** Words in s. 76(8) substituted (E.W. and in relation to service offences) (14.5.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 148(4)**, 151(1) (with [ss. 148\(6\)](#), 152(6)(7)); S.I. 2013/1127, art. 2
- F62** S. 76(8A)-(8F) inserted (E.W. and in relation to service offences) (25.4.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), **ss. 43(4)**, 61(11)(b)(15)(16) (with s. 43(6))
- F63** Words in s. 76(9) inserted (E.W. and in relation to service offences) (25.4.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), **ss. 43(5)**, 61(11)(b)(15)(16) (with s. 43(6))
- F64** Word in s. 76(10)(a) omitted (E.W. and in relation to service offences) (14.5.2013) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 148(5)**, 151(1) (with [ss. 148\(6\)](#), 152(6)(7)); S.I. 2013/1127, art. 2
- F65** S. 76(10)(a)(ia) inserted (E.W. and in relation to service offences) (14.5.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 148(5)**, 151(1) (with [ss. 148\(6\)](#), 152(6)(7)); S.I. 2013/1127, art. 2

**Modifications etc. (not altering text)**

- C3** S. 76(8B)-(8F) applied (with modifications) by [Dangerous Dogs Act 1991 \(c. 65\)](#), s. 3(1B) (as inserted (E.W.) (13.5.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), **ss. 106(2)(b)**, 185(1); S.I. 2014/949, art. 3, Sch. para. 6)

**Commencement Information**

- I45** S. 76 in force at 14.7.2008 by [S.I. 2008/1586](#), art. 2(1), **Sch. 1 para. 36**

*Unlawfully obtaining etc. personal data*

**F6677 Power to alter penalty for unlawfully obtaining etc. personal data**

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**Textual Amendments**

- F66** S. 77 omitted (25.5.2018) by virtue of [Data Protection Act 2018 \(c. 12\)](#), s. 212(1), **Sch. 19 para. 150(a)** (with [ss. 117](#), 209, 210); S.I. 2018/625, reg. 2(1)(g)

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PROSPECTIVE

**F6778 New defence for purposes of journalism and other special purposes**  
.....

**Textual Amendments**

**F67** S. 78 omitted (25.5.2018) by virtue of Data Protection Act 2018 (c. 12), s. 212(1), Sch. 19 para. 150(b) (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)

*Blasphemy*

**79 Abolition of common law offences of blasphemy and blasphemous libel**

- (1) The offences of blasphemy and blasphemous libel under the common law of England and Wales are abolished.
- (2) In section 1 of the Criminal Libel Act 1819 (60 Geo. 3 & 1 Geo. 4 c. 8) (orders for seizure of copies of blasphemous or seditious libel) the words “any blasphemous libel, or” are omitted.
- (3) In sections 3 and 4 of the Law of Libel Amendment Act 1888 (c. 64) (privileged matters) the words “blasphemous or” are omitted.
- (4) Subsections (2) and (3) (and the related repeals in Schedule 28) extend to England and Wales only.

**PART 6**

INTERNATIONAL CO-OPERATION IN RELATION TO CRIMINAL JUSTICE MATTERS

*Recognition of financial penalties: requests to other member States*

**F6880 Requests to other member States: England and Wales**  
.....

**Textual Amendments**

**F68** Ss. 80-92 omitted (31.12.2020) by virtue of The Criminal Justice (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/780), regs. 1(1), 19(1)(a) (with regs. 19(2), 20) (as amended by S.I. 2020/1408, regs. 1, 49, 50); 2020 c. 1, Sch. 5 para. 1(1)

**F6881 Procedure on issue of certificate: England and Wales**  
.....

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

**Textual Amendments**

**F68** Ss. 80-92 omitted (31.12.2020) by virtue of [The Criminal Justice \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/780\)](#), regs. 1(1), **19(1)(a)** (with regs. 19(2), 20) (as amended by S.I. 2020/1408, regs. 1, 49, 50); 2020 c. 1, Sch. 5 para. 1(1)

**F68 82 Requests to other member States: Northern Ireland**

.....

**Textual Amendments**

**F68** Ss. 80-92 omitted (31.12.2020) by virtue of [The Criminal Justice \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/780\)](#), regs. 1(1), **19(1)(a)** (with regs. 19(2), 20) (as amended by S.I. 2020/1408, regs. 1, 49, 50); 2020 c. 1, Sch. 5 para. 1(1)

**F68 83 Procedure on issue of certificate: Northern Ireland**

.....

**Textual Amendments**

**F68** Ss. 80-92 omitted (31.12.2020) by virtue of [The Criminal Justice \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/780\)](#), regs. 1(1), **19(1)(a)** (with regs. 19(2), 20) (as amended by S.I. 2020/1408, regs. 1, 49, 50); 2020 c. 1, Sch. 5 para. 1(1)

*Recognition of financial penalties: requests from other member States*

**F68 84 Requests from other member States: England and Wales**

.....

**Textual Amendments**

**F68** Ss. 80-92 omitted (31.12.2020) by virtue of [The Criminal Justice \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/780\)](#), regs. 1(1), **19(1)(a)** (with regs. 19(2), 20) (as amended by S.I. 2020/1408, regs. 1, 49, 50); 2020 c. 1, Sch. 5 para. 1(1)

**F68 85 Procedure on receipt of certificate by designated officer**

.....

**Textual Amendments**

**F68** Ss. 80-92 omitted (31.12.2020) by virtue of [The Criminal Justice \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/780\)](#), regs. 1(1), **19(1)(a)** (with regs. 19(2), 20) (as amended by S.I. 2020/1408, regs. 1, 49, 50); 2020 c. 1, Sch. 5 para. 1(1)

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**F6886 Modification of Magistrates' Courts Act 1980 etc**

.....

**Textual Amendments**

**F68** Ss. 80-92 omitted (31.12.2020) by virtue of [The Criminal Justice \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/780\)](#), regs. 1(1), **19(1)(a)** (with regs. 19(2), 20) (as amended by [S.I. 2020/1408](#), regs. 1, 49, 50); 2020 c. 1, Sch. 5 para. 1(1)

**F6887 Requests from other member States: Northern Ireland**

.....

**Textual Amendments**

**F68** Ss. 80-92 omitted (31.12.2020) by virtue of [The Criminal Justice \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/780\)](#), regs. 1(1), **19(1)(a)** (with regs. 19(2), 20) (as amended by [S.I. 2020/1408](#), regs. 1, 49, 50); 2020 c. 1, Sch. 5 para. 1(1)

**F6888 Procedure on receipt of certificate by clerk of petty sessions**

.....

**Textual Amendments**

**F68** Ss. 80-92 omitted (31.12.2020) by virtue of [The Criminal Justice \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/780\)](#), regs. 1(1), **19(1)(a)** (with regs. 19(2), 20) (as amended by [S.I. 2020/1408](#), regs. 1, 49, 50); 2020 c. 1, Sch. 5 para. 1(1)

**F6889 Modification of Magistrates' Courts (Northern Ireland) Order 1981 etc**

.....

**Textual Amendments**

**F68** Ss. 80-92 omitted (31.12.2020) by virtue of [The Criminal Justice \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/780\)](#), regs. 1(1), **19(1)(a)** (with regs. 19(2), 20) (as amended by [S.I. 2020/1408](#), regs. 1, 49, 50); 2020 c. 1, Sch. 5 para. 1(1)

**F6890 Transfer of certificates to central authority for Scotland**

.....

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

#### **Textual Amendments**

**F68** Ss. 80-92 omitted (31.12.2020) by virtue of [The Criminal Justice \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/780\)](#), regs. 1(1), **19(1)(a)** (with regs. 19(2), 20) (as amended by S.I. 2020/1408, regs. 1, 49, 50); 2020 c. 1, Sch. 5 para. 1(1)

### **<sup>F68</sup>90A Transfer of certificates by Department of Justice to Lord Chancellor and vice versa**

.....

#### **Textual Amendments**

**F68** Ss. 80-92 omitted (31.12.2020) by virtue of [The Criminal Justice \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/780\)](#), regs. 1(1), **19(1)(a)** (with regs. 19(2), 20) (as amended by S.I. 2020/1408, regs. 1, 49, 50); 2020 c. 1, Sch. 5 para. 1(1)

#### *Recognition of financial penalties: miscellaneous*

### **<sup>F68</sup>91 Recognition of financial penalties: general**

.....

#### **Textual Amendments**

**F68** Ss. 80-92 omitted (31.12.2020) by virtue of [The Criminal Justice \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/780\)](#), regs. 1(1), **19(1)(a)** (with regs. 19(2), 20) (as amended by S.I. 2020/1408, regs. 1, 49, 50); 2020 c. 1, Sch. 5 para. 1(1)

### **<sup>F68</sup>92 Interpretation of sections 80 to 91 etc.**

.....

#### **Textual Amendments**

**F68** Ss. 80-92 omitted (31.12.2020) by virtue of [The Criminal Justice \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/780\)](#), regs. 1(1), **19(1)(a)** (with regs. 19(2), 20) (as amended by S.I. 2020/1408, regs. 1, 49, 50); 2020 c. 1, Sch. 5 para. 1(1)

#### *Repatriation of prisoners*

### **93 Delivery of prisoner to place abroad for purposes of transfer out of the United Kingdom**

In section 2(1) of the Repatriation of Prisoners Act 1984 (c. 47) (transfer out of the UK), for subsection (1) substitute—



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“(1) The effect of a warrant under section 1 providing for the transfer of the prisoner out of the United Kingdom shall be to authorise—

- (a) the taking of the prisoner to any place in any part of the United Kingdom, his delivery at a place of departure from the United Kingdom into the custody of an appropriate person and his removal by that person from the United Kingdom to a place outside the United Kingdom; or
- (b) the taking of the prisoner to any place in any part of the United Kingdom, his removal from the United Kingdom and his delivery, at the place of arrival from the United Kingdom, into the custody of an appropriate person.

(1A) In subsection (1) “appropriate person” means a person representing the appropriate authority of the country or territory to which the prisoner is to be transferred.”

#### Commencement Information

**I46** S. 93 in force at 14.7.2008 by [S.I. 2008/1586](#), art. 2(1), [Sch. 1 para. 37](#)

## 94 Issue of warrant transferring responsibility for detention and release of an offender to or from the relevant Minister

After section 4 of the Repatriation of Prisoners Act 1984 (transfer into the United Kingdom) insert—

*“Transfer of responsibility for detention and release of offender present outside the country or territory in which he is required to be detained*

### 4A Issue of warrant transferring responsibility for detention and release of offender

- (1) This section enables responsibility for the detention and release of a person to whom subsection (2) or (3) applies to be transferred between the relevant Minister in the United Kingdom and the appropriate authority in a country or territory outside the British Islands.
- (2) A person falls within this subsection if that person—
  - (a) is a person to whom section 1(7) applies by virtue of—
    - (i) an order made in the course of the exercise by a court or tribunal in any part of the United Kingdom of its criminal jurisdiction; or
    - (ii) any of the provisions of this Act or any similar provisions of the law of any part of the United Kingdom; and
  - (b) is present in a country or territory outside the British Islands.
- (3) A person falls within this subsection if that person—
  - (a) is a person to whom section 1(7) applies by virtue of—
    - (i) an order made in the course of the exercise by a court or tribunal in a country or territory outside the British Islands of its criminal jurisdiction; or

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- (ii) any provisions of the law of such a country or territory which are similar to any of the provisions of this Act; and
  - (b) is present in the United Kingdom.
- (4) Terms used in subsection (2)(a) and (3)(a) have the same meaning as in section 1(7).
- (5) Subject to the following provisions of this section, where—
- (a) the United Kingdom is a party to international arrangements providing for the transfer between the United Kingdom and a country or territory outside the British Islands of responsibility for the detention and release of persons to whom subsection (2) or (3) applies,
  - (b) the relevant Minister and the appropriate authority of that country or territory have each agreed to the transfer under those arrangements of responsibility for the detention and release of a particular person to whom subsection (2) or (3) applies (in this Act referred to as “the relevant person”), and
  - (c) in a case in which the terms of those arrangements provide for the transfer of responsibility to take place only with the relevant person's consent, that consent has been given,
- the relevant Minister shall issue a warrant providing for the transfer of responsibility for the detention and release of the relevant person from that Minister (where subsection (2) applies) or to that Minister (where subsection (3) applies).
- (6) The relevant Minister shall not issue a warrant under this section providing for the transfer of responsibility for the detention and release of a person to the relevant Minister unless—
- (a) that person is a British citizen;
  - (b) the transfer appears to the relevant Minister to be appropriate having regard to any close ties which that person has with the United Kingdom.
- (7) The relevant Minister shall not issue a warrant under this section where, after the duty in subsection (5) has arisen, circumstances arise or are brought to his attention which in his opinion make it inappropriate that the transfer of responsibility should take place.
- (8) The relevant Minister shall not issue a warrant under this section (other than one superseding an earlier warrant) unless he is satisfied that all reasonable steps have been taken to inform the relevant person in writing in his own language—
- (a) of the substance, so far as relevant to the case, of the international arrangements in accordance with which it is proposed to transfer responsibility for his detention and release;
  - (b) of the effect in relation to the relevant person of the warrant which it is proposed to issue under this section;
  - (c) in the case of a person to whom subsection (2) applies, of the effect in relation to his case of so much of the law of the country or territory concerned as has effect with respect to transfers under those arrangements of responsibility for his detention and release;
  - (d) in the case of a person to whom subsection (3) applies, of the effect in relation to his case of the law relating to his detention under that warrant and subsequent release (including the effect of any enactment

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- or instrument under which he may be released earlier than provided for by the terms of the warrant); and
- (e) of the powers of the relevant Minister under section 6;
- and the relevant Minister shall not issue a warrant superseding an earlier warrant under this section unless the requirements of this subsection were fulfilled in relation to the earlier warrant.
- (9) A consent given for the purposes of subsection (5)(c) shall not be capable of being withdrawn after a warrant under this section has been issued in respect of the relevant person; and, accordingly, a purported withdrawal of that consent after that time shall not affect the validity of the warrant, or of any provision which by virtue of section 6 subsequently supersedes provisions of that warrant, or of any direction given in relation to the prisoner under section 4B(3).
- (10) In this section “relevant Minister” means—
- (a) the Scottish Ministers in a case where the person who is the subject of the proposed transfer of responsibility is—
- (i) a person to whom subsection (2) applies who is for the time being required to be detained at a place in Scotland; or
- (ii) a person to whom subsection (3) applies, if it is proposed that he will be detained at a place in Scotland;
- (b) the Secretary of State, in any other case.

#### **4B Transfer of responsibility from the United Kingdom**

- (1) The effect of a warrant under section 4A relating to a person to whom subsection (2) of that section applies shall be to transfer responsibility for the detention and release of that person from the relevant Minister (as defined in section 4A(10)) to the appropriate authority of the country or territory in which he is present.
- (2) Subject to subsections (3) to (6), the order by virtue of which the relevant person is required to be detained at the time such a warrant is issued in respect of him shall continue to have effect after the transfer of responsibility so as to apply to him if he comes to be in the United Kingdom at any time when under that order he is to be, or may be, detained.
- (3) If, at any time after the transfer of responsibility, it appears to the relevant Minister appropriate to do so in order that effect may be given to the international arrangements in accordance with which the transfer took place, the relevant Minister may give a direction—
- (a) varying the order referred to in subsection (2); or
- (b) providing for the order to cease to have effect.
- (4) In subsection (3) “relevant Minister” means—
- (a) the Scottish Ministers, where Scotland is the part of the United Kingdom in which the order referred to in subsection (2) has effect; and
- (b) the Secretary of State in any other case.
- (5) The power by direction under subsection (3) to vary the order referred to in subsection (2) includes power by direction—
- (a) to provide for how any period during which the detention and release of the relevant person is, by virtue of a warrant under section 4A, the

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- responsibility of a country or territory outside the United Kingdom is to be treated for the purposes of the order; and
- (b) to provide for the relevant person to be treated as having been released or discharged as mentioned in any paragraph of section 2(4)(b).
- (6) Except in relation to any period during which a restriction order is in force in respect of the relevant person, subsection (2) shall not apply in relation to a hospital order; and, accordingly, a hospital order shall cease to have effect in relation to that person—
- (a) at the time of the transfer of responsibility, if no restriction order is in force in respect of him at that time; and
- (b) if at that time a restriction order is in force in respect of him, as soon after the transfer of responsibility as the restriction order ceases to have effect.
- (7) In subsection (6) “hospital order” and “restriction order” have the same meaning as in section 2(6).
- (8) References in this section to the order by virtue of which a person is required to be detained at the time a warrant under section 4A is issued in respect of him include references to any order by virtue of which he is required to be detained after the order by virtue of which he is required to be detained at that time ceases to have effect.

#### **4C Transfer of responsibility to the United Kingdom**

- (1) The effect of a warrant under section 4A relating to a person to whom subsection (3) of that section applies shall be to transfer responsibility for the detention and release of that person to the relevant Minister (as defined in section 4A(10)) and to authorise—
- (a) the taking of that person in custody to such place in any part of the United Kingdom as may be specified in the warrant, being a place at which effect may be given to the provisions contained in the warrant by virtue of paragraph (b); and
- (b) the detention of that person in any part of the United Kingdom in accordance with such provisions as may be contained in the warrant, being provisions appearing to the relevant Minister to be appropriate for giving effect to the international arrangements in accordance with which responsibility for that person is transferred.
- (2) A provision shall not be contained by virtue of subsection (1)(b) in a warrant under section 4A unless it satisfies the following two conditions, that is to say—
- (a) it is a provision with respect to the detention of a person in a prison, a hospital or any other institution; and
- (b) it is a provision which at the time the warrant is issued may be contained in an order made either—
- (i) in the course of the exercise of its criminal jurisdiction by a court in the part of the United Kingdom in which the person is to be detained; or
- (ii) otherwise than by a court but for the purpose of giving effect to an order made as mentioned in sub-paragraph (i).

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- (3) Section 3(3) applies for determining for the purposes of paragraph (b) of subsection (1) above what provisions are appropriate for giving effect to the international arrangements mentioned in that paragraph in a relevant person's case as it applies for the purposes of section 3(1)(c) in the case of a prisoner who is to be transferred into the United Kingdom.
- (4) Subject to subsection (6) and Part 2 of the Schedule to this Act, a provision contained by virtue of subsection (1)(b) in a warrant under section 4A shall for all purposes have the same effect as the same provision contained in an order made as mentioned in sub-paragraph (i) or, as the case may be, sub-paragraph (ii) of subsection (2)(b).
- (5) A provision contained by virtue of subsection (1)(b) in a warrant under section 4A shall take effect with the delivery of the relevant person to the place specified in the warrant for the purposes of subsection (1)(a).
- (6) Subsection (4) shall not confer any right of appeal on the relevant person against provisions contained by virtue of subsection (1)(b) in a warrant under this section.
- (7) Part 2 of the Schedule to this Act shall have effect with respect to the operation of certain enactments in relation to provisions contained by virtue of subsection (1)(b) in a warrant under section 4A.
- (8) For the purposes of determining whether at any particular time any such order as is mentioned in subsection (2)(b) could have been made as so mentioned, there shall be disregarded both—
  - (a) any requirement that certain conditions must be satisfied before the order is made; and
  - (b) any restriction on the minimum period in respect of which the order may be made.”

#### Commencement Information

I47 S. 94 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 38

## 95 Powers to arrest and detain persons believed to fall within section 4A(3) of Repatriation of Prisoners Act 1984

After section 4C of the Repatriation of Prisoners Act 1984 (c. 47) (as inserted by section 94) insert—

*“Persons believed to fall within section 4A(3): powers of arrest and detention*

### **4D Arrest and detention with a view to establishing whether a person falls within section 4A(3) etc.**

- (1) The Secretary of State or the Scottish Ministers may issue a certificate stating that the issuing authority—
  - (a) considers that there are reasonable grounds for believing that a person in the United Kingdom is a person falling within section 4A(3), and

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- (b) has requested written confirmation from the country or territory concerned of the details of that person's case.
- (2) The issuing authority may send the certificate (with any other documents appearing to the authority to be relevant) to the appropriate judge with a view to obtaining the issue of a warrant under subsection (3).
- (3) The appropriate judge may, on receiving the certificate, issue a warrant for the arrest of the person concerned if the judge is satisfied that there are reasonable grounds for believing that the person falls within section 4A(3).
- (4) The warrant may be executed anywhere in the United Kingdom by any designated person (and it is immaterial whether or not he is in possession of the warrant or a copy of it).
- (5) A person arrested under this section shall, as soon as is practicable—
  - (a) be given a copy of the warrant for his arrest; and
  - (b) be brought before the appropriate judge.
- (6) The appropriate judge may order that a person before him who is the subject of a certificate under this section is to be detained from the time the order is made until the end of the period of seven days beginning with the day after that on which the order is made.
- (7) The purpose of an order under subsection (6) is to secure the detention of the person concerned while—
  - (a) written confirmation is obtained from a representative of the country or territory concerned of the details of his case;
  - (b) it is established whether he is a person falling within section 4A(3); and
  - (c) any application for an order under section 4E(6) is made in respect of him.
- (8) Subject to subsection (9), a person detained under such an order may be released at any time during the period mentioned in subsection (6) and shall be released at the end of that period (if not released sooner).
- (9) Subsection (8) ceases to apply to the detained person if, during that period, an order under section 4E is made in respect of him.
- (10) It is immaterial for the purposes of subsection (6) whether or not the person concerned has previously been arrested under this section.

#### **4E Arrest and detention with a view to determining whether to issue a warrant under section 4A**

- (1) The Secretary of State or the Scottish Ministers may issue a certificate stating that the issuing authority—
  - (a) considers that a person in the United Kingdom is a person falling within section 4A(3), and
  - (b) has received written confirmation from a representative of the country or territory concerned of the details of that person's case;
 and it is immaterial for the purposes of this section whether or not the person concerned has been previously arrested or detained under section 4D.

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- (2) The issuing authority may send the certificate (with a copy of the written confirmation mentioned in subsection (1)(b) and any other documents appearing to that authority to be relevant) to the appropriate judge with a view to obtaining the issue of a warrant under subsection (3).
- (3) The appropriate judge may, on receiving the certificate, issue a warrant for the arrest of the person concerned if the judge is satisfied that there are reasonable grounds for believing that the person falls within section 4A(3).
- (4) The warrant may be executed anywhere in the United Kingdom by any designated person (and it is immaterial whether or not that person is in possession of the warrant or a copy of it).
- (5) A person arrested under this section shall, as soon as is practicable—
  - (a) be given a copy of the warrant for his arrest; and
  - (b) be brought before the appropriate judge.
- (6) The appropriate judge may, on the application of the Secretary of State or the Scottish Ministers, order that a person before the judge who—
  - (a) is the subject of a certificate under this section, and
  - (b) the judge is satisfied is a person falling within section 4A(3),shall be detained from the time the order is made until the end of the period of fourteen days beginning with the day after that on which the order is made.
- (7) The purpose of an order under subsection (6) is to secure the detention of the person concerned until—
  - (a) it is determined whether to issue a warrant under section 4A; and
  - (b) if so determined, such a warrant is issued.
- (8) Subject to subsection (9), a person detained under such an order may be released at any time during the period mentioned in subsection (6) and shall be released at the end of that period (if not released sooner).
- (9) Subsection (8) ceases to apply to the detained person if, during that period, a warrant under section 4A is issued in respect of him.
- (10) It is immaterial for the purposes of subsection (6) whether or not the person concerned has previously been arrested or detained under section 4D or arrested under this section.

#### **4F Sections 4D and 4E: supplementary provisions**

- (1) This section has effect for the purposes of sections 4D and 4E.
- (2) A “designated person” is a person designated by the Secretary of State or the Scottish Ministers.
- (3) The appropriate judge is—
  - (a) in England and Wales, any District Judge (Magistrates' Courts) who is designated for those purposes by the Lord Chief Justice after consulting the Lord Chancellor;
  - (b) in Scotland, the sheriff of Lothian and Borders; and

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- (c) in Northern Ireland, any county court judge or resident magistrate who is designated for those purposes by the Lord Chief Justice of Northern Ireland after consulting the Lord Chancellor.
- (4) A designation under subsection (2) or (3)(a) or (c) may be made—
  - (a) for the purposes of section 4D or 4E (or both); and
  - (b) for all cases or only for cases (or cases of a description) specified in the designation.
- (5) A designated person shall have all the powers, authority, protection and privileges of a constable in any part of the United Kingdom in which a person who may be arrested under section 4D or 4E is for the time being.”

**Commencement Information**

**I48** S. 95 in force at 14.7.2008 by [S.I. 2008/1586](#), art. 2(1), [Sch. 1 para. 39](#)

**96 Amendments relating to Scotland**

- (1) The amendments of section 1 of the Repatriation of Prisoners Act 1984 (c. 47) made by section 44(2) and (3) of the Police and Justice Act 2006 (c. 48) (which amend the requirement for the prisoner's consent to any transfer to or from the United Kingdom) apply in relation to cases in which the relevant Minister for the purposes of section 1 is the Scottish Ministers as they apply in other cases.
- (2) In section 2(6) of the Repatriation of Prisoners Act 1984 (transfer out of the United Kingdom) in the definition of “hospital order”, after “1986” insert “ or a compulsion order under section 57A of the Criminal Procedure (Scotland) Act 1995 ”.
- (3) In section 8(1) (interpretation etc.), before the definition of “international arrangements” insert—
  - ““enactment” includes an enactment comprised in, or in an instrument under, an Act of the Scottish Parliament;”.

**Commencement Information**

**I49** S. 96 in force at 14.7.2008 by [S.I. 2008/1586](#), art. 2(1), [Sch. 1 para. 40](#)

*Mutual legal assistance in revenue matters*

**97 Power to transfer functions under Crime (International Co-operation) Act 2003 in relation to direct taxation**

- (1) In section 27(1) of the Crime (International Co-operation) Act 2003 (c. 32) (exercise of powers by others)—
  - (a) in paragraph (a), for “Commissioners of Customs and Excise” substitute “ Commissioners for Revenue and Customs ”; and
  - (b) in paragraph (b), for “a customs officer” substitute “ an officer of Revenue and Customs ”.



*Status:* This version of this Act contains provisions that are prospective.

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- (2) Paragraph 14 of Schedule 2 to the Commissioners for Revenue and Customs Act 2005 (c. 11) (power under section 27(1) not applicable to former inland revenue matters etc.) ceases to have effect.

#### Commencement Information

**I50** S. 97 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 41

## PART 7

### VIOLENT OFFENDER ORDERS

#### *Violent offender orders*

#### 98 Violent offender orders

- (1) A violent offender order is an order made in respect of a qualifying offender which—
- (a) contains such prohibitions, restrictions or conditions authorised by section 102 as the court making the order considers necessary for the purpose of protecting the public from the risk of serious violent harm caused by the offender, and
  - (b) has effect for such period of not less than 2, nor more than 5, years as is specified in the order (unless renewed or discharged under section 103).
- (2) For the purposes of this Part any reference to protecting the public from the risk of serious violent harm caused by a person is a reference to protecting—
- (a) the public in the United Kingdom, or
  - (b) any particular members of the public in the United Kingdom,
- from a current risk of serious physical or psychological harm caused by that person committing one or more specified offences.
- (3) In this Part “specified offence” means—
- (a) manslaughter;
  - (b) an offence under section 4 of the Offences against the Person Act 1861 (c. 100) (soliciting murder);
  - (c) an offence under section 18 of that Act (wounding with intent to cause grievous bodily harm);
  - (d) an offence under section 20 of that Act (malicious wounding);
  - [<sup>F69</sup>(da) an offence under section 75A of the Serious Crime Act 2015 (strangulation or suffocation);]
  - (e) attempting to commit murder or conspiracy to commit murder; or
  - (f) a relevant service offence.
- (4) The following are relevant service offences—
- (a) any offence under—
    - (i) section 70 of the Army Act 1955 (3 & 4 Eliz. 2 c. 18),
    - (ii) section 70 of the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19), or
    - (iii) section 42 of the Naval Discipline Act 1957 (c. 53),

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of which the corresponding civil offence (within the meaning of the section in question) is an offence within any of paragraphs (a) to (e) of subsection (3) above; and

(b) any offence under section 42 of the Armed Forces Act 2006 (c. 52) as respects which the corresponding offence under the law of England and Wales (within the meaning of that section) is an offence within any of those paragraphs.

(5) Section 48 of the Armed Forces Act 2006 (c. 52) (attempts, conspiracy etc.) applies for the purposes of subsection (4)(b) as if the reference in subsection (3)(b) of that section to any of the following provisions of that Act were a reference to subsection (4)(b).

[<sup>F70</sup>(6) The Secretary of State may by order—

- (a) amend subsection (3);
- (b) make consequential amendments to subsection (4).]

#### Textual Amendments

**F69** S. 98(3)(da) inserted (7.6.2022) by Domestic Abuse Act 2021 (c. 17), s. 90(6), **Sch. 2 para. 10**; S.I. 2022/553, regs. 1(2), 3(b)

**F70** S. 98(6) inserted (13.5.2014) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), **ss. 119(1), 185(1)**; S.I. 2014/949, art. 3, Sch. para. 9

#### Commencement Information

**I51** S. 98 in force at 3.8.2009 by S.I. 2009/1842, **art. 2(a)**

## 99 Qualifying offenders

(1) In this Part “qualifying offender” means a person aged 18 or over who is within subsection (2) or (4).

(2) A person is within this subsection if (whether before or after the commencement of this Part)—

- (a) the person has been convicted of a specified offence and either—
  - (i) a custodial sentence of at least 12 months was imposed for the offence, or
  - (ii) a hospital order was made in respect of it (with or without a restriction order),
- (b) the person has been found not guilty of a specified offence by reason of insanity and subsection (3) applies, or
- (c) the person has been found to be under a disability and to have done the act charged in respect of a specified offence and subsection (3) applies.

(3) This subsection applies in the case of a person within (2)(b) or (2)(c) if the court made in respect of the offence—

- (a) a hospital order (with or without a restriction order), or
- (b) a supervision order.

(4) A person is within this subsection if, under the law in force in a country outside England and Wales (and whether before or after the commencement of this Part)—

- (a) the person has been convicted of a relevant offence and either—

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- (i) a sentence of imprisonment or other detention for at least 12 months was imposed for the offence, or
    - (ii) an order equivalent to that mentioned in subsection (3)(a) was made in respect of it,
  - (b) a court exercising jurisdiction under that law has made in respect of a relevant offence a finding equivalent to a finding that the person was not guilty by reason of insanity, and has made in respect of the offence an order equivalent to one mentioned in subsection (3), or
  - (c) such a court has, in respect of a relevant offence, made a finding equivalent to a finding that the person was under a disability and did the act charged in respect of the offence, and has made in respect of the offence an order equivalent to one mentioned in subsection (3).
- (5) In subsection (4) “relevant offence” means an act which—
- (a) constituted an offence under the law in force in the country concerned, and
  - (b) would have constituted a specified offence<sup>F71</sup>, or the offence of murder,] if it had been done in England and Wales.
- (6) An act punishable under the law in force in a country outside England and Wales constitutes an offence under that law for the purposes of subsection (5) however it is described in that law.
- (7) Subject to subsection (8), on an application under section 100 the condition in subsection (5)(b) (where relevant) is to be taken as met in relation to the person to whom the application relates (“P”) unless, not later than rules of court may provide, P serves on the applicant a notice—
- (a) denying that, on the facts as alleged with respect to the act in question, the condition is met,
  - (b) giving the reasons for denying that it is met, and
  - (c) requiring the applicant to prove that it is met.
- (8) If the court thinks fit, it may permit P to require the applicant to prove that the condition is met even though no notice has been served under subsection (7).

#### Textual Amendments

**F71** Words in s. 99(5)(b) inserted (13.5.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), [ss. 119\(3\)](#), 185(1); [S.I. 2014/949](#), art. 3, Sch. para. 9

#### Commencement Information

**I52** S. 99 in force at 3.8.2009 by [S.I. 2009/1842](#), [art. 2\(b\)](#)

## 100 Applications for violent offender orders

- (1) A chief officer of police may by complaint to a magistrates' court apply for a violent offender order to be made in respect of a person—
- (a) who resides in the chief officer's police area, or
  - (b) who the chief officer believes is in, or is intending to come to, that area,
- if it appears to the chief officer that the conditions in subsection (2) are met.
- (2) The conditions are—

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- (a) that the person is a qualifying offender, and
  - (b) that the person has, since the appropriate date, acted in such a way as to give reasonable cause to believe that it is necessary for a violent offender order to be made in respect of the person.
- (3) An application under this section may be made to any magistrates' court whose commission area includes—
- (a) any part of the applicant's police area, or
  - (b) any place where it is alleged that the person acted in such a way as is mentioned in subsection (2)(b).
- (4) The Secretary of State may by order make provision—
- (a) for applications under this section to be made by such persons or bodies as are specified or described in the order;
  - (b) specifying cases or circumstances in which applications may be so made;
  - (c) for provisions of this Part to apply, in relation to the making of applications (or cases where applications are made) by any such persons or bodies, with such modifications as are specified in relation to them in the order.
- (5) In this Part “the appropriate date” means the date (or, as the case may be, the first date) on which the person became a person within any of paragraphs (a) to (c) of section 99(2) or (4), whether that date fell before or after the commencement of this Part.

#### Commencement Information

**I53** S. 100 in force at 3.8.2009 by S.I. 2009/1842, art. 2(c)

### 101 Making of violent offender orders

- (1) This section applies where an application is made to a magistrates' court under section 100 in respect of a person (“P”).
- (2) After hearing—
- (a) the applicant, and
  - (b) P, if P wishes to be heard,
- the court may make a violent offender order in respect of P if it is satisfied that the conditions in subsection (3) are met.
- (3) The conditions are—
- (a) that P is a qualifying offender, and
  - (b) that P has, since the appropriate date, acted in such a way as to make it necessary to make a violent offender order for the purpose of protecting the public from the risk of serious violent harm caused by P.
- (4) When deciding whether it is necessary to make such an order for that purpose, the court must have regard to whether P would, at any time when such an order would be in force, be subject under any other enactment to any measures that would operate to protect the public from the risk of such harm.
- (5) A violent offender order may not be made so as to come into force at any time when P—

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- (a) is subject to a custodial sentence imposed in respect of any offence,
  - (b) is on licence for part of the term of such a sentence, or
  - (c) is subject to a hospital order or a supervision order made in respect of any offence.
- (6) But such an order may be applied for, and made, at such a time.

#### Commencement Information

**I54** S. 101 in force at 3.8.2009 by S.I. 2009/1842, art. 2(d)

### 102 Provisions that orders may contain

- (1) A violent offender order may contain prohibitions, restrictions or conditions preventing the offender—
- (a) from going to any specified premises or any other specified place (whether at all, or at or between any specified time or times);
  - (b) from attending any specified event;
  - (c) from having any, or any specified description of, contact with any specified individual.
- (2) Any of the prohibitions, restrictions or conditions contained in a violent offender order may relate to conduct in Scotland or Northern Ireland (as well as to conduct in England or Wales).
- (3) The Secretary of State may by order amend subsection (1).
- (4) In this section “specified” means specified in the violent offender order concerned.

#### Commencement Information

**I55** S. 102 in force at 3.8.2009 by S.I. 2009/1842, art. 2(e)

### 103 Variation, renewal or discharge of violent offender orders

- (1) A person within subsection (2) may by complaint apply to the appropriate magistrates' court—
- (a) for an order varying or discharging a violent offender order;
  - (b) for an order (a “renewal order”) renewing a violent offender order for such period of not more than 5 years as is specified in the renewal order.
- (2) The persons are—
- (a) the offender,
  - (b) the chief officer of police who applied for the order,
  - (c) (if different) the chief officer of police for the area in which the offender resides, and
  - (d) (if different) a chief officer of police who believes that the offender is in, or is intending to come to, his police area.
- (3) The “appropriate magistrates' court” means the magistrates' court that made the order or (if different)—

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- (a) a magistrates' court for the area in which the offender resides, or
  - (b) where the application under this section is made by a chief officer of police, any magistrates' court whose commission area includes any part of the chief officer's police area.
- (4) On an application under this section the appropriate magistrates' court may, after hearing—
- (a) the applicant, and
  - (b) any other persons mentioned in subsection (2) who wish to be heard,
- make such order varying, renewing or discharging the violent offender order as the court considers appropriate.

But this is subject to subsections (5) to (7).

- (5) A violent offender order may only be—
- (a) renewed, or
  - (b) varied so as to impose additional prohibitions, restrictions or conditions on the offender,
- if the court considers that it is necessary to do so for the purpose of protecting the public from the risk of serious violent harm caused by the offender (and any renewed or varied order may contain only such prohibitions, restrictions or conditions as the court considers necessary for this purpose).
- (6) References in subsection (5) to prohibitions, restrictions or conditions are to prohibitions, restrictions or conditions authorised by section 102.
- (7) The court may not discharge the violent offender order before the end of the period of 2 years beginning with the date on which it comes into force under section 101 unless consent to its discharge is given by the offender and—
- (a) where the application under this section is made by a chief officer of police, by that chief officer, or
  - (b) where the application is made by the offender, by the chief officer of police for the area in which the offender resides.

#### Commencement Information

**I56** S. 103 in force at 3.8.2009 by S.I. 2009/1842, art. 2(f)

## 104 Interim violent offender orders

- (1) This section applies where an application under section 100 (“the main application”) has not yet been determined.
- (2) An application for an order under this section (“an interim violent offender order”) may be made—
- (a) by the complaint by which the main application is made, or
  - (b) if the main application has already been made to a court, by means of a further complaint made to that court by the person making the main application.
- (3) If it appears to the court—
- (a) that the person to whom the main application relates (“P”) is a qualifying offender,

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- (b) that, if the court were determining that application, it would be likely to make a violent offender order in respect of P, and
  - (c) that it is desirable to act before that application is determined, with a view to securing the immediate protection of the public from the risk of serious violent harm caused by P,
- the court may make an interim violent offender order in respect of P that contains such prohibitions, restrictions or conditions as it considers necessary for the purpose of protecting the public from the risk of such harm.
- (4) The reference in subsection (3) to prohibitions, restrictions or conditions is to prohibitions, restrictions or conditions authorised by section 102 in the case of a violent offender order.
  - (5) But an interim violent offender order may not be made so as to come into force at any time when the person—
    - (a) is subject to a custodial sentence for any offence,
    - (b) is on licence for part of the term of such a sentence, or
    - (c) is subject to a hospital order or a supervision order made in respect of any offence.
  - (6) An interim violent offender order—
    - (a) has effect only for such period as is specified in the order, and
    - (b) ceases to have effect (if it has not already done so) at the appropriate time.
  - (7) “The appropriate time” means—
    - (a) if the court grants the main application, the time when a violent offender order made in pursuance of it comes into force;
    - (b) if the court decides not to grant the main application or it is withdrawn, the time when the court so decides or the application is withdrawn.
  - (8) Section 103 applies in relation to the variation or discharge of an interim violent offender order as it applies in relation to the variation or discharge of a violent offender order, but with the omission of subsection (7).

#### Commencement Information

**I57** S. 104 in force at 3.8.2009 by S.I. 2009/1842, art. 2(g)

## 105 Notice of applications

- (1) This section applies to—
  - (a) any application under section 100 for a violent offender order,
  - (b) any application under section 104 for an interim violent offender order, and
  - (c) any application under section 103 for the variation, discharge or renewal of a violent offender order, or for the variation or discharge of an interim violent offender order.
- (2) A magistrates' court may not begin hearing such an application unless it is satisfied that the relevant person has been given notice of—
  - (a) the application, and
  - (b) the time and place of the hearing,

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a reasonable time before the hearing.

- (3) In this section “the relevant person” means—
- (a) the person to whom the application mentioned in subsection (1)(a) or (b) relates, or
  - (b) the person in respect of whom the order mentioned in subsection (1)(c) has been made,
- as the case may be.

#### Commencement Information

**I58** S. 105 in force at 3.8.2009 by S.I. 2009/1842, art. 2(h)

## 106 Appeals

- (1) A person in respect of whom—
  - (a) a violent offender order, or
  - (b) an interim violent offender order,
 has been made may appeal to the Crown Court against the making of the order.
- (2) Such a person may also appeal to the Crown Court against—
  - (a) the making of an order under section 103, or
  - (b) any refusal to make such an order.
- (3) On an appeal under this section, the Crown Court—
  - (a) may make such orders as may be necessary to give effect to its determination of the appeal; and
  - (b) may also make such incidental or consequential orders as appear to it to be just.
- (4) For the purposes of section 103(3) an order made by the Crown Court on an appeal made by virtue of subsection (1) or (2) is to be treated as if made by the court from which the appeal was brought.

#### Commencement Information

**I59** S. 106 in force at 3.8.2009 by S.I. 2009/1842, art. 2(i)

### *Notification requirements*

## 107 Offenders subject to notification requirements

- (1) References in this Part to an offender subject to notification requirements are references to an offender who is for the time being subject to—
  - (a) a violent offender order, or
  - (b) an interim violent offender order,
 which is in force under this Part.



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- (2) Subsection (1) has effect subject to section 110(7) (which excludes from section 110 an offender subject to an interim violent offender order).

**Commencement Information**

**I60** S. 107 in force at 3.8.2009 by S.I. 2009/1842, art. 2(j)

**108 Notification requirements: initial notification**

- (1) An offender subject to notification requirements must notify the required information to the police within the period of 3 days beginning with the date on which—
- the violent offender order, or
  - the interim violent offender order,
- comes into force in relation to the offender (“the relevant date”).
- (2) The “required information” is the following information about the offender—
- date of birth;
  - national insurance number;
  - name on the relevant date or, if the offender used two or more names on that date, each of those names;
  - home address on the relevant date;
  - name on the date on which the notification is given or, if the offender used two or more names on that date, each of those names;
  - home address on the date on which the notification is given;
  - the address of any other premises in the United Kingdom at which on that date the offender regularly resides or stays;
  - any prescribed information.
- (3) In subsection (2)(h) “prescribed” means prescribed by regulations made by the Secretary of State.
- (4) When determining the period of 3 days mentioned in subsection (1), there is to be disregarded any time when the offender is—
- remanded in or committed to custody by an order of a court or kept in service custody;
  - serving a sentence of imprisonment or a term of service detention;
  - detained in a hospital; or
  - outside the United Kingdom.
- (5) In this Part “home address” means in relation to the offender—
- the address of the offender's sole or main residence in the United Kingdom, or
  - if the offender has no such residence, the address or location of a place in the United Kingdom where the offender can regularly be found or, if there is more than one such place, such one of them as the offender selects.

**Commencement Information**

**I61** S. 108 in force at 3.8.2009 by S.I. 2009/1842, art. 2(k)

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## 109 Notification requirements: changes

- (1) An offender subject to notification requirements must notify to the police—
  - (a) the required new information, and
  - (b) the information mentioned in section 108(2),
 within the period of 3 days beginning with the date on which any notifiable event occurs.
- (2) A “notifiable event” means—
  - (a) the use by the offender of a name which has not been notified to the police under section 108 or this section;
  - (b) any change of the offender's home address;
  - (c) the expiry of any qualifying period during which the offender has resided or stayed at any premises in the United Kingdom the address of which has not been notified to the police under section 108 or this section,
  - (d) any prescribed change of circumstances, or
  - (e) the release of the offender from custody pursuant to an order of a court or from imprisonment, service detention or detention in a hospital.
- (3) The “required new information” is—
  - (a) the name referred to in subsection (2)(a),
  - (b) the new home address (see subsection (2)(b)),
  - (c) the address of the premises referred to in subsection (2)(c),
  - (d) the prescribed details, or
  - (e) the fact that the offender has been released as mentioned in subsection (2)(e),
 as the case may be.
- (4) A notification under subsection (1) may be given before the notifiable event occurs, but in that case the offender must also specify the date when the event is expected to occur.
- (5) If a notification is given in accordance with subsection (4) and the event to which it relates occurs more than 2 days before the date specified, the notification does not affect the duty imposed by subsection (1).
- (6) If a notification is given in accordance with subsection (4) and the event to which it relates has not occurred by the end of the period of 3 days beginning with the date specified—
  - (a) the notification does not affect the duty imposed by subsection (1), and
  - (b) the offender must, within the period of 6 days beginning with the date specified, notify to the police the fact that the event did not occur within the period of 3 days beginning with the date specified.
- (7) Section 108(4) applies to the determination of—
  - (a) any period of 3 days for the purposes of subsection (1), or
  - (b) any period of 6 days for the purposes of subsection (6),
 as it applies to the determination of the period of 3 days mentioned in section 108(1).
- (8) In this section—
  - (a) “prescribed change of circumstances” means any change—
    - (i) occurring in relation to any matter in respect of which information is required to be notified by virtue of section 108(2)(h), and

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- (ii) of a description prescribed by regulations made by the Secretary of State;
  - (b) “the prescribed details”, in relation to a prescribed change of circumstances, means such details of the change as may be so prescribed.
- (9) In this section “qualifying period” means—
- (a) a period of 7 days, or
  - (b) two or more periods, in any period of 12 months, which taken together amount to 7 days.

#### Commencement Information

**I62** S. 109 in force at 3.8.2009 by S.I. 2009/1842, art. 2(l)

### 110 Notification requirements: periodic notification

- (1) An offender subject to notification requirements must, within the applicable period after each notification date, notify to the police the information mentioned in section 108(2), unless the offender has already given a notification under section 109(1) within that period.
- (2) A “notification date” means, in relation to the offender, the date of any notification given by the offender under section 108(1) or 109(1) or subsection (1) above.
- (3) Where the applicable period would (apart from this subsection) end while subsection (4) applies, that period is to be treated as continuing until the end of the period of 3 days beginning with the date on which subsection (4) first ceases to apply.
- (4) This subsection applies if the offender is—
  - (a) remanded in or committed to custody by an order of a court or kept in service custody,
  - (b) serving a sentence of imprisonment or a term of service detention,
  - (c) detained in a hospital, or
  - (d) outside the United Kingdom.
- (5) In this section “the applicable period” means—
  - (a) in any case where subsection (6) applies, such period as may be prescribed by regulations made by the Secretary of State, and
  - (b) in any other case, the period of one year.
- (6) This subsection applies if the last home address notified by the offender under section 108(1) or 109(1) or subsection (1) above was the address or location of such a place as is mentioned in section 108(5)(b).
- (7) Nothing in this section applies to an offender who is subject to an interim violent offender order.

#### Commencement Information

**I63** S. 110 in force at 3.8.2009 by S.I. 2009/1842, art. 2(m)

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## 111 Notification requirements: travel outside United Kingdom

- (1) The Secretary of State may by regulations make provision with respect to offenders subject to notification requirements, or any description of such offenders—
  - (a) requiring such persons, before they leave the United Kingdom, to give in accordance with the regulations a notification under subsection (2);
  - (b) requiring such persons, if they subsequently return to the United Kingdom, to give in accordance with the regulations a notification under subsection (3).
- (2) A notification under this subsection must disclose—
  - (a) the date on which the offender proposes to leave the United Kingdom;
  - (b) the country (or, if there is more than one, the first country) to which the offender proposes to travel and the proposed point of arrival (determined in accordance with the regulations) in that country;
  - (c) any other information prescribed by the regulations which the offender holds about the offender's departure from or return to the United Kingdom, or about the offender's movements while outside the United Kingdom.
- (3) A notification under this subsection must disclose any information prescribed by the regulations about the offender's return to the United Kingdom.

### Commencement Information

**I64** S. 111 in force at 3.8.2009 by S.I. 2009/1842, art. 2(n)

## 112 Method of notification and related matters

- (1) An offender gives a notification to the police under section 108(1), 109(1) or 110(1) by—
  - (a) attending at any police station in the offender's local police area, and
  - (b) giving an oral notification to any police officer, or to any person authorised for the purpose by the officer in charge of the station.
- (2) An offender giving a notification under section 109(1)—
  - (a) in relation to a prospective change of home address, or
  - (b) in relation to such premises as are mentioned in section 109(2)(c),
 may also give the notification at a police station that would fall within subsection (1) (a) above if the change of home address had already occurred or (as the case may be) the premises in question were the offender's home address.
- (3) Any notification given in accordance with this section must be acknowledged; and the acknowledgement must be—
  - (a) in writing, and
  - (b) in such form as the Secretary of State may direct.
- (4) Where a notification is given under section 108(1), 109(1) or 110(1), the offender must, if requested to do so by the police officer or other person mentioned in subsection (1)(b) above, allow that officer or person to—
  - (a) take the offender's fingerprints,
  - (b) photograph any part of the offender, or
  - (c) do both of those things,

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in order to verify the offender's identity.

(5) In this section—

“local police area”, in relation to the offender, means—

- (a) the police area in England and Wales in which the home address is situated,
- (b) in the absence of a home address in England and Wales, the police area in England and Wales in which the home address last notified is situated, or
- (c) in the absence of such a home address and any such notification, the police area in which the court that made the violent offender order (or, as the case may be, the interim violent offender order) is situated;

“photograph” includes any process by means of which an image may be produced.

#### Commencement Information

**I65** S. 112 in force at 3.8.2009 by S.I. 2009/1842, art. 2(o)

### Supplementary

## 113 Offences

- (1) If a person fails, without reasonable excuse, to comply with any prohibition, restriction or condition contained in—
  - (a) a violent offender order, or
  - (b) an interim violent offender order,the person commits an offence.
- (2) If a person fails, without reasonable excuse, to comply with—
  - (a) section 108(1), 109(1) or (6)(b), 110(1) or 112(4), or
  - (b) any requirement imposed by regulations made under section 111(1),the person commits an offence.
- (3) If a person notifies to the police, in purported compliance with—
  - (a) section 108(1), 109(1) or 110(1), or
  - (b) any requirement imposed by regulations made under section 111(1),any information which the person knows to be false, the person commits an offence.
- (4) As regards an offence under subsection (2), so far as it relates to non-compliance with—
  - (a) section 108(1), 109(1) or 110(1), or
  - (b) any requirement imposed by regulations made under section 111(1),a person commits such an offence on the first day on which the person first fails, without reasonable excuse, to comply with the provision mentioned in paragraph (a) or (as the case may be) the requirement mentioned in paragraph (b), and continues to commit it throughout any period during which the failure continues.
- (5) But a person must not be prosecuted under subsection (2) more than once in respect of the same failure.

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- (6) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding the relevant period or a fine not exceeding the statutory maximum or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine or both.
- (7) In subsection (6)(a) “the relevant period” means—
- (a) in relation to <sup>F72</sup>... Scotland, 12 months;
  - (b) in relation to Northern Ireland, 6 months;
  - <sup>F73</sup>(c) in relation to England and Wales, the general limit in a magistrates’ court.]
- (8) Proceedings for an offence under this section may be commenced in any court having jurisdiction in any place where the person charged with the offence resides or is found.

#### Textual Amendments

- F72** Words in s. 113(7)(a) omitted (7.2.2023 at 12.00 p.m.) by virtue of [The Judicial Review and Courts Act 2022 \(Magistrates’ Court Sentencing Powers\) Regulations 2023 \(S.I. 2023/149\)](#), regs. 1(2), **16(2)**
- F73** S. 113(7)(c) inserted (7.2.2023 at 12.00 p.m.) by [The Judicial Review and Courts Act 2022 \(Magistrates’ Court Sentencing Powers\) Regulations 2023 \(S.I. 2023/149\)](#), regs. 1(2), **16(3)**

#### Commencement Information

- I66** S. 113 in force at 3.8.2009 by [S.I. 2009/1842](#), art. 2(p)

### 114 Supply of information to Secretary of State etc.

- (1) This section applies to information notified to the police under section 108(1), 109(1) or 110(1).
- (2) A chief officer of police may, for the purposes of the prevention, detection, investigation or prosecution of offences under this Part, supply information to which this section applies to—
- (a) the Secretary of State, or
  - (b) a person providing services to the Secretary of State in connection with a relevant function,
- for use for the purpose of verifying the information.
- (3) In relation to information supplied to any person under subsection (2), the reference to verifying the information is a reference to—
- (a) checking its accuracy by comparing it with information held—
    - (i) where the person is the Secretary of State, by that person in connection with the exercise of a relevant function, or
    - (ii) where the person is within subsection (2)(b), by that person in connection with the provision of services as mentioned there, and
  - (b) compiling a report of that comparison.
- (4) Subject to subsection (5), the supply of information under this section is to be taken not to breach any restriction on the disclosure of information (however arising).
- (5) This section does not authorise the doing of anything that contravenes [<sup>F74</sup>the data protection legislation].

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(6) This section does not affect any power to supply information that exists apart from this section.

[<sup>F75</sup>(6A) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).]

(7) In this section “relevant function” means—

- (a) a function relating to social security, child support, employment or training,
- (b) a function relating to passports, or
- (c) a function under Part 3 of the Road Traffic Act 1988 (c. 52).

#### Textual Amendments

**F74** Words in s. 114(5) substituted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 151(2)** (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)

**F75** S. 114(6A) inserted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 151(3)** (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)

#### Commencement Information

**I67** S. 114 in force at 3.8.2009 by S.I. 2009/1842, **art. 2(q)**

### 115 Supply of information by Secretary of State etc.

- (1) A report compiled under section 114 may be supplied to a chief officer of police by—
- (a) the Secretary of State, or
  - (b) a person within section 114(2)(b).
- (2) Such a report may contain any information held—
- (a) by the Secretary of State in connection with the exercise of a relevant function, or
  - (b) by a person within section 114(2)(b) in connection with the provision of services as mentioned there.
- (3) Where such a report contains information within subsection (2), the chief officer to whom it is supplied—
- (a) may retain the information, whether or not used for the purposes of the prevention, detection, investigation or prosecution of offences under this Part, and
  - (b) may use the information for any purpose related to the prevention, detection, investigation or prosecution of offences (whether or not under this Part), but for no other purpose.
- (4) Subsections (4) to (7) of section 114 apply in relation to this section as they apply in relation to section 114.

#### Commencement Information

**I68** S. 115 in force at 3.8.2009 by S.I. 2009/1842, **art. 2(r)**

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## 116 Information about release or transfer

- (1) This section applies to an offender subject to notification requirements who is—
  - (a) serving a sentence of imprisonment or a term of service detention, or
  - (b) detained in a hospital.
- (2) The Secretary of State may by regulations make provision requiring the person who is responsible for such an offender to give notice to specified persons—
  - (a) of the fact that that person has become responsible for the offender; and
  - (b) of any occasion when—
    - (i) the offender is released, or
    - (ii) a different person is to become responsible for the offender.
- (3) In subsection (2) “specified persons” means persons specified, or of a description specified, in the regulations.
- (4) The regulations may make provision for determining who is to be taken for the purposes of this section as being responsible for an offender.

### Commencement Information

**I69** S. 116 in force at 3.8.2009 by S.I. 2009/1842, art. 2(s)

## 117 Interpretation of Part 7

- (1) In this Part—
  - “the appropriate date” has the meaning given by section 100(5);
  - “country” includes territory;
  - “custodial sentence” means—
    - (a) a sentence of imprisonment, any other sentence or order mentioned in [F76 section 222(1) of the Sentencing Code] (as in force at any time after the passing of this Act) or any corresponding sentence or order imposed or made under [F77 any enactment passed before that section came into force], or
    - (b) a relevant service sentence (see subsection (2) below);
  - “home address” has the meaning given by section 108(5);
  - “hospital order” means—
    - (a) an order under section 37 of the Mental Health Act 1983 (c. 20) or section 60 of the Mental Health Act 1959 (c. 72), or
    - (b) any other order providing for the admission of a person to hospital following a finding of the kind mentioned in section 99(2)(b) or (c) of this Act;
  - “interim violent offender order” means an order made under section 104;
  - “kept in service custody” means kept in service custody by virtue of an order under section 105(2) of the Armed Forces Act 2006 (c. 52);
  - “the offender”, in relation to a violent offender order or an interim violent offender order, means the person in respect of whom the order is made;
  - “qualifying offender” has the meaning given by section 99(1);
  - “restriction order” means an order under section 41 of the Mental Health Act 1983 or section 65 of the Mental Health Act 1959;



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“service detention” has the meaning given by section 374 of the Armed Forces Act 2006;

“specified offence” has the meaning given by section 98(3);

“supervision order” means—

- (a) a supervision order within the meaning of Schedule 1A to the Criminal Procedure (Insanity) Act 1964 (c. 84), or
- (b) a supervision and treatment order within the meaning of Schedule 2 to that Act;

“violent offender order” has the meaning given by section 98(1).

(2) The following are relevant service sentences—

- (a) a sentence of imprisonment passed under the Army Act 1955 (3 & 4 Eliz. 2 c. 18), the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19) or the Naval Discipline Act 1957 (c. 53);
- (b) a sentence of custody for life, or detention, under section 71A of either of those Acts of 1955 or section 43A of that Act of 1957;
- (c) a sentence under a custodial order within the meaning of—
  - (i) section 71AA of, or paragraph 10 of Schedule 5A to, either of those Acts of 1955, or
  - (ii) section 43AA of, or paragraph 10 of Schedule 4A to, that Act of 1957;
- (d) a custodial sentence within the meaning of the Armed Forces Act 2006 (c. 52) (see section 374 of that Act).

(3) References in this Part to protecting the public from the risk of serious violent harm caused by a person are to be read in accordance with section 98(2).

(4) References in this Part to a finding of the kind mentioned in section 99(2)(b) or (c) or (4)(b) or (c) include references to a case where a decision on appeal is to the effect that there should have been such a finding in the proceedings concerned.

(5) References in this Part to an offender subject to notification requirements are to be read in accordance with section 107.

(6) The following expressions have the same meanings as in Part 2 of the Sexual Offences Act 2003 (c. 42) (notifications and orders)—

“detained in a hospital” (see sections 133 and 135 of that Act);

“sentence of imprisonment” (see section 131 of that Act);

and references to a person having been found to be under a disability and to have done the act charged are to be read in accordance with section 135 of that Act.

#### Textual Amendments

**F76** Words in s. 117(1) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 269\(a\)](#) (with [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

**F77** Words in s. 117(1) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 269\(b\)](#) (with [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

#### Commencement Information

**I70** S. 117 in force at 3.8.2009 by [S.I. 2009/1842](#), [art. 2\(t\)](#)

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## PART 8

### ANTI-SOCIAL BEHAVIOUR

#### *Premises closure orders*

#### <sup>F78</sup> 118 Closure orders: premises associated with persistent disorder or nuisance

.....

##### Textual Amendments

**F78** S. 118 repealed (20.10.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 11 para. 50](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 3(g)(viii)(hh) (as renumbered (20.10.2014) by S.I. 2014/2754, arts. 1, 3(b))

#### *Nuisance or disturbance on hospital premises*

#### 119 Offence of causing nuisance or disturbance on NHS premises

- (1) A person commits an offence if—
  - (a) the person causes, without reasonable excuse and while on NHS premises, a nuisance or disturbance to an NHS staff member who is working there or is otherwise there in connection with work,
  - (b) the person refuses, without reasonable excuse, to leave the NHS premises when asked to do so by a constable or an NHS staff member, and
  - (c) the person is not on the NHS premises for the purpose of obtaining medical advice, treatment or care for himself or herself.
- (2) A person who commits an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) For the purposes of this section—
  - (a) a person ceases to be on NHS premises for the purpose of obtaining medical advice, treatment or care for himself or herself once the person has received the advice, treatment or care, and
  - (b) a person is not on NHS premises for the purpose of obtaining medical advice, treatment or care for himself or herself if the person has been refused the advice, treatment or care during the last 8 hours.
- (4) In this section—
 

“English NHS premises” means—

  - (a) any hospital vested in, or managed by, a relevant English NHS body,
  - (b) any building or other structure, or vehicle, associated with the hospital and situated on hospital grounds (whether or not vested in, or managed by, a relevant English NHS body), and
  - (c) the hospital grounds,

“hospital grounds” means land in the vicinity of a hospital and associated with it,

“NHS premises” means English NHS premises or Welsh NHS premises,

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“NHS staff member” means a person employed by a relevant English NHS body, or a relevant Welsh NHS body, or otherwise working for such a body (whether as or on behalf of a contractor, as a volunteer or otherwise),

“relevant English NHS body” means—

(a) a National Health Service trust (see section 25 of the National Health Service Act 2006 (c. 41)), all or most of whose hospitals, establishments and facilities are situated in England,

(b) <sup>F79</sup> ...

(c) an NHS foundation trust (see section 30 of that Act),

“relevant Welsh NHS body” means—

(a) a National Health Service trust (see section 18 of the National Health Service (Wales) Act 2006 (c. 42)), all or most of whose hospitals, establishments and facilities are situated in Wales, or

(b) a Local Health Board (see section 11 of that Act),

“vehicle” includes an air ambulance,

“Welsh NHS premises” means—

(a) any hospital vested in, or managed by, a relevant Welsh NHS body,

(b) any building or other structure, or vehicle, associated with the hospital and situated on hospital grounds (whether or not vested in, or managed by, a relevant Welsh NHS body), and

(c) the hospital grounds.

#### Textual Amendments

**F79** Words in s. 119(4) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 5 para. 153](#); [S.I. 2013/160](#), art. 2(2) (with arts. 7-9)

#### Commencement Information

**I71** S. 119(1)-(3) in force at 30.11.2009 in relation to English NHS premises by [S.I. 2009/3074](#), art. 3(a)

**I72** S. 119(4) in force at 1.1.2009 in relation to English NHS premises by [S.I. 2008/3260](#), art. 2(2)(a)

## 120 Power to remove person causing nuisance or disturbance

- (1) If a constable reasonably suspects that a person is committing or has committed an offence under section 119, the constable may remove the person from the NHS premises concerned.
- (2) If an authorised officer reasonably suspects that a person is committing or has committed an offence under section 119, the authorised officer may—
  - (a) remove the person from the NHS premises concerned, or
  - (b) authorise an appropriate NHS staff member to do so.
- (3) Any person removing another person from NHS premises under this section may use reasonable force (if necessary).
- (4) An authorised officer cannot remove a person under this section or authorise another person to do so if the authorised officer has reason to believe that—
  - (a) the person to be removed requires medical advice, treatment or care for himself or herself, or

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- (b) the removal of the person would endanger the person's physical or mental health.

(5) In this section—

“appropriate NHS staff member”—

(a) in relation to English NHS premises, means an English NHS staff member, and

(b) in relation to Welsh NHS premises, means a Welsh NHS staff member,

“authorised officer”—

(a) in relation to English NHS premises, means any English NHS staff member authorised by a relevant English NHS body to exercise the powers which are conferred by this section on an authorised officer in respect of English NHS premises, and

(b) in relation to Welsh NHS premises, means any Welsh NHS staff member authorised by a relevant Welsh NHS body to exercise the powers which are conferred by this section on an authorised officer in respect of Welsh NHS premises,

“English NHS staff member” means a person employed by a relevant English NHS body or otherwise working for it (whether as or on behalf of a contractor, as a volunteer or otherwise),

“Welsh NHS staff member” means a person employed by a relevant Welsh NHS body or otherwise working for it (whether as or on behalf of a contractor, as a volunteer or otherwise).

(6) Terms defined in section 119 have the same meaning in this section as in that section.

#### Commencement Information

**I73** S. 120(1)-(4) in force at 30.11.2009 in relation to English NHS premises by S.I. 2009/3074, art. 3(b)

**I74** S. 120(5)(6) in force at 1.1.2009 in relation to English NHS premises by S.I. 2008/3260, art. 2(2)(b)

## 121 Guidance about the power to remove etc.

(1) The appropriate national authority may from time to time prepare and publish guidance to relevant NHS bodies and authorised officers about the powers in section 120.

(2) Such guidance may, in particular, relate to—

- (a) the authorisation by relevant NHS bodies of authorised officers,
- (b) the authorisation by authorised officers of appropriate NHS staff members to remove persons under section 120,
- (c) training requirements for authorised officers and persons authorised by them to remove persons under section 120,
- (d) matters that may be relevant to a consideration by authorised officers for the purposes of section 120 of whether offences are being, or have been, committed under section 119,
- (e) matters to be taken into account by authorised officers in deciding whether there is reason to believe that a person requires medical advice, treatment or care for himself or herself or that the removal of a person would endanger the person's physical or mental health,

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- (f) the procedure to be followed by authorised officers or persons authorised by them before using the power of removal in section 120,
  - (g) the degree of force that it may be appropriate for authorised officers or persons authorised by them to use in particular circumstances,
  - (h) arrangements for ensuring that persons on NHS premises are aware of the offence in section 119 and the powers of removal in section 120, or
  - (i) the keeping of records.
- (3) Before publishing guidance under this section, the appropriate national authority must consult such persons as the authority considers appropriate.
- (4) A relevant NHS body and an authorised officer must, when exercising functions under, or in connection with, section 120, have regard to any guidance published by the appropriate national authority under this section.
- (5) In this section—  
“appropriate national authority”—  
(a) in relation to a relevant English NHS body and authorised officers in respect of English NHS premises, means the Secretary of State, and  
(b) in relation to a relevant Welsh NHS body and authorised officers in respect of Welsh NHS premises, means the Welsh Ministers,  
“appropriate NHS staff member” and “authorised officer” have the same meaning as in section 120,  
“relevant NHS body” means a relevant English NHS body or a relevant Welsh NHS body.
- (6) Terms defined in section 119 have the same meaning in this section as in that section.

**Commencement Information**

- I75 S. 121(1)-(3)(5)(6) in force at 1.1.2009 in relation to English NHS premises by S.I. 2008/3260, art. 2(2)(c)
- I76 S. 121(4) in force at 30.11.2009 in relation to English NHS premises by S.I. 2009/3074, art. 3(c)

**122 Nuisance or disturbance on HSS premises**

Schedule 21 makes provision for Northern Ireland corresponding to the provision made for England and Wales by sections 119 to 121.

**Commencement Information**

- I77 S. 122 in force at 22.6.2009 by S.R. 2009/243, art. 2(a)

*Anti-social behaviour orders etc. in respect of children and young persons*

<sup>F80</sup> **123 Review of anti-social behaviour orders etc.**

.....

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#### Textual Amendments

**F80** S. 123 repealed (23.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 11 para. 50](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 4(f)(xii)

#### Commencement Information

**I78** S. 123 in force at 1.2.2009 by [S.I. 2009/140](#), [art. 2\(b\)](#)

### <sup>F81</sup> 124 Individual support orders

#### Textual Amendments

**F81** S. 124 repealed (23.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 11 para. 50](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 4(f)(xii)

#### Commencement Information

**I79** S. 124 in force at 1.2.2009 by [S.I. 2009/140](#), [art. 2\(c\)](#)

### *Parenting contracts and parenting orders*

### 125 Parenting contracts and parenting orders: local authorities

- (1) Part 3 of the Anti-social Behaviour Act 2003 (c. 38) (parental responsibilities) is amended as follows.
- (2) In section 29(1) (interpretation) in the definition of “local authority” for paragraphs (b) and (c) substitute—
  - “(aa) a district council in England;”.
- (3) In section 26B (parenting orders: registered social landlords)—
  - (a) in subsection (8), after “the local authority” insert “ (or, if subsection (8A) applies, each local authority) ”;
  - (b) after that subsection insert—
    - “(8A) This subsection applies if the place where the child or young person resides or appears to reside is within the area of a county council and within the area of a district council.”;
  - (c) in subsection (10)(a), after “the local authority” insert “ (or authorities) ”.
- (4) In section 27 (parenting orders: supplemental) for subsection (3A) substitute—
  - “(3A) Proceedings for an offence under section 9(7) of the 1998 Act (parenting orders: breach of requirement etc.) as applied by subsection (3)(b) above may be brought by any of the following local authorities—
    - (a) the local authority that applied for the order, if the child or young person, or the person alleged to be in breach, resides or appears to reside in that authority’s area;

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- (b) the local authority of the child or young person, if that child or young person does not reside or appear to reside in the area of the local authority that applied for the order;
  - (c) the local authority of the person alleged to be in breach, if that person does not reside or appear to reside in the area of the local authority that applied for the order.
- (3B) For the purposes of subsection (3A)(b) and (c)—
- (a) an individual's local authority is the local authority in whose area the individual resides or appears to reside; but
  - (b) if the place where an individual resides or appears to reside is within the area of a county council and within the area of a district council, a reference to that individual's local authority is to be read as a reference to either of those authorities.”

#### Commencement Information

**I80** S. 125 in force at 1.4.2009 by S.I. 2009/860, art. 2(1)(b)

## PART 9

### POLICING

#### *Misconduct procedures etc.*

#### 126 Police misconduct and performance procedures

- (1) Part 1 of Schedule 22—
  - (a) amends the Police Act 1996 (c. 16) to make provision for or in connection with disciplinary and other proceedings in respect of the conduct and performance of members of police forces and special constables, and
  - (b) makes other minor amendments to that Act.
- (2) Part 2 of that Schedule makes equivalent amendments to the Ministry of Defence Police Act 1987 (c. 4) for the purposes of the Ministry of Defence Police.
- (3) Part 3 of that Schedule makes equivalent amendments to the Railways and Transport Safety Act 2003 (c. 20) for the purposes of the British Transport Police.

#### Commencement Information

**I81** S. 126(1) in force at 14.7.2008 for specified purposes by S.I. 2008/1586, art. 2(1), Sch. 1 para. 42

**I82** S. 126(1) in force at 3.11.2008 for specified purposes by S.I. 2008/2712, art. 2, Sch. para. 9

**I83** S. 126(1)(3) in force at 1.12.2008 for specified purposes by S.I. 2008/2993, art. 2(1)(c)

**I84** S. 126(2) in force at 30.11.2009 for specified purposes by S.I. 2009/3074, art. 2(j)

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## 127 Investigation of complaints of police misconduct etc.

Schedule 23 amends the Police Reform Act 2002 (c. 30) to make further provision about the investigation of complaints of police misconduct and other matters.

### Commencement Information

**I85** S. 127 in force at 3.11.2008 for specified purposes by S.I. 2008/2712, art. 2, Sch. para. 10

**I86** S. 127 in force at 1.12.2008 for specified purposes by S.I. 2008/2993, art. 2(1)(d)

### *Financial assistance*

## 128 Financial assistance under section 57 of Police Act 1996

- (1) After section 57(1) of the Police Act 1996 (common services: power for Secretary of State to provide and maintain etc. organisations, facilities and services which promote the efficiency or effectiveness of police) insert—

“(1A) The power conferred by subsection (1) includes power to give financial assistance to any person in connection with the provision or maintenance of such organisations, facilities and services as are mentioned in that subsection.

(1B) Financial assistance under subsection (1)—

- (a) may, in particular, be given in the form of a grant, loan or guarantee or investment in a body corporate; and
- (b) may be given subject to terms and conditions determined by the Secretary of State;

but any financial assistance under that subsection other than a grant requires the consent of the Treasury.

(1C) Terms and conditions imposed under subsection (1B)(b) may include terms and conditions as to repayment with or without interest.

(1D) Any sums received by the Secretary of State by virtue of terms and conditions imposed under that subsection are to be paid into the Consolidated Fund.”

- (2) Any loan made by the Secretary of State by virtue of section 57 of the Police Act 1996 (c. 16) and outstanding on the day on which this Act is passed is to be treated as if it were a loan made in accordance with that section as amended by subsection (1) above.

### *Inspection*

## 129 Inspection of police authorities

In section 54 of the Police Act 1996 (c. 16) (appointment and functions of inspectors of constabulary) for subsection (2A) substitute—

“(2A) The inspectors of constabulary may carry out an inspection of, and report to the Secretary of State on, a police authority's performance of its functions or of any particular function or functions (including in particular its compliance with the requirements of Part 1 of the Local Government Act 1999 (best value)).”



*Status:* This version of this Act contains provisions that are prospective.

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### Commencement Information

**I87** S. 129 in force at 3.11.2008 by S.I. 2008/2712, art. 2, Sch. para. 11

PROSPECTIVE

## PART 10

### SPECIAL IMMIGRATION STATUS

#### Modifications etc. (not altering text)

**C4** Pt. 10: power to amend conferred (28.4.2022 for specified purposes, 28.6.2022 in so far as not already in force) by Nationality and Borders Act 2022 (c. 36), ss., 82(2)(k), (3)-(6), 87(1)(4)(i) 82(1); S.I. 2022/590, regs. 1(2), 2, Sch. 1 para. 29

### 130 Designation

- (1) The Secretary of State may designate a person who satisfies Condition 1 or 2 (subject to subsections (4) and (5)).
- (2) Condition 1 is that the person—
  - (a) is a foreign criminal within the meaning of section 131, and
  - (b) is liable to deportation, but cannot be removed from the United Kingdom because of section 6 of the Human Rights Act 1998 (c. 42) (public authority not to act contrary to Convention).
- (3) Condition 2 is that the person is a member of the family of a person who satisfies Condition 1.
- (4) A person who has the right of abode in the United Kingdom may not be designated.
- (5) The Secretary of State may not designate a person if the Secretary of State thinks that an effect of designation would breach—
  - (a) the United Kingdom's obligations under the Refugee Convention,<sup>F82</sup> ...
  - <sup>F82</sup>(b) .....

#### Textual Amendments

**F82** S. 130(5)(b) and word omitted (31.12.2020) by virtue of The Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020 (S.I. 2020/1309), regs. 1(2), **18(2)**

### 131 “Foreign criminal”

- (1) For the purposes of section 130 “foreign criminal” means a person who—
  - (a) is not a British citizen, and
  - (b) satisfies any of the following Conditions.

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (2) Condition 1 is that section 72(2)(a) and (b) or (3)(a) to (c) of the Nationality, Immigration and Asylum Act 2002 (c. 41) applies to the person (Article 33(2) of the Refugee Convention: imprisonment for at least two years).
- (3) Condition 2 is that—
  - (a) section 72(4)(a) or (b) of that Act applies to the person (person convicted of specified offence), and
  - (b) the person has been sentenced to a period of imprisonment.
- (4) Condition 3 is that Article 1F of the Refugee Convention applies to the person (exclusions for criminals etc.).
- (5) Section 72(6) of that Act (rebuttal of presumption under section 72(2) to (4)) has no effect in relation to Condition 1 or 2.
- (6) Section 72(7) of that Act (non-application pending appeal) has no effect in relation to Condition 1 or 2.

### 132 Effect of designation

- (1) A designated person does not have leave to enter or remain in the United Kingdom.
- (2) For the purposes of a provision of the Immigration Acts and any other enactment which concerns or refers to immigration or nationality (including any provision which applies or refers to a provision of the Immigration Acts or any other enactment about immigration or nationality) a designated person—
  - (a) is a person subject to immigration control,
  - (b) is not to be treated as an asylum-seeker or a former asylum-seeker, and
  - (c) is not in the United Kingdom in breach of the immigration laws.
- (3) Despite subsection (2)(c), time spent in the United Kingdom as a designated person may not be relied on by a person for the purpose of an enactment about nationality.
- (4) A designated person—
  - (a) shall not be deemed to have been given leave in accordance with paragraph 6 of Schedule 2 to the Immigration Act 1971 (c. 77) (notice of leave or refusal), and
  - (b) may not be granted [<sup>F83</sup>immigration bail under Schedule 10 to the Immigration Act 2016.]
- (5) Sections 134 and 135 make provision about support for designated persons and their dependants.

#### Textual Amendments

**F83** Words in s. 132(4)(b) substituted (15.1.2018) by [Immigration Act 2016 \(c. 19\)](#), s. 94(1), [Sch. 10 para. 42](#); [S.I. 2017/1241](#), reg. 2(c) (with [Sch.](#)) (as amended by [S.I. 2018/31](#), reg. 2)

### 133 Conditions

- (1) The Secretary of State or an immigration officer may by notice in writing impose a condition on a designated person.

*Status:* This version of this Act contains provisions that are prospective.

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- (2) A condition may relate to—
- (a) residence,
  - (b) employment or occupation, or
  - (c) reporting to the police, the Secretary of State or an immigration officer.

<sup>F84</sup>(3) If a condition is imposed under this section on a designated person, the person imposing the condition may also impose an electronic monitoring condition within the meaning of Schedule 10 to the Immigration Act 2016 on the designated person.

(3A) Paragraph 4 (electronic monitoring conditions) of that Schedule applies in relation to a condition imposed under subsection (3) as it applies to an electronic monitoring condition imposed under that Schedule.

(4) Paragraph 9(4) and (5) (bail conditions: travelling expenses) of that Schedule applies in relation to conditions imposed under subsection (2)(c) as it applies to conditions imposed under that Schedule.]

(5) A person who without reasonable excuse fails to comply with a condition imposed under this section commits an offence.

(6) A person who is guilty of an offence under subsection (5) shall be liable on summary conviction to—

- (a) a fine not exceeding level 5 on the standard scale,
- (b) imprisonment for a period not exceeding 51 weeks, or
- (c) both.

(7) A provision of the Immigration Act 1971 (c. 77) which applies in relation to an offence under <sup>F85</sup>any provision of section 24(1)]<sup>F85</sup>section 24] of that Act (illegal entry etc.) shall also apply in relation to the offence under subsection (5) above.

(8) In the application of this section to Scotland or Northern Ireland the reference in subsection (6)(b) to 51 weeks shall be treated as a reference to six months.

#### Textual Amendments

**F84** S. 133(3)(3A)(4) substituted for s. 133(3)(4) (15.1.2018) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 10 para. 43; S.I. 2017/1241, reg. 2(c) (with Sch.) (as amended by S.I. 2018/31, reg. 2)

**F85** Words in s. 133(7) substituted (28.6.2022 for specified purposes) by Nationality and Borders Act 2022 (c. 36), ss. 40(9), 87(1); S.I. 2022/590, regs. 1(2), 2, Sch. 1 para. 20 (with Sch. 2 para. 7)

## 134 Support

(1) Part VI of the Immigration and Asylum Act 1999 (c. 33) (support for asylum-seekers) shall apply in relation to designated persons and their dependants as it applies in relation to asylum-seekers and their dependants.

(2) But the following provisions of that Part shall not apply—

- (a) section 96 (kinds of support),
- (b) section 97(1)(b) (desirability of providing accommodation in well-supplied area),
- (c) section 100 (duty to co-operate in providing accommodation),
- (d) section 101 (reception zones),

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- (e) section 108 (failure of sponsor to maintain),
  - (f) section 111 (grants to voluntary organisations), and
  - (g) section 113 (recovery of expenditure from sponsor).
- (3) Support may be provided under section 95 of the 1999 Act as applied by this section—
- (a) by providing accommodation appearing to the Secretary of State to be adequate for a person's needs;
  - (b) by providing what appear to the Secretary of State to be essential living needs;
  - (c) in other ways which the Secretary of State thinks necessary to reflect exceptional circumstances of a particular case.
- (4) Support by virtue of subsection (3) may not be provided wholly or mainly by way of cash unless the Secretary of State thinks it appropriate because of exceptional circumstances.
- (5) Section 4 of the 1999 Act (accommodation) shall not apply in relation to designated persons.

<sup>F86</sup>(6) .....

#### Textual Amendments

**F86** S. 134(6) repealed (2.3.2009) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), Sch. 15 para. 24, Sch. 16; S.I. 2009/415, art. 4(a)

### 135 Support: supplemental

- (1) A reference in an enactment to Part VI of the 1999 Act or to a provision of that Part includes a reference to that Part or provision as applied by section 134 above; and for that purpose—
- (a) a reference to section 96 shall be treated as including a reference to section 134(3) above,
  - (b) a reference to a provision of section 96 shall be treated as including a reference to the corresponding provision of section 134(3), and
  - (c) a reference to asylum-seekers shall be treated as including a reference to designated persons.
- (2) A provision of Part VI of the 1999 Act which requires or permits the Secretary of State to have regard to the temporary nature of support shall be treated, in the application of Part VI by virtue of section 134 above, as requiring the Secretary of State to have regard to the nature and circumstances of support by virtue of that section.

<sup>F87</sup>(3) .....

- (4) Any <sup>F88</sup>... instrument under Part VI of the 1999 Act—
- (a) may make provision in respect of that Part as it applies by virtue of section 134 above, as it applies otherwise than by virtue of that section, or both, and
  - (b) may make different provision for that Part as it applies by virtue of section 134 above and as it applies otherwise than by virtue of that section.
- (5) In the application of paragraph 9 of Schedule 8 to the 1999 Act (regulations: notice to quit accommodation) the reference in paragraph (2)(b) to the determination of a claim for asylum shall be treated as a reference to ceasing to be a designated person.

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(6) The Secretary of State may by order repeal, modify or disapply (to any extent) section 134(4).

<sup>F89</sup>(7) .....

#### Textual Amendments

- F87** S. 135(3) omitted (1.6.2009) by virtue of [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 288(a)** (with Sch. 5)
- F88** Word in s. 135(4) omitted (1.6.2009) by virtue of [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 288(b)** (with Sch. 5)
- F89** S. 135(7) repealed (2.3.2009) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), Sch. 15 para. 25, **Sch. 16**; [S.I. 2009/415](#), art. 4(a)

### 136 End of designation

- (1) Designation lapses if the designated person—
- (a) is granted leave to enter or remain in the United Kingdom,
  - <sup>F90</sup>(b) .....
  - (c) leaves the United Kingdom, or
  - (d) is made the subject of a deportation order under section 5 of the Immigration Act 1971 (c. 77).
- (2) After designation lapses support may not be provided by virtue of section 134, subject to the following exceptions.
- (3) Exception 1 is that, if designation lapses under subsection (1)(a) <sup>F91</sup> ..., support may be provided in respect of a period which—
- (a) begins when the designation lapses, and
  - (b) ends on a date determined in accordance with an order of the Secretary of State.
- (4) Exception 2 is that, if designation lapses under subsection (1)(d), support may be provided in respect of—
- (a) any period during which an appeal against the deportation order may be brought (ignoring any possibility of an appeal out of time with permission),
  - (b) any period during which an appeal against the deportation order is pending, and
  - (c) after an appeal ceases to be pending, such period as the Secretary of State may specify by order.

#### Textual Amendments

- F90** S. 136(1)(b) omitted (31.12.2020) by virtue of [The Immigration and Social Security Co-ordination \(EU Withdrawal\) Act 2020 \(Consequential, Saving, Transitional and Transitory Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1309\)](#), regs. 1(2), **18(3)(a)**
- F91** Words in s. 136(3) omitted (31.12.2020) by virtue of [The Immigration and Social Security Co-ordination \(EU Withdrawal\) Act 2020 \(Consequential, Saving, Transitional and Transitory Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1309\)](#), regs. 1(2), **18(3)(b)**

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### **137 Interpretation: general**

- (1) This section applies to sections 130 to 136.
- (2) A reference to a designated person is a reference to a person designated under section 130.
- (3) “Family” shall be construed in accordance with section 5(4) of the Immigration Act 1971 (c. 77) (deportation: definition of “family”).
- (4) “Right of abode in the United Kingdom” has the meaning given by section 2 of that Act.
- (5) “The Refugee Convention” means the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 and its Protocol.
- (6) “Period of imprisonment” shall be construed in accordance with section 72(11)(b)(i) and (ii) of the Nationality, Immigration and Asylum Act 2002 (c. 41).
- (7) A voucher is not cash.
- (8) A reference to a pending appeal has the meaning given by section 104(1) of that Act.
- (9) A reference in an enactment to the Immigration Acts includes a reference to sections 130 to 136.

## **PART 11**

### MISCELLANEOUS

#### *Industrial action by prison officers*

### **138 Amendment of section 127 of Criminal Justice and Public Order Act 1994**

- (1) Section 127 of the Criminal Justice and Public Order Act 1994 (c. 33) (inducements to prison officers to withhold services or breach discipline) is amended as follows.
- (2) In subsection (1), for paragraph (a) substitute—
  - “(a) to take (or continue to take) any industrial action;”.
- (3) After subsection (1) insert—
  - “(1A) In subsection (1) “industrial action” means—
    - (a) the withholding of services as a prison officer; or
    - (b) any action that would be likely to put at risk the safety of any person (whether a prisoner, a person working at or visiting a prison, a person working with prisoners or a member of the public).”
- (4) In subsection (4), after paragraph (a) insert—
  - “(aa) holds any post, other than as a chaplain or assistant chaplain, to which he has been appointed for the purposes of section 7 of the Prison Act 1952 (appointment of prison staff),”.
- (5) In subsection (4), after paragraph (aa) (inserted by subsection (4) above) insert—

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“(b) holds any post, otherwise than as a medical officer, to which he has been appointed for the purposes of section 3(1A) of the Prisons (Scotland) Act 1989;”.

**Commencement Information**

**188** S. 138 partly in force; s. 138(1)-(4) in force at Royal Assent, see s. 153(1)(d)

**139 Power to suspend the operation of section 127 of Criminal Justice and Public Order Act 1994**

After section 127 of the Criminal Justice and Public Order Act 1994 (c. 33) insert—

**“127A Power to suspend the operation of section 127**

- (1) The Secretary of State may make orders suspending, or later reviving, the operation of section 127.
- (2) An order under this section may make different provision in relation to different descriptions of prison officer.
- (3) The power to make orders under this section is exercisable by statutory instrument.
- (4) A statutory instrument containing an order under this section may not be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.”

*Sex offenders*

**140 Disclosure of information about convictions etc. of child sex offenders to members of the public**

(1) After section 327 of the Criminal Justice Act 2003 (c. 44) insert—

**“327A Disclosure of information about convictions etc. of child sex offenders to members of the public**

- (1) The responsible authority for each area must, in the course of discharging its functions under arrangements established by it under section 325, consider whether to disclose information in its possession about the relevant previous convictions of any child sex offender managed by it to any particular member of the public.
- (2) In the case mentioned in subsection (3) there is a presumption that the responsible authority should disclose information in its possession about the relevant previous convictions of the offender to the particular member of the public.
- (3) The case is where the responsible authority for the area has reasonable cause to believe that—

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- (a) a child sex offender managed by it poses a risk in that or any other area of causing serious harm to any particular child or children or to children of any particular description, and
  - (b) the disclosure of information about the relevant previous convictions of the offender to the particular member of the public is necessary for the purpose of protecting the particular child or children, or the children of that description, from serious harm caused by the offender.
- (4) The presumption under subsection (2) arises whether or not the person to whom the information is disclosed requests the disclosure.
- (5) Where the responsible authority makes a disclosure under this section—
- (a) it may disclose such information about the relevant previous convictions of the offender as it considers appropriate to disclose to the member of the public concerned, and
  - (b) it may impose conditions for preventing the member of the public concerned from disclosing the information to any other person.
- (6) Any disclosure under this section must be made as soon as is reasonably practicable having regard to all the circumstances.
- (7) The responsible authority for each area must compile and maintain a record about the decisions it makes in relation to the discharge of its functions under this section.
- (8) The record must include the following information—
- (a) the reasons for making a decision to disclose information under this section,
  - (b) the reasons for making a decision not to disclose information under this section, and
  - (c) the information which is disclosed under this section, any conditions imposed in relation to its further disclosure and the name and address of the person to whom it is disclosed.
- (9) Nothing in this section requires or authorises the making of a disclosure which contravenes the Data Protection Act 1998.
- (10) This section is not to be taken as affecting any power of any person to disclose any information about a child sex offender.

### **327B Section 327A: interpretation**

- (1) This section applies for the purposes of section 327A.
- (2) “Child” means a person under 18.
- (3) “Child sex offence” means an offence listed in Schedule 34A, whenever committed.
- (4) “Child sex offender” means any person who—
  - (a) has been convicted of such an offence,
  - (b) has been found not guilty of such an offence by reason of insanity,
  - (c) has been found to be under a disability and to have done the act charged against the person in respect of such an offence, or



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- (d) has been cautioned in respect of such an offence.
- (5) In relation to a responsible authority, references to information about the relevant previous convictions of a child sex offender are references to information about—
- (a) convictions, findings and cautions mentioned in subsection (4)(a) to (d) which relate to the offender, and
  - (b) anything under the law of any country or territory outside England and Wales which in the opinion of the responsible authority corresponds to any conviction, finding or caution within paragraph (a) (however described).
- (6) References to serious harm caused by a child sex offender are references to serious physical or psychological harm caused by the offender committing any offence listed in any paragraph of Schedule 34A other than paragraphs 1 to 6 (offences under provisions repealed by Sexual Offences Act 2003).
- (7) A responsible authority for any area manages a child sex offender if the offender is a person who poses risks in that area which fall to be managed by the authority under the arrangements established by it under section 325.
- (8) For the purposes of this section the provisions of section 4 of, and paragraph 3 of Schedule 2 to, the Rehabilitation of Offenders Act 1974 (protection for spent convictions and cautions) are to be disregarded.
- (9) In this section “cautioned”, in relation to any person and any offence, means—
- (a) cautioned after the person has admitted the offence, or
  - (b) reprimanded or warned within the meaning given by section 65 of the Crime and Disorder Act 1998.
- (10) Section 135(1), (2)(a) and (c) and (3) of the Sexual Offences Act 2003 (mentally disordered offenders) apply for the purposes of this section as they apply for the purposes of Part 2 of that Act.”
- (2) After Schedule 34 to that Act insert the Schedule 34A set out in Schedule 24 to this Act.

#### Commencement Information

**189** S. 140 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 43

### 141 Sexual offences prevention orders: relevant sexual offences

- (1) In section 106 of the Sexual Offences Act 2003 (c. 42) (supplemental provisions about sexual offences prevention orders), at the end insert—
- “(13) Subsection (14) applies for the purposes of section 104 and this section in their application in relation to England and Wales or Northern Ireland.
- (14) In construing any reference to an offence listed in Schedule 3, any condition subject to which an offence is so listed that relates—
- (a) to the way in which the defendant is dealt with in respect of an offence so listed or a relevant finding (as defined by section 132(9)), or
  - (b) to the age of any person,

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is to be disregarded.”

<sup>F92</sup>(2) .....

#### Textual Amendments

**F92** S. 141(2) repealed (S.) (1.11.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 100\(1\)](#), [206\(1\)](#); [S.S.I. 2011/354](#), [art. 2](#), [Sch.](#)

#### Commencement Information

**I90** S. 141 in force at 14.7.2008 by [S.I. 2008/1586](#), [art. 2\(1\)](#), [Sch. 1 para. 44](#)

## 142 Notification requirements: prescribed information

(1) In section 83 of the Sexual Offences Act 2003 (c. 42) (notification requirements: initial notification)—

(a) at the end of subsection (5) insert—

“(h) any prescribed information.”; and

(b) after that subsection insert—

“(5A) In subsection (5)(h) “prescribed” means prescribed by regulations made by the Secretary of State.”

(2) Section 84 of that Act (notification requirements: changes) is amended as follows.

(3) In subsection (1)—

(a) after “1997,” in paragraph (c) insert—

“(ca) any prescribed change of circumstances.”; and

(b) after “the address of those premises” insert “, the prescribed details”.

(4) In subsection (2) after “home address” insert “ or the prescribed change of circumstances”.

(5) After subsection (5) insert—

“(5A) In this section—

(a) “prescribed change of circumstances” means any change—

(i) occurring in relation to any matter in respect of which information is required to be notified by virtue of section 83(5)(h), and

(ii) of a description prescribed by regulations made by the Secretary of State;

(b) “the prescribed details”, in relation to a prescribed change of circumstances, means such details of the change as may be so prescribed.”

(6) Section 85 of that Act (notification requirements: periodic notification) is amended as follows.

(7) In subsection (1), for “the period of one year” substitute “ the applicable period ”.

(8) In subsection (3), for “the period referred to in subsection (1)” substitute “ the applicable period ”.

*Status:* This version of this Act contains provisions that are prospective.

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(9) After subsection (4) insert—

“(5) In this section, “the applicable period” means—

- (a) in any case where subsection (6) applies to the relevant offender, such period as may be prescribed by regulations made by the Secretary of State, and
- (b) in any other case, the period of one year.

(6) This subsection applies to the relevant offender if the last home address notified by him under section 83(1) or 84(1) or subsection (1) was the address or location of such a place as is mentioned in section 83(7)(b).”

(10) In section 138(2) of that Act (orders and regulations subject to the affirmative resolution procedure), for “86 or 130” substitute “ any of sections 83 to 86 or section 130 ”.

(11) This section extends to England and Wales and Northern Ireland only.

#### Commencement Information

**191** S. 142 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 45

### *Persistent sales of tobacco to persons under 18*

#### **143 Persistent sales of tobacco to persons under 18**

(1) The Children and Young Persons Act 1933 (c. 12) is amended as follows.

(2) After section 12 insert—

#### *“Persistent sales of tobacco to persons under 18*

##### **12A Restricted premises orders**

- (1) This section applies where a person (“the offender”) is convicted of a tobacco offence (“the relevant offence”).
- (2) The person who brought the proceedings for the relevant offence may by complaint to a magistrates' court apply for a restricted premises order to be made in respect of the premises in relation to which that offence was committed (“the relevant premises”).
- (3) A restricted premises order is an order prohibiting the sale on the premises to which it relates of any tobacco or cigarette papers to any person.
- (4) The prohibition applies to sales whether made—
  - (a) by the offender or any other person, or
  - (b) by means of any machine kept on the premises or any other means.
- (5) The order has effect for the period specified in the order, but that period may not exceed one year.

*Status: This version of this Act contains provisions that are prospective.*

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- (6) The applicant must, after making reasonable enquiries, give notice of the application to every person appearing to the applicant to be a person affected by it.
- (7) The court may make the order if (and only if) it is satisfied that—
- (a) on at least 2 occasions within the period of 2 years ending with the date on which the relevant offence was committed, the offender has committed other tobacco offences in relation to the relevant premises, and
  - (b) the applicant has complied with subsection (6).
- (8) Persons affected by the application may make representations to the court as to why the order should not be made.
- (9) If—
- (a) a person affected by an application for a restricted premises order was not given notice under subsection (6), and
  - (b) consequently the person had no opportunity to make representations to the court as to why the order should not be made,
- the person may by complaint apply to the court for an order varying or discharging it.
- (10) On an application under subsection (9) the court may, after hearing—
- (a) that person, and
  - (b) the applicant for the restricted premises order,
- make such order varying or discharging the restricted premises order as it considers appropriate.
- (11) For the purposes of this section the persons affected by an application for a restricted premises order in respect of any premises are—
- (a) the occupier of the premises, and
  - (b) any other person who has an interest in the premises.

### **12B Restricted sale orders**

- (1) This section applies where a person (“the offender”) is convicted of a tobacco offence (“the relevant offence”).
- (2) The person who brought the proceedings for the relevant offence may by complaint to a magistrates’ court apply for a restricted sale order to be made in respect of the offender.
- (3) A restricted sale order is an order prohibiting the person to whom it relates—
  - (a) from selling any tobacco or cigarette papers to any person,
  - (b) from having any management functions in respect of any premises in so far as those functions relate to the sale on the premises of tobacco or cigarette papers to any person,
  - (c) from keeping any cigarette machine on any premises for the purpose of selling tobacco or permitting any cigarette machine to be kept on any premises by any other person for that purpose, and

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- (d) from having any management functions in respect of any premises in so far as those functions relate to any cigarette machine kept on the premises for the purpose of selling tobacco.
- (4) The order has effect for the period specified in the order, but that period may not exceed one year.
- (5) The court may make the order if (and only if) it is satisfied that, on at least 2 occasions within the period of 2 years ending with the date on which the relevant offence was committed, the offender has committed other tobacco offences.
- (6) In this section any reference to a cigarette machine is a reference to an automatic machine for the sale of tobacco.

### **12C Enforcement**

- (1) If—
  - (a) a person sells on any premises any tobacco or cigarette papers in contravention of a restricted premises order, and
  - (b) the person knew, or ought reasonably to have known, that the sale was in contravention of the order,the person commits an offence.
- (2) If a person fails to comply with a restricted sale order, the person commits an offence.
- (3) It is a defence for a person charged with an offence under subsection (2) to prove that the person took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (4) A person guilty of an offence under this section is liable, on summary conviction, to a fine not exceeding £20,000.
- (5) A restricted premises order is a local land charge and in respect of that charge the applicant for the order is the originating authority for the purposes of the Local Land Charges Act 1975.

### **12D Interpretation**

- (1) In sections 12A and 12B a “tobacco offence” means—
    - (a) an offence committed under section 7(1) on any premises (which are accordingly “the premises in relation to which the offence is committed”), or
    - (b) an offence committed under section 7(2) in respect of an order relating to any machine kept on any premises (which are accordingly “the premises in relation to which the offence is committed”).
  - (2) In sections 12A to 12C the expressions “tobacco” and “cigarette” have the same meaning as in section 7.
  - (3) In sections 12A and 12B “notice” means notice in writing.”
- (3) In section 102(1) (appeals to the Crown Court), after paragraph (e) insert—

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“(f) in the case of a restricted premises order under section 12A or a restricted sale order under section 12B, by any person aggrieved.”

#### Commencement Information

**I92** S. 143 in force at 1.4.2009 by S.I. 2009/860, art. 2(1)(c)

### *Penalties for serious contraventions of data protection principles*

#### **144 Power to require data controllers to pay monetary penalty**

(1) After section 55 of the Data Protection Act 1998 (c. 29) insert—

#### *“Monetary penalties*

##### **55A Power of Commissioner to impose monetary penalty**

- (1) The Commissioner may serve a data controller with a monetary penalty notice if the Commissioner is satisfied that—
  - (a) there has been a serious contravention of section 4(4) by the data controller,
  - (b) the contravention was of a kind likely to cause substantial damage or substantial distress, and
  - (c) subsection (2) or (3) applies.
- (2) This subsection applies if the contravention was deliberate.
- (3) This subsection applies if the data controller—
  - (a) knew or ought to have known —
    - (i) that there was a risk that the contravention would occur, and
    - (ii) that such a contravention would be of a kind likely to cause substantial damage or substantial distress, but
  - (b) failed to take reasonable steps to prevent the contravention.
- (4) A monetary penalty notice is a notice requiring the data controller to pay to the Commissioner a monetary penalty of an amount determined by the Commissioner and specified in the notice.
- (5) The amount determined by the Commissioner must not exceed the prescribed amount.
- (6) The monetary penalty must be paid to the Commissioner within the period specified in the notice.
- (7) The notice must contain such information as may be prescribed.
- (8) Any sum received by the Commissioner by virtue of this section must be paid into the Consolidated Fund.
- (9) In this section—

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“data controller” does not include the Crown Estate Commissioners or a person who is a data controller by virtue of section 63(3);

“prescribed” means prescribed by regulations made by the Secretary of State.

### **55B Monetary penalty notices: procedural rights**

- (1) Before serving a monetary penalty notice, the Commissioner must serve the data controller with a notice of intent.
- (2) A notice of intent is a notice that the Commissioner proposes to serve a monetary penalty notice.
- (3) A notice of intent must—
  - (a) inform the data controller that he may make written representations in relation to the Commissioner's proposal within a period specified in the notice, and
  - (b) contain such other information as may be prescribed.
- (4) The Commissioner may not serve a monetary penalty notice until the time within which the data controller may make representations has expired.
- (5) A person on whom a monetary penalty notice is served may appeal to the Tribunal against—
  - (a) the issue of the monetary penalty notice;
  - (b) the amount of the penalty specified in the notice.
- (6) In this section, “prescribed” means prescribed by regulations made by the Secretary of State.

### **55C Guidance about monetary penalty notices**

- (1) The Commissioner must prepare and issue guidance on how he proposes to exercise his functions under sections 55A and 55B.
- (2) The guidance must, in particular, deal with—
  - (a) the circumstances in which he would consider it appropriate to issue a monetary penalty notice, and
  - (b) how he will determine the amount of the penalty.
- (3) The Commissioner may alter or replace the guidance.
- (4) If the guidance is altered or replaced, the Commissioner must issue the altered or replacement guidance.
- (5) The Commissioner may not issue guidance under this section without the approval of the Secretary of State.
- (6) The Commissioner must lay any guidance issued under this section before each House of Parliament.
- (7) The Commissioner must arrange for the publication of any guidance issued under this section in such form and manner as he considers appropriate.

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- (8) In subsections (5) to (7), “guidance” includes altered or replacement guidance.

#### **55D Monetary penalty notices: enforcement**

- (1) This section applies in relation to any penalty payable to the Commissioner by virtue of section 55A.
- (2) In England and Wales, the penalty is recoverable—
- (a) if a county court so orders, as if it were payable under an order of that court;
  - (b) if the High Court so orders, as if it were payable under an order of that court.
- (3) In Scotland, the penalty may be enforced in the same manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.
- (4) In Northern Ireland, the penalty is recoverable—
- (a) if a county court so orders, as if it were payable under an order of that court;
  - (b) if the High Court so orders, as if it were payable under an order of that court.

#### **55E Notices under sections 55A and 55B: supplemental**

- (1) The Secretary of State may by order make further provision in connection with monetary penalty notices and notices of intent.
- (2) An order under this section may in particular—
- (a) provide that a monetary penalty notice may not be served on a data controller with respect to the processing of personal data for the special purposes except in circumstances specified in the order;
  - (b) make provision for the cancellation or variation of monetary penalty notices;
  - (c) confer rights of appeal to the Tribunal against decisions of the Commissioner in relation to the cancellation or variation of such notices;
  - (d) make provision for the proceedings of the Tribunal in respect of appeals under section 55B(5) or appeals made by virtue of paragraph (c);
  - (e) make provision for the determination of such appeals;
  - (f) confer rights of appeal against any decision of the Tribunal in relation to monetary penalty notices or their cancellation or variation.
- (3) An order under this section may apply any provision of this Act with such modifications as may be specified in the order.
- (4) An order under this section may amend this Act.”
- (2) In section 67 of that Act (orders, regulations, rules)—
- (a) in subsection (4) insert at the appropriate place— “ section 55E(1), ”; and
  - (b) in subsection (5) after paragraph (c) insert—



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“(ca) regulations under section 55A(5) or (7) or 55B(3)(b),”.

#### Commencement Information

- I93** S. 144(1) in force at 1.10.2009 for specified purposes by S.I. 2009/2606, **art. 2(n)**  
**I94** S. 144(1) in force at 6.4.2010 in so far as not already in force by S.I. 2010/712, **art. 4**  
**I95** S. 144(2) in force at 1.10.2009 by S.I. 2009/2606, **art. 2(o)**

### *Armed forces legislation*

## **145 Amendments to armed forces legislation**

Schedule 25 contains—

- (a) amendments to armed forces legislation (which make provision for service courts etc. corresponding to other provisions of this Act); and
- (b) transitional provision relating to certain of those amendments.

#### Commencement Information

- I96** S. 145 in force at 31.10.2009 for specified purposes by S.I. 2009/1028, **art. 2**  
**I97** S. 145 in force at 31.10.2009 for specified purposes by S.I. 2009/2606, **art. 3(d)**

### *Automatic deportation of criminals*

## **146 Convention against human trafficking**

After section 33(6) of the UK Borders Act 2007 (automatic deportation: exceptions) insert—

“(6A) Exception 6 is where the Secretary of State thinks that the application of section 32(4) and (5) would contravene the United Kingdom's obligations under the Council of Europe Convention on Action against Trafficking in Human Beings (done at Warsaw on 16th May 2005).”

#### Commencement Information

- I98** S. 146 in force at 1.4.2009 by S.I. 2009/860, **art. 2(1)(d)**

## **PART 12**

### **GENERAL**

#### Modifications etc. (not altering text)

- C5** Pt. 12: power to amend conferred (28.4.2022 for specified purposes, 28.6.2022 in so far as not already in force) by Nationality and Borders Act 2022 (c. 36), **ss.** 82(2)(k), (3)-(6), 87(1)(4)(i) 82(1); S.I. 2022/590, regs. 1(2), 2, Sch. 1 para. 29

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## 147 Orders, rules and regulations

(1) Orders, rules or regulations made by the Secretary of State or the Lord Chancellor under this Act are to be made by statutory instrument.

[<sup>F93</sup>(1A) Orders made by the Department of Justice in Northern Ireland under this Act are to be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.]

(2) Any [<sup>F94</sup>orders or regulations falling within subsection (1) or (1A)] —

- (a) may make provision generally or only for specified cases or circumstances;
- (b) may make different provision for different cases, circumstances or areas;
- (c) may make incidental, supplementary, consequential, transitional, transitory or saving provision.

(3) Subject to subsection (4), a statutory instrument containing any order or regulations under this Act is subject to annulment in pursuance of a resolution of either House of Parliament.

(4) Subsection (3) does not apply to—

- (a) a statutory instrument containing an order under section 153,
- <sup>F95</sup>(b) .....
- (c) a statutory instrument containing an Order in Council under paragraph 9 of Schedule 17, or
- (d) a statutory instrument to which subsection (5) applies.

(5) A statutory instrument containing (whether alone or with other provision)—

- <sup>F96</sup>(a) .....
- (b) an order under section 48(2),
- (c) an order under section 77,
- <sup>F97</sup>(d) .....
- [<sup>F98</sup>(da) an order under section 98(6),]
- (e) an order under section 102,
- (f) regulations under any of sections 108 to 111,
- (g) an order under section 135(6),
- (h) an order under section 148(3) which amends or repeals any provision of an Act,
- <sup>F99</sup>(i) .....
- <sup>F99</sup>(j) .....
- (k) rules under paragraph 2(4)(a) of Schedule 6, or
- (l) an order under paragraph 6 of Schedule 7,

may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

[<sup>F100</sup>(5A) Subject to subsection (5B), orders made by the Department of Justice in Northern Ireland under this Act are subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).

(5B) Subsection (5A) does not apply to an order made by the Department of Justice containing (whether alone or with other provision) provision under section 83(4) or 91(3) which amends or repeals any provision of an Act; and no such order may be

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made by the Department unless a draft of it has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(5C) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (5B) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.]

(6) An order under section 153(5)(b) is to be made by statutory instrument.

(7) An order under section 153(6) is to be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).

#### Textual Amendments

- F93** S. 147(1A) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 18 para. 94(a)** (with arts. 28-31)
- F94** Words in s. 147(2) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 18 para. 94(b)** (with arts. 28-31)
- F95** S. 147(4)(b) repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F96** S. 147(5)(a) repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F97** S. 147(5)(d) omitted (31.12.2020) by virtue of [The Criminal Justice \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/780\)](#), regs. 1(1), **19(1)(b)** (with regs. 19(2), 20) (as amended by [S.I. 2020/1408](#), regs. 1, 49, 50); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))
- F98** S. 147(5)(da) inserted (E.W.) (13.5.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), **ss. 119(2)**, 185(1); [S.I. 2014/949](#), art. 3, [Sch. para. 9](#)
- F99** S. 147(5)(i)(j) repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F100** S. 147(5A)-(5C) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 18 para. 94(d)** (with arts. 28-31)

#### Modifications etc. (not altering text)

- C6** S. 147 modified in part (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416)) by [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), **ss. 1**, 5(2)(3); [S.I. 2012/1236](#), reg. 2

### 148 Consequential etc. amendments and transitional and saving provision

- (1) Schedule 26 contains minor and consequential amendments.
- (2) Schedule 27 contains transitory, transitional and saving provisions.
- (3) The Secretary of State may by order make—
- such supplementary, incidental or consequential provision, or
  - such transitory, transitional or saving provision,
- as the Secretary of State considers appropriate for the general purposes, or any particular purposes, of this Act, or in consequence of, or for giving full effect to, any provision made by this Act.
- (4) An order under subsection (3) may, in particular—
- provide for any amendment or other provision made by this Act which comes into force before any other provision (whether made by this or any other Act

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- or by any subordinate legislation) has come into force to have effect, until that other provision has come into force, with specified modifications, and
- (b) amend, repeal or revoke any provision of—
- (i) any Act (including this Act and any Act passed in the same Session as this Act);
  - (ii) subordinate legislation made before the passing of this Act;
  - (iii) Northern Ireland legislation passed, or made, before the passing of this Act; and
  - (iv) any instrument made, before the passing of this Act, under Northern Ireland legislation.
- (5) Nothing in this section limits the power under section 153(8) to include provision for transitory, transitional or saving purposes in an order under that section.
- (6) The amendments that may be made by virtue of subsection (4)(b) are in addition to those made by or which may be made under any other provision of this Act.
- (7) In this section “subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30).
- (8) Her Majesty may by Order in Council extend any provision made by virtue of subsection (4)(b), with such modifications as may appear to Her Majesty to be appropriate, to the Isle of Man or any British overseas territory.
- (9) The power under subsection (8) includes power to make supplementary, incidental, consequential, transitory, transitional or saving provision.
- (10) Subsection (8) does not apply in relation to amendments of the Armed Forces Act 2006 (c. 52).

#### Commencement Information

- I99** S. 148(1) in force at Royal Assent for specified purposes, see s. 153(1)(a)(k)(3) and in force for further specified purposes at 8.7.2008, see s. 153(2)(b)(c)(3); s. 148(2) in force for specified purposes at 8.7.2008, see s. 153(2)(f)(3); s. 148(3)-(7) in force at Royal Assent, see s. 153(1)(f)
- I100** S. 148(1)(2) in force at 9.6.2008 for specified purposes by S.I. 2008/1466, **art. 2(b)**
- I101** S. 148(1)(2) in force at 14.7.2008 for specified purposes by S.I. 2008/1586, **art. 2(1), Sch. 1 para. 46**
- I102** S. 148(1) in force at 3.11.2008 for specified purposes by S.I. 2008/2712, **art. 2, Sch. para. 12**
- I103** S. 148(1)(2) in force at 26.1.2009 for specified purposes by S.I. 2008/2993, **art. 2(2)(h)**
- I104** S. 148(1) in force at 27.4.2009 for specified purposes by S.I. 2009/860, **art. 2(2)(d)**
- I105** S. 148(1) in force at 8.7.2009 for specified purposes by S.I. 2009/1678, **arts. 2(a), 3(a)**
- I106** S. 148(1) in force at 31.10.2009 for specified purposes by S.I. 2009/2606, **art. 3(e)**
- I107** S. 148(1)(2) in force at 16.11.2009 for specified purposes by S.I. 2009/2780, **art. 2(1)(b)(2)**
- I108** S. 148(1) in force at 16.11.2009 for specified purposes by S.I. 2009/2780, **art. 2(3)**
- I109** S. 148(1)(2) in force at 30.11.2009 for specified purposes by S.I. 2009/3074, **art. 2(k)**
- I110** S. 148(1) in force at 23.3.2010 for specified purposes by S.I. 2010/712, **art. 2(b)**
- I111** S. 148(1) in force at 1.4.2010 for specified purposes by S.I. 2010/712, **art. 3(a)**
- I112** S. 148(1) in force at 8.4.2013 by S.I. 2013/616, **art. 2(a)**
- I113** S. 148(2) in force at 1.12.2008 for specified purposes by S.I. 2008/2993, **art. 2(1)(e)**
- I114** S. 148(2) in force at 19.12.2008 for specified purposes by S.I. 2008/3260, **art. 2(1)(c)**
- I115** S. 148(2) in force at 1.2.2009 for specified purposes by S.I. 2009/140, **art. 2(d)**
- I116** S. 148(2) in force at 1.4.2009 for specified purposes by S.I. 2009/860, **art. 2(1)(e)**
- I117** S. 148(2) in force at 3.8.2009 for specified purposes by S.I. 2009/1842, **art. 2(u)**

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**I118** S. 148(2) in force at 1.10.2009 for specified purposes by [S.I. 2009/2606, art. 2\(p\)](#)

## 149 Repeals and revocations

Schedule 28 contains repeals and revocations, including repeals of spent enactments.

### Commencement Information

- I119** S. 149 partly in force; s. 149 in force for specified purposes at Royal Assent, see s. 153(1)(a)(j)(3) and in force for certain further purposes at 8.7.2008, see s. 153(2)(a)(d)(3)
- I120** S. 149 in force at 14.7.2008 for specified purposes by [S.I. 2008/1586, art. 2\(1\), Sch. 1 para. 46](#)
- I121** S. 149 in force at 3.11.2008 for specified purposes by [S.I. 2008/2712, art. 2, Sch. para. 13](#)
- I122** S. 149 in force at 1.12.2008 for specified purposes by [S.I. 2008/2993, art. 2\(1\)\(f\)](#)
- I123** S. 149 in force at 1.4.2009 for specified purposes by [S.I. 2009/860, art. 2\(1\)\(f\)](#)
- I124** S. 149 in force at 27.4.2009 for specified purposes by [S.I. 2009/860, art. 2\(2\)\(e\)](#)
- I125** S. 149 in force at 31.10.2009 for specified purposes by [S.I. 2009/2606, art. 3\(f\)](#)
- I126** S. 149 in force at 30.11.2009 for specified purposes by [S.I. 2009/3074, art. 2\(l\)](#)
- I127** S. 149 in force at 23.3.2010 for specified purposes by [S.I. 2010/712, art. 2\(c\)](#)

## 150 Financial provisions

There is to be paid out of money provided by Parliament—

- (a) any expenditure incurred by virtue of this Act by a Minister of the Crown; and
- (b) any increase attributable to this Act in the sums payable under any other Act out of money so provided.

## 151 Effect of amendments to criminal justice provisions applied for purposes of service law

- (1) In this section “relevant criminal justice provisions” means provisions of, or made under, an Act which—
  - (a) relate to criminal justice; and
  - (b) have been applied (with or without modifications) for any purposes of service law by any provision of, or made under, any Act.
- (2) Unless the contrary intention appears, any amendment by this Act of relevant criminal justice provisions also amends those provisions as so applied.
- (3) Subsection (2) does not apply to any amendments made by Part 1.
- (4) In this section “service law” means—
  - (a) the system of service law established by the Armed Forces Act 2006 (c. 52); or
  - (b) any of the systems of service law superseded by that Act (namely, military law, air force law and the Naval Discipline Act 1957 (c. 53)).

### Commencement Information

**I128** S. 151 in force at 31.10.2009 by [S.I. 2009/2606, art. 3\(g\)](#)

*Status: This version of this Act contains provisions that are prospective.*

*Changes to legislation: Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

## 152 Extent

- (1) Subject as follows and to any other provision of this Act, this Act extends to England and Wales only.
- (2) The following provisions of this Act extend to England and Wales, Scotland and Northern Ireland—
  - (a) section 77;
  - (b) section 96;
  - (c) section 113 (together with such of the other provisions of Part 7 as relate to the commission of offences under that section);
  - (d) Part 10;
  - (e) this Part (subject to subsection (5)).
- (3) The following provisions of this Act extend to England and Wales and Northern Ireland—
  - (a) section 3 and Schedule 3;
  - (b) section 39(3) and (6)(d) and paragraph 7 of Schedule 7;
  - (c) sections 63 to 68 and Schedule 14;
  - (d) section 76;
  - (e) section 85(6) [<sup>F101</sup>to (7B)] (so far as relating to any provision of Part 3 of the Magistrates' Courts Act 1980 which extends to Northern Ireland);
  - (f) sections 86 and 90 to 92 and Schedules 18 and 19.
- (4) The following provisions of this Act extend to Northern Ireland only—
  - (a) sections 82 and 83;
  - (b) sections 87 [<sup>F102</sup>, 88 and 89(1) to (5)];
  - (c) section 122 and Schedule 21.
- (5) Except as otherwise provided by this Act, an amendment, repeal or revocation of any enactment by any provision of this Act extends to the part or parts of the United Kingdom to which the enactment extends.
- (6) The following amendments and repeals also extend to the Channel Islands and the Isle of Man—
  - (a) the amendments of sections 26 and 70(1) of the Children and Young Persons Act 1969 (c. 54) (transfers between England or Wales and the Channel Islands or Isle of Man) made by Schedule 4, and
  - (b) the repeals in Part 1 of Schedule 28 relating to those amendments.
- (7) In section 7(2) of the Nuclear Material (Offences) Act 1983 (c. 18) (application to Channel Islands, Isle of Man, etc.) the reference to that Act includes a reference to that Act as amended by Schedule 17.
- (8) In section 9(4) of the Repatriation of Prisoners Act 1984 (c. 47) (power to extend provisions of that Act to the Channel Islands etc.) the reference to that Act includes a reference to that Act as amended by any provision of this Act.
- (9) In section 384 of the Armed Forces Act 2006 (c. 52) (extent to Channel Islands, Isle of Man, etc.) any reference to that Act includes a reference to—
  - (a) that Act as amended by or under any provision of this Act,
  - (b) section 151, and
  - (c) paragraph 34 of Schedule 25.

*Status:* This version of this Act contains provisions that are prospective.

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (10) Nothing in this section restricts the operation of section 76 and paragraph 27 of Schedule 27 in their application in relation to service offences (within the meaning of that paragraph).

#### Textual Amendments

- F101** Words in s. 152(3)(e) substituted (3.12.2014) by [The Criminal Justice and Data Protection \(Protocol No. 36\) Regulations 2014 \(S.I. 2014/3141\)](#), reg. 1(b), **Sch. 3 para. 15(a)**
- F102** Words in s. 152(4)(b) substituted (3.12.2014) by [The Criminal Justice and Data Protection \(Protocol No. 36\) Regulations 2014 \(S.I. 2014/3141\)](#), reg. 1(b), **Sch. 3 para. 15(b)**

## 153 Commencement

- (1) The following provisions of this Act come into force on the day on which this Act is passed—
- (a) section 53, Schedule 13, paragraph 77 of Schedule 26 and the repeals in Part 4 of Schedule 28 relating to—
    - (i) paragraphs 13 and 22 of Schedule 3 to the Criminal Justice Act 2003 (c. 44), and
    - (ii) Part 4 of Schedule 37 to that Act;
  - (b) section 77;
  - (c) section 128;
  - (d) sections 138(1) to (4) and 139;
  - (e) section 147;
  - (f) section 148(3) to (7);
  - (g) sections 150 and 152;
  - (h) this section;
  - (i) section 154;
  - (j) paragraphs 6(3) and 12 to 16 of Schedule 16 and the repeals in Part 5 of Schedule 28 relating to Part 3A of the Public Order Act 1986 (c. 64);
  - (k) paragraphs 35 to 39 of Schedule 26.
- (2) The following provisions of this Act come into force at the end of the period of 2 months beginning with the day on which it is passed—
- (a) section 62 and the related repeal in Part 4 of Schedule 28;
  - (b) section 69 and paragraph 24 of Schedule 26;
  - (c) section 70 and paragraph 25 of Schedule 26;
  - (d) section 79 and the related repeals in Part 5 of Schedule 28;
  - (e) paragraphs 2 to 7 of Schedule 15;
  - (f) paragraph 24 of Schedule 27.
- (3) Where any particular provision or provisions of a Schedule come into force in accordance with subsection (1) or (2), the section introducing the Schedule also comes into force in accordance with that subsection so far as relating to the particular provision or provisions.
- (4) The following provisions come into force on such day as the Lord Chancellor may by order appoint—
- (a) section 19;

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*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (b) section 41;
  - (c) sections 56 to 58;
  - (d) sections 80 to 92 and Schedules 18 and 19;
  - (e) paragraph 29 of Schedule 27.
- (5) Sections 119 to 121 come into force—
- (a) in relation to English NHS premises, on such day as the Secretary of State may by order appoint, and
  - (b) in relation to Welsh NHS premises, on such day as the Welsh Ministers may by order appoint.
- (6) Section 122 and Schedule 21 come into force on such day as the Department of Health, Social Services and Public Safety may by order appoint.
- (7) The other provisions of this Act come into force on such day as the Secretary of State may by order appoint.
- (8) An order under any of subsections (4) to (7) may—
- (a) appoint different days for different purposes and in relation to different areas;
  - (b) make such provision as the person making the order considers necessary or expedient for transitory, transitional or saving purposes in connection with the coming into force of any provision falling within that subsection.

#### **154 Short title**

This Act may be cited as the Criminal Justice and Immigration Act 2008.



*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## SCHEDULES

### F103 SCHEDULE 1

Section 1

#### Textual Amendments

**F103** Sch. 1 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

### F104 SCHEDULE 2

Section 2

#### Textual Amendments

**F104** Sch. 2 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

### F105 SCHEDULE 3

Section 3

#### Textual Amendments

**F105** Sch. 3 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## SCHEDULE 4

Section 6

### YOUTH REHABILITATION ORDERS: CONSEQUENTIAL AND RELATED AMENDMENTS

#### PART 1

#### CONSEQUENTIAL AMENDMENTS

##### *Children and Young Persons Act 1933 (c. 12)*

- 1 The Children and Young Persons Act 1933 has effect subject to the following amendments.

**Commencement Information**

**I129** Sch. 4 para. 1 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(i)

- 2 (1) Section 34 (attendance at court of parent of child or young person charged with an offence, etc.) is amended as follows.
- (2) In subsection (7), omit “section 163 of the Powers of Criminal Courts (Sentencing) Act 2000 or”.
- (3) After subsection (7A) insert—
- “(7B) If it appears that at the time of his arrest a youth rehabilitation order, as defined in Part 1 of the Criminal Justice and Immigration Act 2008, is in force in respect of him, the responsible officer, as defined in section 4 of that Act, shall also be informed as described in subsection (3) above as soon as it is reasonably practicable to do so.”

**Commencement Information**

**I130** Sch. 4 para. 2 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(i)

- 3 (1) Section 49 (restrictions on reports of proceedings in which children or young persons are concerned) is amended as follows.
- (2) In subsection (2), for paragraphs (c) and (d) substitute—
- “(c) proceedings in a magistrates' court under Schedule 2 to the Criminal Justice and Immigration Act 2008 (proceedings for breach, revocation or amendment of youth rehabilitation orders);
- (d) proceedings on appeal from a magistrates' court arising out of any proceedings mentioned in paragraph (c) (including proceedings by way of case stated).”
- (3) In subsection (4A), omit paragraph (d) (but not the word “or” immediately following it).
- (4) In subsection (10), for the words from “Schedule 7” to “supervision orders)” substitute the words “Schedule 2 to the Criminal Justice and Immigration Act 2008 (proceedings for breach, revocation or amendment of youth rehabilitation orders)”.

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(5) In subsection (13), omit paragraph (c)(i).

**Commencement Information**

I131 Sch. 4 para. 3(1)(2)(4) in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(ii)

*Criminal Appeal Act 1968 (c. 19)*

- 4 In section 10(2) of the Criminal Appeal Act 1968 (appeal against sentence in other cases dealt with at assizes or quarter sessions), for paragraph (b) substitute—
- “(b) having been given a suspended sentence or made the subject of—
- (i) an order for conditional discharge,
  - (ii) a youth rehabilitation order within the meaning of Part 1 of the Criminal Justice and Immigration Act 2008, or
  - (iii) a community order within the meaning of Part 12 of the Criminal Justice Act 2003,
- appears or is brought before the Crown Court to be further dealt with for the offence.”

**Commencement Information**

I132 Sch. 4 para. 4 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(iii)

*Firearms Act 1968 (c. 27)*

- 5 The Firearms Act 1968 has effect subject to the following amendments.

**Commencement Information**

I133 Sch. 4 para. 5 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(iii)

- 6 In section 21(3ZA)(a) (possession of firearms by persons previously convicted of crime), after “2003”, insert “, or a youth rehabilitation order within the meaning of Part 1 of the Criminal Justice and Immigration Act 2008, ”.

**Commencement Information**

I134 Sch. 4 para. 6 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(iii)

- 7 In section 52(1A)(a) (forfeiture and disposal of firearms; cancellation of certificate by convicting court), after “2003”, insert “, or a youth rehabilitation order within the meaning of Part 1 of the Criminal Justice and Immigration Act 2008, ”.

**Commencement Information**

I135 Sch. 4 para. 7 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(iii)

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

*Health Services and Public Health Act 1968 (c. 46)*

- 8 The Health Services and Public Health Act 1968 has effect subject to the following amendments.

**Commencement Information**

**I136** Sch. 4 para. 8 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(iii)

- 9 In section 64(3)(a) (financial assistance by the Secretary of State to certain voluntary organisations)—

(a) in paragraph (xxi) of the definition of “the relevant enactments”, for “sections 63 to 66 and 92 of, and Schedules 6 and 7 to,” substitute “section 92 of”, and

(b) after that paragraph, insert—

“(xxii) Part 1 of the Criminal Justice and Immigration Act 2008;”.

**Commencement Information**

**I137** Sch. 4 para. 9 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(iii)

- 10 In section 65(3)(b) (financial and other assistance by local authorities to certain voluntary organisations), for paragraph (xxii) of the definition of “relevant enactments” substitute—

“(xxii) Part 1 of the Criminal Justice and Immigration Act 2008;”.

**Commencement Information**

**I138** Sch. 4 para. 10 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(iii)

*Social Work (Scotland) Act 1968 (c. 49)*

- 11 The Social Work (Scotland) Act 1968 has effect subject to the following amendments.

**Commencement Information**

**I139** Sch. 4 para. 11 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(iii)

- 12 In section 86(3) (adjustments between authority providing accommodation etc, and authority of area of residence) after “supervision order” insert “ , youth rehabilitation order ”.

**Commencement Information**

**I140** Sch. 4 para. 12 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(iii)

- 13 In section 94(1) (interpretation)—

(a) for the definition of “probation order” substitute—

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- ““probation order”, in relation to an order imposed by a court in Northern Ireland, has the same meaning as in the Criminal Justice (Northern Ireland) Order 1996,”,
- (b) in the definition of “supervision order”, omit “the Powers of Criminal Courts (Sentencing) Act 2000 or”, and
  - (c) at the end insert—

““youth rehabilitation order” means an order made under section 1 of the Criminal Justice and Immigration Act 2008.”

#### Commencement Information

I141 Sch. 4 para. 13 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(iii)

#### *Children and Young Persons Act 1969 (c. 54)*

- 14 The Children and Young Persons Act 1969 has effect subject to the following amendments.

#### Commencement Information

I142 Sch. 4 para. 14 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(iii)

- 15 Omit section 25 (transfers between England or Wales and Northern Ireland).

#### Commencement Information

I143 Sch. 4 para. 15 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(iii)

- 16 (1) Section 26 (transfers between England or Wales and the Channel Islands or Isle of Man) is amended as follows.
- (2) In subsection (1)(c), for the words from “supervision order” to “2000” substitute “ youth rehabilitation order imposing a local authority residence requirement ”.
  - (3) In subsection (2), for the words from “supervision order” to “2000” substitute “ youth rehabilitation order imposing a local authority residence requirement ”.

#### Commencement Information

I144 Sch. 4 para. 16 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(iii)

- 17 (1) Section 32 (detention of absentees) is amended as follows.
- (2) In subsection (1A)—
    - (a) in paragraph (a), for “paragraph 7(4) of Schedule 7 to the Powers of Criminal Courts (Sentencing) Act 2000” substitute “ paragraph 21(2) of Schedule 2 to the Criminal Justice and Immigration Act 2008 ”, and
    - (b) for paragraph (b) substitute—
      - “(b) from local authority accommodation—

*Status: This version of this Act contains provisions that are prospective.*

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- (i) in which he is required to live by virtue of a youth rehabilitation order imposing a local authority residence requirement (within the meaning of Part 1 of the Criminal Justice and Immigration Act 2008); or
- (ii) to which he has been remanded under paragraph 21 of Schedule 2 to that Act; or
- (iii) to which he has been remanded or committed under section 23(1) of this Act.”

(3) For subsection (1C) substitute—

- “(1C) In this section “the responsible person” means, as the case may be—
- (a) the person who made the arrangements under paragraph 21(2) of Schedule 2 to the Criminal Justice and Immigration Act 2008;
  - (b) the authority specified under paragraph 17(5) of Schedule 1 to that Act;
  - (c) the authority designated under paragraph 21(10) of Schedule 2 to that Act; or
  - (d) the authority designated under section 23 of this Act.”

(4) After subsection (1C) insert—

- “(1D) If a child or young person—
- (a) is required to reside with a local authority foster parent by virtue of a youth rehabilitation order with fostering, and
  - (b) is absent, without the consent of the responsible officer (within the meaning of Part 1 of the Criminal Justice and Immigration Act 2008), from the place in which he is required to reside,
- he may be arrested by a constable anywhere in the United Kingdom without a warrant.

(1E) A person so arrested shall be conducted to—

- (a) the place where he is required to reside, or
- (b) such other place as the local authority specified under paragraph 18(3) of Schedule 1 to the Criminal Justice and Immigration Act 2008 may direct,

at that local authority's expense.”

(5) In subsection (2), for “or (1A)” substitute “, (1A) or (1D) ”.

(6) In subsection (2A), for the words from “mentioned in subsection” to “this section is in premises” substitute “ mentioned in subsection (1), (1A)(a) or (b)(i) or (ii) or (1D) of this section is in premises ”.

(7) In subsection (2B)—

- (a) after “subsection (1A)” insert “ or (1D) ”, and
- (b) at the end insert “ or the responsible officer, as the case may be. ”

(8) In subsection (3), for “or (1A)” substitute “, (1A) or (1D) ”.

(9) In subsection (4), after “(1A)” insert “, (1D) ”.

*Status:* This version of this Act contains provisions that are prospective.

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

**Commencement Information**

**I145** Sch. 4 para. 17 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(iii)

- 18 In section 70(1) (interpretation)—
- (a) omit the definition of “supervision order”,
  - (b) after the definition of “local authority accommodation” insert—

““local authority residence requirement” has the same meaning as in Part 1 of the Criminal Justice and Immigration Act 2008;”, and
  - (c) after the definition of “youth offending team” insert—

““youth rehabilitation order” and “youth rehabilitation order with fostering” have the same meanings as in Part 1 of the Criminal Justice and Immigration Act 2008 (see section 1 of that Act);”.

**Commencement Information**

**I146** Sch. 4 para. 18 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(iii)

- 19 In section 73(4)(a) (provisions of section 32 extending to Scotland) for “to (1C)” substitute “ to (1E) ”.

**Commencement Information**

**I147** Sch. 4 para. 19 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(iii)

*Rehabilitation of Offenders Act 1974 (c. 53)*

- 20 The Rehabilitation of Offenders Act 1974 has effect subject to the following amendments.

**Commencement Information**

**I148** Sch. 4 para. 20 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(iii)

F106<sup>21</sup> .....

**Textual Amendments**

**F106** Sch. 4 para. 21 repealed (10.3.2014) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 25 Pt. 2 (with s. 141(1)-(6)); S.I. 2014/423, art. 2(c) (with art. 3)

**Commencement Information**

**I149** Sch. 4 para. 21 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(iii)

- 22 In section 7(2) (limitations on rehabilitation under Act, etc.) for paragraph (d) substitute—

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- “(d) in any proceedings relating to the variation or discharge of a youth rehabilitation order under Part 1 of the Criminal Justice and Immigration Act 2008, or on appeal from any such proceedings;”.

**Commencement Information**

**I150** Sch. 4 para. 22 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(iii)

*Bail Act 1976 (c. 63)*

- 23 In section 4(3) of the Bail Act 1976 (general right to bail of accused persons and others)—
- (a) omit the words “to be dealt with”, and
  - (b) for paragraph (a), substitute—
    - “(a) Schedule 2 to the Criminal Justice and Immigration Act 2008 (breach, revocation or amendment of youth rehabilitation orders), or”.

**Commencement Information**

**I151** Sch. 4 para. 23 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(iii)

*Magistrates' Courts Act 1980 (c. 43)*

- 24 In Schedule 6A to the Magistrates' Courts Act 1980 (fines that may be altered under section 143), omit the entries relating to Schedules 3, 5 and 7 to the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6).

**Commencement Information**

**I152** Sch. 4 para. 24 in force at 30.11.2009 for specified purposes by S.I. 2009/3074, art. 2(p)(iv)

PROSPECTIVE

*Contempt of Court Act 1981 (c. 49)*

- 25 In section 14 of the Contempt of Court Act 1981 (proceedings in England and Wales), omit the subsection (2A) inserted by the Criminal Justice Act 1982 (c. 48).

*Criminal Justice Act 1982*

- 26 Part 3 of Schedule 13 to the Criminal Justice Act 1982 (reciprocal arrangements for transfer of community service orders from Northern Ireland) has effect subject to the following amendments.



*Status: This version of this Act contains provisions that are prospective.*

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#### Commencement Information

**1153** Sch. 4 para. 26 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(v)

- 27 (1) Paragraph 7 (transfer to England and Wales) is amended as follows.
- (2) In sub-paragraph (1), in Article 13(4)(b) inserted by that provision, for “such orders” substitute “an unpaid work requirement of a community order under section 177 of the Criminal Justice Act 2003 or youth rehabilitation order under section 1 of the Criminal Justice and Immigration Act 2008”.
- (3) In sub-paragraph (2)(b)—
- (a) after “a community order” insert “or a youth rehabilitation order”, and
  - (b) omit “(within the meaning of Part 12 of the Criminal Justice Act 2003)”.
- (4) In sub-paragraph (3)—
- (a) for “A community service order” substitute “An adult community service order”, and
  - (b) in paragraph (b)—
    - (i) omit “within the meaning of Part 12 of the Criminal Justice Act 2003”, and
    - (ii) for “by that Act” substitute “by Part 12 of the Criminal Justice Act 2003”.
- (5) After sub-paragraph (3) insert—
- “(4) A youth community service order made or amended in accordance with this paragraph shall—
- (a) specify the local justice area in England or Wales in which the offender resides or will be residing when the order or the amendment comes into force; and
  - (b) require—
    - (i) the local probation board for that area established under section 4 of the Criminal Justice and Court Services Act 2000 or (as the case may be) a provider of probation services operating in that area, or
    - (ii) a youth offending team established under section 39 of the Crime and Disorder Act 1998 by a local authority for the area in which the offender resides or will be residing when the order or amendment comes into force,to appoint a person who will discharge in respect of the order the functions in respect of youth rehabilitation orders conferred on responsible officers by Part 1 of the Criminal Justice and Immigration Act 2008.
- (5) The person appointed under sub-paragraph (4)(b) must be—
- (a) where the appointment is made by a local probation board, an officer of that board;
  - (b) where the appointment is made by a provider of probation services, an officer of that provider;
  - (c) where the appointment is made by a youth offending team, a member of that team.”

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

**Commencement Information**

**I154** Sch. 4 para. 27 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(v)

- 28 (1) Paragraph 9 (general provision) is amended as follows.
- (2) In sub-paragraph (3)—
- (a) in paragraph (a)—
- (i) for “a community service order” substitute “ an adult community service order ”;
- (ii) omit “under section 177 of the Criminal Justice Act 2003”;
- (iii) for “of that Act” substitute “ of the Criminal Justice Act 2003 ”, and
- (b) before “and” at the end of that paragraph insert—
- “(aa) a youth community service order made or amended in the circumstances specified in paragraph 7 above shall be treated as if it were a youth rehabilitation order made in England and Wales and the provisions of Part 1 of the Criminal Justice and Immigration Act 2008 shall apply accordingly;”.
- (3) In sub-paragraph (4)(a)—
- (a) after “community orders” insert “ or youth rehabilitation orders ”, and
- (b) omit “(within the meaning of Part 12 of the Criminal Justice Act 2003)”.
- (4) In sub-paragraph (5)—
- (a) after “community order” insert “ or youth rehabilitation order ”, and
- (b) omit “(within the meaning of Part 12 of the Criminal Justice Act 2003)”.
- (5) In sub-paragraph (6)—
- (a) after “community orders” insert “ or youth rehabilitation orders ”,
- (b) omit “(within the meaning of Part 12 of the Criminal Justice Act 2003)”, and
- (c) in paragraph (b)(i), after “2003” insert “ or, as the case may be, Part 1 of the Criminal Justice and Immigration Act 2008 ”.

**Commencement Information**

**I155** Sch. 4 para. 28 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(v)

- 29 After that paragraph insert—

*“Community service orders relating to persons  
 residing in England and Wales: interpretation*

- 10 In paragraphs 7 and 9 above—
- “adult community service order” means a community service order made in respect of an offender who was aged at least 18 when convicted of the offence in respect of which the order is made;
- “community order” means an order made under section 177 of the Criminal Justice Act 2003;

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**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

“youth community service order” means a community service order made in respect of an offender who was aged under 18 when convicted of the offence in respect of which the order is made;

“youth rehabilitation order” means an order made under section 1 of the Criminal Justice and Immigration Act 2008.”

**Commencement Information**

**I156** Sch. 4 para. 29 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(v)

*Mental Health Act 1983 (c. 20)*

30 In section 37(8) of the Mental Health Act 1983 (powers of courts to order hospital admission or guardianship)—

- (a) in paragraph (a), after “Criminal Justice Act 2003” insert “ or a youth rehabilitation order (within the meaning of Part 1 of the Criminal Justice and Immigration Act 2008) ”, and
- (b) in paragraph (c), omit the words “a supervision order (within the meaning of that Act) or”.

**Commencement Information**

**I157** Sch. 4 para. 30 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(v)

*Child Abduction Act 1984 (c. 37)*

31 In paragraph 2(1) of the Schedule to the Child Abduction Act 1984 (modifications of section 1 for children in certain cases)—

- (a) in paragraph (a), for “paragraph 7(4) of Schedule 7 to the Powers of Criminal Courts (Sentencing) Act 2000” substitute “ paragraph 21(2) of Schedule 2 to the Criminal Justice and Immigration Act 2008 ”, and
- (b) in paragraph (b), after “1969” insert “ or paragraph 21 of Schedule 2 to the Criminal Justice and Immigration Act 2008 ”.

**Commencement Information**

**I158** Sch. 4 para. 31 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(v)

*Prosecution of Offences Act 1985 (c. 23)*

32 (1) Section 19 of the Prosecution of Offences Act 1985 (provision for orders as to costs in other circumstances) is amended as follows.

(2) In subsection (3B)(b)(i), for the words from “in a community order” to “that Act” substitute “ a mental health treatment requirement in a community order or youth rehabilitation order ”.

(3) After subsection (3B) insert—

“(3C) For the purposes of subsection (3B)(b)(i)—

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“community order” has the same meaning as in Part 12 of the Criminal Justice Act 2003;

“mental health treatment requirement” means—

- (a) in relation to a community order, a mental health treatment requirement under section 207 of the Criminal Justice Act 2003, and
- (b) in relation to a youth rehabilitation order, a mental health treatment requirement under paragraph 20 of Schedule 1 to the Criminal Justice and Immigration Act 2008;

“youth rehabilitation order” has the same meaning as in Part 1 of the Criminal Justice and Immigration Act 2008.”

**Commencement Information**

**I159** Sch. 4 para. 32 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(v)

*Children Act 1989 (c. 41)*

33 The Children Act 1989 has effect subject to the following amendments.

**Commencement Information**

**I160** Sch. 4 para. 33 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(v)

34 (1) Section 21 (provision of accommodation for children in police protection or detention or on remand, etc.) is amended as follows.

(2) In subsection (2)(c)—

- (a) in sub-paragraph (i), omit “paragraph 7(5) of Schedule 7 to the Powers of Criminal Courts (Sentencing) Act 2000 or” and “or” at the end of that sub-paragraph, and
- (b) for sub-paragraph (ii), substitute—

“(ii) remanded to accommodation provided by or on behalf of a local authority by virtue of paragraph 21 of Schedule 2 to the Criminal Justice and Immigration Act 2008 (breach etc. of youth rehabilitation orders); or

(iii) the subject of a youth rehabilitation order imposing a local authority residence requirement or a youth rehabilitation order with fostering.”.

(3) After subsection (2) insert—

“(2A) In subsection (2)(c)(iii), the following terms have the same meanings as in Part 1 of the Criminal Justice and Immigration Act 2008 (see section 7 of that Act)—

“local authority residence requirement”;

“youth rehabilitation order”;

“youth rehabilitation order with fostering”.

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

**Commencement Information**

**I161** Sch. 4 para. 34 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(v)

- 35 In section 31(7)(b) (care and supervision orders), for sub-paragraph (ii) substitute—  
“(ii) a youth rehabilitation order within the meaning of Part 1 of the Criminal Justice and Immigration Act 2008; or”.

**Commencement Information**

**I162** Sch. 4 para. 35 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(v)

- 36 In section 105(6) (interpretation)—  
(a) in paragraph (b), omit from the words “or an” to the end of the paragraph, and  
(b) after that paragraph insert—  
“(ba) in accordance with the requirements of a youth rehabilitation order under Part 1 of the Criminal Justice and Immigration Act 2008; or”.

**Commencement Information**

**I163** Sch. 4 para. 36 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(v)

- 37 (1) Part 3 of Schedule 3 (education supervision orders) is amended as follows.  
(2) In paragraph 13(2), for paragraph (c) substitute—  
“(c) a youth rehabilitation order made under Part 1 of the Criminal Justice and Immigration Act 2008 with respect to the child, while the education supervision order is in force, may not include an education requirement (within the meaning of that Part);”.  
(3) In paragraph 14—  
(a) in sub-paragraph (1), for “order under section 63(1) of the Powers of Criminal Courts (Sentencing) Act 2000” substitute “ youth rehabilitation order (within the meaning of Part 1 of the Criminal Justice and Immigration Act 2008)”, and  
(b) in sub-paragraph (2), after “direction” (in the second place it occurs) insert “ or instruction ”.

**Commencement Information**

**I164** Sch. 4 para. 37 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(v)

- 38 In paragraph 3 of Schedule 8 (privately fostered children) for paragraph (a) substitute—  
“(a) a youth rehabilitation order made under section 1 of the Criminal Justice and Immigration Act 2008;”.

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

**Commencement Information**

**I165** Sch. 4 para. 38 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(v)

*Criminal Justice Act 1991 (c. 53)*

- 39 Part 3 of Schedule 3 to the Criminal Justice Act 1991 (transfer of probation orders from Northern Ireland to England and Wales) has effect subject to the following amendments.

**Commencement Information**

**I166** Sch. 4 para. 39 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(v)

- 40 (1) Paragraph 10 is amended as follows.
- (2) In sub-paragraph (2)(b), for the words from “the local probation board” to the end substitute “—
- (i) the local probation board for the area which contains the local justice area in which he resides or will reside or (as the case may be) a provider of probation services operating in the local justice area in which he resides or will reside, or
  - (ii) a youth offending team established by a local authority for the area in which he resides or will reside,” and
- (3) In sub-paragraph (3)(a), for the words from “an officer of a local probation board” to the end substitute “—
- (i) an officer of a local probation board assigned to the local justice area in England and Wales in which the offender resides or will be residing when the order or amendment comes into force or (as the case may be) an officer of a provider of probation services acting in the local justice area in which the offender resides or will then be residing, or
  - (ii) a member of a youth offending team established by a local authority for the area in England and Wales in which the offender resides or will then be residing;”.

**Commencement Information**

**I167** Sch. 4 para. 40 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(v)

- 41 (1) Paragraph 11 is amended as follows.
- (2) In sub-paragraph (2)—
- (a) for “a probation order” substitute “an adult probation order”,
  - (b) in paragraph (a), omit “under section 177 of the Criminal Justice Act 2003”, and
  - (c) in paragraph (b), for “of that Act” substitute “of the Criminal Justice Act 2003”.
- (3) After that sub-paragraph insert—

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“(2A) Where a youth probation order is made or amended in any of the circumstances specified in paragraph 10 above then, subject to the following provisions of this paragraph—

- (a) the order shall be treated as if it were a youth rehabilitation order made in England and Wales, and
- (b) the provisions of Part 1 of the Criminal Justice and Immigration Act 2008 shall apply accordingly.”

(4) In sub-paragraph (3)—

- (a) for paragraph (a) substitute—
  - “(a) the requirements of the legislation relating to community orders or, as the case may be, youth rehabilitation orders;”;
- (b) in paragraph (b), for “Schedule 8 to that Act” substitute “ that legislation ”.

(5) In sub-paragraph (4)—

- (a) after “a community order” insert “ or, as the case may be, a youth rehabilitation order ”,
- (b) omit “under section 177 of the Criminal Justice Act 2003”, and
- (c) for “to that Act” substitute “ to the Criminal Justice Act 2003 or by paragraph 6(2)(c) or 11(2) of Schedule 2 to the Criminal Justice and Immigration Act 2008 ”.

(6) In sub-paragraph (5)—

- (a) after “2003” insert “ or, as the case may be, Part 1 of the Criminal Justice and Immigration Act 2008 ”,
- (b) for “(2) above” substitute “ (2) or (2A) (as the case may be) ”, and
- (c) in paragraph (b) for the words from “of the” to “board” substitute “of—
  - (i) the offender, or
  - (ii) the officer of a local probation board, officer of a provider of probation services or member of a youth offending team (as the case may be),”.

(7) In sub-paragraph (8)—

- (a) after “In this paragraph” insert—

““adult probation order” means a probation order made in respect of an offender who was aged at least 18 when convicted of the offence in respect of which the order is made;

“community order” means an order made under section 177 of the Criminal Justice Act 2003;”;

- (b) at the end insert—

““youth probation order” means a probation order made in respect of an offender who was aged under 18 when convicted of the offence in respect of which the order is made;

“youth rehabilitation order” means an order made under section 1 of the Criminal Justice and Immigration Act 2008.”

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**Commencement Information**

**I168** Sch. 4 para. 41 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(v)

*Criminal Justice and Public Order Act 1994 (c. 33)*

42 In section 136 of the Criminal Justice and Public Order Act 1994 (cross-border enforcement: execution of warrants), in subsection (7A), after “youth offender panel)” insert “ or under Schedule 2 to the Criminal Justice and Immigration Act 2008 (youth rehabilitation orders: breach etc.) ”.

**Commencement Information**

**I169** Sch. 4 para. 42 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(v)

*Criminal Procedure (Scotland) Act 1995 (c. 46)*

F107 43 .....

**Textual Amendments**

**F107** Sch. 4 paras. 43-46 repealed (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), Sch. 2 para. 53; S.S.I. 2010/413, art. 2, Sch. (with art. 3(1))

**Commencement Information**

**I170** Sch. 4 para. 43 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(v)

F107 44 .....

**Textual Amendments**

**F107** Sch. 4 paras. 43-46 repealed (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), Sch. 2 para. 53; S.S.I. 2010/413, art. 2, Sch. (with art. 3(1))

**Commencement Information**

**I171** Sch. 4 para. 44 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(v)

F107 45 .....

**Textual Amendments**

**F107** Sch. 4 paras. 43-46 repealed (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), Sch. 2 para. 53; S.S.I. 2010/413, art. 2, Sch. (with art. 3(1))

**Commencement Information**

**I172** Sch. 4 para. 45 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(v)

F107 46 .....



*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

#### Textual Amendments

**F107** Sch. 4 paras. 43-46 repealed (1.2.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), s. 206(1), [Sch. 2 para. 53](#); S.S.I. 2010/413, art. 2, Sch. (with art. 3(1))

#### Commencement Information

**I173** Sch. 4 para. 46 in force at 30.11.2009 by [S.I. 2009/3074](#), [art. 2\(p\)\(v\)](#)

#### *Education Act 1996 (c. 56)*

- 47 In section 562(2)(b) of the Education Act 1996 (Act not to apply to persons detained under order of a court), for “community order under section 177 of the Criminal Justice Act 2003” substitute “youth rehabilitation order under section 1 of the Criminal Justice and Immigration Act 2008”.

#### Commencement Information

**I174** Sch. 4 para. 47 in force at 30.11.2009 by [S.I. 2009/3074](#), [art. 2\(p\)\(v\)](#)

#### *Crime and Disorder Act 1998 (c. 37)*

- 48 The Crime and Disorder Act 1998 has effect subject to the following amendments.

#### Commencement Information

**I175** Sch. 4 para. 48 in force at 30.11.2009 by [S.I. 2009/3074](#), [art. 2\(p\)\(v\)](#)

- 49 In section 38(4) (local provision of youth justice services)—
- (a) in paragraph (f), for “, reparation orders and action plan orders” substitute “and reparation orders”;
  - (b) after paragraph (f) insert—
    - “(fa) the provision of persons to act as responsible officers in relation to youth rehabilitation orders (within the meaning of Part 1 of the Criminal Justice and Immigration Act 2008);
    - (fb) the supervision of children and young persons sentenced to a youth rehabilitation order under that Part which includes a supervision requirement (within the meaning of that Part);”;
  - (c) omit paragraph (g), and
  - (d) in paragraph (h), omit “or a supervision order”.

#### Commencement Information

**I176** Sch. 4 para. 49 in force at 30.11.2009 by [S.I. 2009/3074](#), [art. 2\(p\)\(v\)](#)

- 50 In Schedule 8 (minor and consequential amendments), in paragraph 13(2), for “that section” substitute “section 10 of that Act”.

*Status: This version of this Act contains provisions that are prospective.*

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**Commencement Information**

**I177** Sch. 4 para. 50 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(v)

*Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)*

**F108** 51 .....

**Textual Amendments**

**F108** Sch. 4 paras. 51-58 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F108** 52 .....

**Textual Amendments**

**F108** Sch. 4 paras. 51-58 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F108** 53 .....

**Textual Amendments**

**F108** Sch. 4 paras. 51-58 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F108** 54 .....

**Textual Amendments**

**F108** Sch. 4 paras. 51-58 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F108** 55 .....

**Textual Amendments**

**F108** Sch. 4 paras. 51-58 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F108** 56 .....

**Textual Amendments**

**F108** Sch. 4 paras. 51-58 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

*Status:* This version of this Act contains provisions that are prospective.

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F108 57 .....

**Textual Amendments**

**F108** Sch. 4 paras. 51-58 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

F108 58 .....

**Textual Amendments**

**F108** Sch. 4 paras. 51-58 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

- 59 In section 159 (execution of process between England and Wales and Scotland)—
- (a) after “Schedule 1 to this Act,” insert “ or ”,
  - (b) omit “paragraph 3(1), 10(6) or 18(1) of Schedule 3 to this Act,”,
  - (c) omit “paragraph 1(1) of Schedule 5 to this Act”, and
  - (d) omit “paragraph 7(2) of Schedule 7 to this Act, or”.

**Commencement Information**

**I178** Sch. 4 para. 59(a)(b)(d) in force at 30.11.2009 by [S.I. 2009/3074](#), **art. 2(p)(x)**

F109 60 .....

**Textual Amendments**

**F109** Sch. 4 para. 60 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

- 61 In section 163 (general definitions)—
- (a) omit the definitions of “action plan order”, “affected person”, “attendance centre”, “attendance centre order”, “community sentence”, “curfew order”, “exclusion order”, “supervision order”, “supervisor” and “youth community order”,
  - (b) in the definition of “responsible officer”, omit paragraphs (a), (aa) and (f), and
  - (c) at the end add—

““youth rehabilitation order” has the meaning given by section 1(1) of the Criminal Justice and Immigration Act 2008.”

**Commencement Information**

**I179** Sch. 4 para. 61(a) in force at 30.11.2009 for specified purposes by [S.I. 2009/3074](#), **art. 2(p)(xii)**

**I180** Sch. 4 para. 61(b)(c) in force at 30.11.2009 by [S.I. 2009/3074](#), **art. 2(p)(xii)**

F110 62 .....

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

**Textual Amendments**

**F110** Sch. 4 paras. 62-64 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), **Sch. 27**); S.I. 2020/1236, reg. 2

**F110**63 .....

**Textual Amendments**

**F110** Sch. 4 paras. 62-64 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), **Sch. 27**); S.I. 2020/1236, reg. 2

**F110**64 .....

**Textual Amendments**

**F110** Sch. 4 paras. 62-64 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), **Sch. 27**); S.I. 2020/1236, reg. 2

*Child Support, Pensions and Social Security Act 2000 (c. 19)*

**F111**65 .....

**Textual Amendments**

**F111** Sch. 4 paras. 65-67 repealed (22.3.2010) by [Welfare Reform Act 2009 \(c. 24\)](#), s. 61(3), **Sch. 7 Pt. 3**; S.I. 2010/293, art. 2(3)(b) (with art. 2(4))

**F111**66 .....

**Textual Amendments**

**F111** Sch. 4 paras. 65-67 repealed (22.3.2010) by [Welfare Reform Act 2009 \(c. 24\)](#), s. 61(3), **Sch. 7 Pt. 3**; S.I. 2010/293, art. 2(3)(b) (with art. 2(4))

**F111**67 .....

**Textual Amendments**

**F111** Sch. 4 paras. 65-67 repealed (22.3.2010) by [Welfare Reform Act 2009 \(c. 24\)](#), s. 61(3), **Sch. 7 Pt. 3**; S.I. 2010/293, art. 2(3)(b) (with art. 2(4))

*Criminal Justice and Court Services Act 2000 (c. 43)*

68 The Criminal Justice and Court Services Act 2000 has effect subject to the following amendments.

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

**Commencement Information**

**I181** Sch. 4 para. 68 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(xiii)

69 In section 1(2)(a) (purposes of Chapter), after “2003” insert “, youth rehabilitation orders (as defined by section 1 of the Criminal Justice and Immigration Act 2008)”.

**Commencement Information**

**I182** Sch. 4 para. 69 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(xiii)

70 In section 70 (interpretation, etc.) omit subsection (5).

**Commencement Information**

**I183** Sch. 4 para. 70 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(xiii)

*Criminal Justice Act 2003 (c. 44)*

71 Part 12 of the Criminal Justice Act 2003 (sentencing) has effect subject to the following amendments.

**Commencement Information**

**I184** Sch. 4 para. 71 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(xiii)

**F112**72 .....

**Textual Amendments**

**F112** Sch. 4 paras. 72-91 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F112**73 .....

**Textual Amendments**

**F112** Sch. 4 paras. 72-91 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F112**74 .....

**Textual Amendments**

**F112** Sch. 4 paras. 72-91 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F112**75 .....

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

**Textual Amendments**

**F112** Sch. 4 paras. 72-91 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**F112**76 .....

**Textual Amendments**

**F112** Sch. 4 paras. 72-91 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**F112**77 .....

**Textual Amendments**

**F112** Sch. 4 paras. 72-91 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**F112**78 .....

**Textual Amendments**

**F112** Sch. 4 paras. 72-91 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**F112**79 .....

**Textual Amendments**

**F112** Sch. 4 paras. 72-91 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**F112**80 .....

**Textual Amendments**

**F112** Sch. 4 paras. 72-91 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**F112**81 .....

**Textual Amendments**

**F112** Sch. 4 paras. 72-91 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**F112**82 .....

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**Textual Amendments**

**F112** Sch. 4 paras. 72-91 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**F112**<sup>83</sup> .....

**Textual Amendments**

**F112** Sch. 4 paras. 72-91 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**F112**<sup>84</sup> .....

**Textual Amendments**

**F112** Sch. 4 paras. 72-91 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**F112**<sup>85</sup> .....

**Textual Amendments**

**F112** Sch. 4 paras. 72-91 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**F112**<sup>86</sup> .....

**Textual Amendments**

**F112** Sch. 4 paras. 72-91 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**F112**<sup>87</sup> .....

**Textual Amendments**

**F112** Sch. 4 paras. 72-91 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**F112**<sup>88</sup> .....

**Textual Amendments**

**F112** Sch. 4 paras. 72-91 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**F112**<sup>89</sup> .....

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**Textual Amendments**

**F112** Sch. 4 paras. 72-91 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), **Sch. 27**); S.I. 2020/1236, reg. 2

**F112**<sup>90</sup> .....

**Textual Amendments**

**F112** Sch. 4 paras. 72-91 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), **Sch. 27**); S.I. 2020/1236, reg. 2

**F112**<sup>91</sup> .....

**Textual Amendments**

**F112** Sch. 4 paras. 72-91 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), **Sch. 27**); S.I. 2020/1236, reg. 2

92 In section 221(2) (provision of attendance centres)—  
(a) omit “or” at the end of paragraph (a),  
(b) after that paragraph insert—  
    “(aa) attendance centre requirements of youth rehabilitation orders, within the meaning of Part 1 of the Criminal Justice and Immigration Act 2008,” and  
(c) omit paragraph (b).

**Commencement Information**

**I185** Sch. 4 para. 92(b) in force at 30.11.2009 by [S.I. 2009/3074](#), **art. 2(p)(xiv)**

**F113**<sup>93</sup> .....

**Textual Amendments**

**F113** Sch. 4 para. 93 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), **Sch. 27**); S.I. 2020/1236, reg. 2

94 Omit section 279 (drug treatment and testing requirement in action plan order or supervision order).

**Commencement Information**

**I186** Sch. 4 para. 94 in force at 30.11.2009 by [S.I. 2009/3074](#), **art. 2(p)(xv)**

95 In section 330(5)(a) (orders subject to the affirmative resolution procedure), omit the entry relating to section 161(7).



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**Commencement Information**

**I187** Sch. 4 para. 95 in force at 30.11.2009 by [S.I. 2009/3074](#), [art. 2\(p\)\(xv\)](#)

**F114**96 .....

**Textual Amendments**

**F114** Sch. 4 para. 96 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with [ss. 413\(4\)\(5\), 416\(7\), Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

97 Omit Schedule 24 (drug treatment and testing requirement in action plan order or supervision order).

**Commencement Information**

**I188** Sch. 4 para. 97 in force at 30.11.2009 by [S.I. 2009/3074](#), [art. 2\(p\)\(xv\)](#)

*Violent Crime Reduction Act 2006 (c. 38)*

98 In section 47 of the Violent Crime Reduction Act 2006 (power to search persons in attendance centres for weapons), in the definition of “relevant person” in subsection (11), for paragraph (b) substitute—  
“(b) a youth rehabilitation order under Part 1 of the Criminal Justice and Immigration Act 2008;”.

**Commencement Information**

**I189** Sch. 4 para. 98 in force at 30.11.2009 by [S.I. 2009/3074](#), [art. 2\(p\)\(xv\)](#) (with [art. 4](#))

*Offender Management Act 2007 (c. 21)*

99 In section 1(4) of the Offender Management Act 2007 (meaning of “the probation purposes”), in the definition of “community order”—  
(a) after paragraph (a) insert—  
“(aa) a youth rehabilitation order within the meaning of Part 1 of the Criminal Justice and Immigration Act 2008 (see section 1 of that Act);”, and  
(b) after paragraph (b) insert—  
“(c) a youth community order within the meaning of that Act (as it applies to offences committed before section 1 of the Criminal Justice and Immigration Act 2008 comes into force)”.

**Commencement Information**

**I190** Sch. 4 para. 99 in force at 30.11.2009 by [S.I. 2009/3074](#), [art. 2\(p\)\(xv\)](#)

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## PART 2

### RELATED AMENDMENTS

#### *Children and Young Persons Act 1933 (c. 12)*

F115 100 .....

#### **Textual Amendments**

**F115** Sch. 4 para. 100 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with s. 413(4)(5), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

#### *Children and Young Persons Act 1969 (c. 54)*

101 (1) Section 32 of the Children and Young Persons Act 1969 (detention of absentees) is amended as follows.

(2) In subsection (1A)—

- (a) in paragraph (a), after “under” insert “ paragraph 4(1)(a) of Schedule 1 or paragraph 6(4)(a) of Schedule 8 to the Powers of Criminal Courts (Sentencing) Act 2000 or ”,
- (b) in paragraph (b) (as substituted by paragraph 17(2)(b) of this Schedule), in sub-paragraph (ii), after “under” insert “ paragraph 4 of Schedule 1 or paragraph 6 of Schedule 8 to the Powers of Criminal Courts (Sentencing) Act 2000 or ”.

(3) In subsection (1C) (as substituted by paragraph 17(3) of this Schedule)—

- (a) in paragraph (a), after “under” insert “ paragraph 4(1)(a) of Schedule 1 or paragraph 6(4)(a) of Schedule 8 to the Powers of Criminal Courts (Sentencing) Act 2000 or ”, and
- (b) in paragraph (c), after “under” insert “ paragraph 4(6) of Schedule 1 or paragraph 6(8) of Schedule 8 to the Powers of Criminal Courts (Sentencing) Act 2000 or ”.

#### **Commencement Information**

**I191** Sch. 4 para. 101 in force at 30.11.2009 by [S.I. 2009/3074](#), [art. 2\(p\)\(xv\)](#)

#### *Bail Act 1976 (c. 63)*

102 In section 4(3) of the Bail Act 1976 (general right to bail of accused persons and others), before paragraph (a) (as substituted by paragraph 23(b) of this Schedule) insert—

- “(za) Schedule 1 to the Powers of Criminal Courts (Sentencing) Act 2000 (referral orders: referral back to appropriate court),
- “(zb) Schedule 8 to that Act (breach of reparation order).”.

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**Commencement Information**

**I192** Sch. 4 para. 102 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(xv)

*Magistrates' Courts Act 1980 (c. 43)*

**F116**103 .....

**Textual Amendments**

**F116** Sch. 4 para. 103 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

*Child Abduction Act 1984 (c. 37)*

- 104 In paragraph 2(1) of the Schedule to the Child Abduction Act 1984 (modifications of section 1 for children in certain cases)—
- (a) in paragraph (a), after “under” insert “ paragraph 4(1)(a) of Schedule 1 or paragraph 6(4)(a) of Schedule 8 to the Powers of Criminal Courts (Sentencing) Act 2000 or ”, and
  - (b) in paragraph (b), before “or” (as inserted by paragraph 31(b) of this Schedule) insert “, paragraph 4 of Schedule 1 or paragraph 6 of Schedule 8 to the Powers of Criminal Courts (Sentencing) Act 2000 ”.

**Commencement Information**

**I193** Sch. 4 para. 104 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(xv)

*Children Act 1989 (c. 41)*

- 105 In section 21(2)(c) of the Children Act 1989 (provision of accommodation for children in police protection or detention or on remand, etc.), after sub-paragraph (i) insert—
- “(ia) remanded to accommodation provided by or on behalf of a local authority by virtue of paragraph 4 of Schedule 1 or paragraph 6 of Schedule 8 to the Powers of Criminal Courts (Sentencing) Act 2000 (breach etc. of referral orders and reparation orders);”.

**Commencement Information**

**I194** Sch. 4 para. 105 in force at 30.11.2009 by S.I. 2009/3074, art. 2(p)(xv)

*Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)*

**F117**106 .....

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**Textual Amendments**  
F117 Sch. 4 paras. 106-109 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

F117<sup>107</sup> .....

**Textual Amendments**  
F117 Sch. 4 paras. 106-109 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

F117<sup>108</sup> .....

**Textual Amendments**  
F117 Sch. 4 paras. 106-109 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

*Criminal Justice Act 2003 (c. 44)*

F117<sup>109</sup> .....

**Textual Amendments**  
F117 Sch. 4 paras. 106-109 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

F118 SCHEDULE 5

Section 13(2)

OFFENCES SPECIFIED FOR THE PURPOSES OF SECTIONS  
225(3A) AND 227(2A) OF CRIMINAL JUSTICE ACT 2003

**Textual Amendments**  
F118 Sch. 5 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 21 para. 35(b)(ii); S.I. 2012/2906, art. 2(s)

“SCHEDULE 15A

.....

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<sup>F119</sup>SCHEDULE 6

Section 23

**Textual Amendments**

**F119** Sch. 6 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), ss. 110(14)(c), 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)

PROSPECTIVE

SCHEDULE 7

Section 39(6)

YOUTH DEFAULT ORDERS: MODIFICATION OF PROVISIONS  
APPLYING TO YOUTH REHABILITATION ORDERS

*General*

- 1 Any reference to the offender is, in relation to a youth default order, to be read as a reference to the person in default; and any reference to the time when the offender is convicted is to be read as a reference to the time when the order is made.

*Unpaid work requirement*

- 2 <sup>F120</sup>(1) . . . . .
- (2) [<sup>F121</sup>In its application to a youth default order, paragraph 10 (unpaid work requirement) of Schedule 6 to the Sentencing Code has effect as if for paragraphs (a) and (b) of sub-paragraph (3)] there were substituted—
- “(a) not less than 20, and
  - (b) in the case of an amount in default which is specified in the first column of the following Table, not more than the number of hours set out opposite that amount in the second column.

TABLE

<i>Amount</i>	<i>Number of hours</i>
An amount not exceeding £200	40
An amount exceeding £200 but not exceeding £500	60
An amount exceeding £500	100”.

- [<sup>F122</sup>(3) In its application to a youth default order, subsection (3) of section 198 of the Sentencing Code (when a youth rehabilitation order is in force) has effect subject to section 39(7)(a) of the Criminal Justice and Immigration Act 2008.]

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### Textual Amendments

- F120** Sch. 7 para. 2(1) omitted (1.12.2020) by virtue of Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 270(2)(a)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2
- F121** Words in Sch. 7 para. 2(2) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 270(2)(b)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2
- F122** Sch. 7 para. 2(3) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 270(2)(c)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

### Modifications etc. (not altering text)

- C7** Sch. 7 para. 2(1) modified (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416)) by Sentencing (Pre-consolidation Amendments) Act 2020 (c. 9), ss. 1, 5(2)(3); S.I. 2012/1236, reg. 2

### Attendance centre requirement

- 3 (1) In its application to a youth default order, [<sup>F123</sup>paragraph 14 of Schedule 6 to the Sentencing Code] (attendance centre requirement) is modified as follows.
- (2) [<sup>F124</sup>Sub-paragraph (3)] has effect as if—
- (a) in paragraph (a), for the words following “conviction” there were substituted <sup>F125</sup>... in the case of an amount in default which is specified in the first column of the following Table, not more than the number of hours set out opposite that amount in the second column.

TABLE

<i>Amount</i>	<i>Number of hours</i>
An amount not exceeding £250	8
An amount exceeding £250 but not exceeding £500	14
An amount exceeding £500	24”,

- (b) in paragraph (b), for the words following “conviction” there were substituted <sup>F126</sup>... in the case of an amount in default which is specified in the first column of the following Table, not more than the number of hours set out opposite that amount in the second column.

TABLE

<i>Amount</i>	<i>Number of hours</i>
An amount not exceeding £250	8
An amount exceeding £250 but not exceeding £500	14
An amount exceeding £500	24”,

- (c) in paragraph (c), for “must not be more than 12” there were substituted <sup>F127</sup>... in the case of an amount in default which is specified in the first column of

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the following Table, not more than the number of hours set out opposite that amount in the second column.

TABLE

<i>Amount</i>	<i>Number of hours</i>
An amount not exceeding £250	8
An amount exceeding £250 but not exceeding £500	10
An amount exceeding £500	12 <sup>2</sup> .

#### Textual Amendments

- F123** Words in Sch. 7 para. 3(1) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 270(3)(a) (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2
- F124** Words in Sch. 7 para. 3(2) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 270(3)(b)(i) (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2
- F125** Words in Sch. 7 para. 3(2)(a) omitted (1.12.2020) by virtue of Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 270(3)(b)(ii) (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2
- F126** Words in Sch. 7 para. 3(2)(b) omitted (1.12.2020) by virtue of Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 270(3)(b)(ii) (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2
- F127** Words in Sch. 7 para. 3(2)(c) omitted (1.12.2020) by virtue of Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 270(3)(b)(ii) (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

#### Modifications etc. (not altering text)

- C8** Sch. 7 para. 3(2) modified in part (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416)) by Sentencing (Pre-consolidation Amendments) Act 2020 (c. 9), ss. 1, 5(2)(3); S.I. 2012/1236, reg. 2

#### Curfew requirement

- 4 (1) In its application to a youth default order, [<sup>F128</sup>paragraph 18 of Schedule 6 to the Sentencing Code] (curfew requirement) is modified as follows.
- (2) That paragraph has effect as if after [<sup>F129</sup>sub-paragraph (4)] there were inserted—
- [<sup>F130</sup>(4A)] In the case of an amount in default which is specified in the first column of the following Table, the number of days on which the person in default is subject to the curfew requirement must not exceed the number of days set out opposite that amount in the second column.

TABLE

<i>Amount</i>	<i>Number of days</i>
An amount not exceeding £200	20
An amount exceeding £200 but not exceeding £500	30

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An amount exceeding £500 but not exceeding £1,000	60
An amount exceeding £1,000 but not exceeding £2,000	90
An amount exceeding £2,000	180”.

### Textual Amendments

- F128** Words in Sch. 7 para. 4(1) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 270(4)(a) (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2
- F129** Words in Sch. 7 para. 4(2) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 270(4)(b)(i) (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2
- F130** Word in Sch. 7 para. 4(2) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 270(4)(b)(ii) (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

### *Enforcement, revocation and amendment of youth default order*

- 5 (1) In its application to a youth default order, [<sup>F131</sup>Schedule 7 to the Sentencing Code (breach, revocation or amendment of youth rehabilitation order)] is modified as follows.
- (2) Any reference to the offence in respect of which the youth rehabilitation order was made is to be read as a reference to the default in respect of which the youth default order was made.
- (3) Accordingly, any power of the court to revoke a youth rehabilitation order and deal with the offender for the offence is to be taken to be a power to revoke the youth default order and deal with him in any way in which the court which made the youth default order could deal with him for his default in paying the sum in question.
- (4) [<sup>F132</sup>Paragraph 3] has effect as if for paragraphs (a) and (b) there were substituted “as having been made by a magistrates' court”.

[<sup>F133</sup>(5) The following provisions are omitted—

- (a) in paragraph 6—
- (i) sub-paragraph (5)(a),
  - (ii) the words “add or” in sub-paragraph (5)(b), and
  - (iii) sub-paragraph (11);
- (b) paragraph 9;
- (c) paragraph 11;
- (d) paragraph 12(8);
- (e) paragraph 21(6);
- (f) paragraph 23(2)(b).]

### Textual Amendments

- F131** Words in Sch. 7 para. 5(1) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 270(5)(a) (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2
- F132** Words in Sch. 7 para. 5(4) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 270(5)(b) (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2



*Status:* This version of this Act contains provisions that are prospective.

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

**F133** Sch. 7 para. 5(5) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 270(5)(c) (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

*Power to alter amount of money or number of hours or days*

- 6 The Secretary of State may by order amend paragraph 2, 3 or 4 by substituting for any reference to an amount of money or a number of hours or days there specified a reference to such other amount or number as may be specified in the order.

*Transfer of youth default order to Northern Ireland*

- 7 (1) In its application to a youth default order, [F134Schedule 8 to the Sentencing Code (transfer of youth rehabilitation orders to Northern Ireland)] is modified as follows.
- (2) [F135Paragraph 15] has effect as if, after sub-paragraph (2) there were inserted—
- “(3) Nothing in sub-paragraph (1) affects the application of section 39(7) [F136of the Criminal Justice and Immigration Act 2008] to a youth default order made or amended in accordance with [F137Part 1 of this Schedule].”
- [F138(3) Paragraph 16 has effect as if after sub-paragraph (5) there were inserted—
- “(5A) The home court may not impose a fine on the offender.”]

**Textual Amendments**

- F134** Words in Sch. 7 para. 7(1) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 270(6)(a) (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2
- F135** Words in Sch. 7 para. 7(2) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 270(6)(b)(i) (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2
- F136** Words in Sch. 7 para. 7(2) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 270(6)(b)(ii) (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2
- F137** Words in Sch. 7 para. 7(2) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 270(6)(b)(iii) (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2
- F138** Sch. 7 para. 7(3) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 270(6)(c) (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

SCHEDULE 8

Section 47

APPEALS IN CRIMINAL CASES

**PART 1**

AMENDMENTS OF CRIMINAL APPEAL ACT 1968

- 1 The Criminal Appeal Act 1968 (c. 19) has effect subject to the following amendments.

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

**Commencement Information**

**I195** Sch. 8 para. 1 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 26

*Time limit on grant of certificates of fitness for appeal*

- 2 In section 1 (appeal against conviction), in subsection (2)(b) after “if” insert “ , within 28 days from the date of the conviction, ”.

**Commencement Information**

**I196** Sch. 8 para. 2 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 26

- 3 In section 11 (supplementary provisions as to appeal against sentence), in subsection (1A)—
- (a) after “if” insert “ , within 28 days from the date on which the sentence was passed, ”, and
  - (b) for “the sentence” substitute “ it ”.

**Commencement Information**

**I197** Sch. 8 para. 3 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 26

- 4 In section 12 (appeal against verdict of not guilty on ground of insanity), in subsection (1)(b) after “if” insert “ , within 28 days from the date of the verdict, ”.

**Commencement Information**

**I198** Sch. 8 para. 4 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 26

- 5 In section 15 (appeal against finding of disability), in subsection (2)(b) after “if” insert “ , within 28 days from the date of the finding that the accused did the act or made the omission charged, ”.

**Commencement Information**

**I199** Sch. 8 para. 5 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 26

*Powers of Court to substitute different sentence*

- 6 (1) Section 4 (sentence when appeal allowed on part of indictment) is amended as follows.
- (2) For the heading substitute “ Power to re-sentence where appellant remains convicted of related offences ”.
- (3) For subsection (1) substitute—
- “(1) This section applies where—
- (a) two or more related sentences are passed,

*Status:* This version of this Act contains provisions that are prospective.

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (b) the Court of Appeal allow an appeal against conviction in respect of one or more of the offences for which the sentences were passed (“the related offences”), but
  - (c) the appellant remains convicted of one or more of those offences.”
- (4) In subsection (2)—
- (a) for “in respect of any count on which the appellant remains convicted” substitute “in respect of any related offence of which the appellant remains convicted”, and
  - (b) omit “for the offence of which he remains convicted on that count”.
- (5) In subsection (3)—
- (a) for “on the indictment as a whole” substitute “(taken as a whole) for all the related offences of which he remains convicted”, and
  - (b) for “for all offences of which he was convicted on the indictment” substitute “for all the related offences”.
- (6) After subsection (3) insert—
- “(4) For the purposes of subsection (1)(a), two or more sentences are related if—
- (a) they are passed on the same day,
  - (b) they are passed on different days but the court in passing any one of them states that it is treating that one together with the other or others as substantially one sentence, or
  - (c) they are passed on different days but in respect of counts on the same indictment.
- (5) Where—
- (a) two or more sentences are related to each other by virtue of subsection (4)(a) or (b), and
  - (b) any one or more of those sentences is related to one or more other sentences by virtue of subsection (4)(c),
- all the sentences are to be treated as related for the purposes of subsection (1)(a).”

**Commencement Information**

**I200** Sch. 8 para. 6 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 26 (with Sch. 2 para. 4)

*Interim hospital orders*

- 7 The following provisions (which relate to the effect of interim hospital orders made by the Court of Appeal) are omitted—
- (a) section 6(5) and the definition of interim hospital order in section 6(7),
  - (b) section 11(6),
  - (c) section 14(5) and the definition of interim hospital order in section 14(7), and
  - (d) section 16B(3).

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

#### Commencement Information

**I201** Sch. 8 para. 7 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 26 (with Sch. 2 para. 5)

8 Before section 31 (but after the cross-heading preceding it) insert—

#### Effect of interim hospital orders

“30A(1) This section applies where the Court of Appeal—

- (a) make an interim hospital order by virtue of any provision of this Part, or
- (b) renew an interim hospital order so made.

(2) The court below shall be treated for the purposes of section 38(7) of the Mental Health Act 1983 (absconding offenders) as the court that made the order.”

#### Commencement Information

**I202** Sch. 8 para. 8 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 26 (with Sch. 2 para. 5)

9 In section 31 (powers of Court which are exercisable by single judge) after subsection (2) insert—

“(2ZA) The power of the Court of Appeal to renew an interim hospital order made by them by virtue of any provision of this Part may be exercised by a single judge in the same manner as it may be exercised by the Court.”

#### Commencement Information

**I203** Sch. 8 para. 9 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 26 (with Sch. 2 para. 5)

#### Evidence

10 (1) Section 23 (evidence) is amended as follows.

(2) In subsection (1) after “an appeal” insert “, or an application for leave to appeal, ”.

(3) In that subsection, for paragraph (b) substitute—

“(b) order any witness to attend for examination and be examined before the Court (whether or not he was called in the proceedings from which the appeal lies); and”.

(4) After subsection (1) insert—

“(1A) The power conferred by subsection (1)(a) may be exercised so as to require the production of any document, exhibit or other thing mentioned in that subsection to—

- (a) the Court;
- (b) the appellant;
- (c) the respondent.”

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(5) In subsection (4) after “an appeal” insert “, or an application for leave to appeal,”.

(6) After subsection (5) insert—

“(6) In this section, “respondent” includes a person who will be a respondent if leave to appeal is granted.”

**Commencement Information**

**I204** Sch. 8 para. 10 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 26

*Powers of single judge*

11 (1) Section 31 (powers of Court of Appeal which are exercisable by single judge) is amended as follows.

(2) In the heading, omit “under Part 1”.

(3) After subsection (2C) insert—

“(2D) The power of the Court of Appeal to grant leave to appeal under section 9(11) of the Criminal Justice Act 1987 may be exercised by a single judge in the same manner as it may be exercised by the Court.

(2E) The power of the Court of Appeal to grant leave to appeal under section 35(1) of the Criminal Procedure and Investigations Act 1996 may be exercised by a single judge in the same manner as it may be exercised by the Court.”

**Commencement Information**

**I205** Sch. 8 para. 11 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 26

*Appeals against procedural directions*

12 In section 31C (appeals against procedural directions), omit subsections (1) and (2).

**Commencement Information**

**I206** Sch. 8 para. 12 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 26 (with Sch. 2 para. 6)

*Detention of defendant pending appeal to Supreme Court*

13 (1) Section 37 (detention of defendant on appeal by Crown) is amended as follows.

(2) In subsection (2) for the words from “may make” to the end substitute “shall make—

(a) an order providing for his detention, or directing that he shall not be released except on bail (which may be granted by the Court as under section 36 above), so long as the appeal is pending, or

(b) an order that he be released without bail.”

(3) After subsection (2) insert—

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

“(2A) The Court may make an order under subsection (2)(b) only if they think that it is in the interests of justice that the defendant should not be liable to be detained as a result of the decision of the Supreme Court on the appeal.”

(4) In subsection (3) for “this section” substitute “ subsection (2)(a) ”.

(5) In subsection (4) for “this section” (in each place where it occurs) substitute “ subsection (2)(a) ”.

(6) In subsection (4A) for “this section” (in the first place where it occurs) substitute “ subsection (2)(a) ”.

(7) For subsection (5) substitute—

“(5) The defendant shall not be liable to be detained again as a result of the decision of the Supreme Court on the appeal if—

- (a) the Court of Appeal have made an order under subsection (2)(b), or
- (b) the Court have made an order under subsection (2)(a) but the order has ceased to have effect by virtue of subsection (3) or the defendant has been released or discharged by virtue of subsection (4) or (4A).”

#### Commencement Information

**I207** Sch. 8 para. 13 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26** (with Sch. 2 para. 714)

## PART 2

### AMENDMENTS OF CRIMINAL APPEAL (NORTHERN IRELAND) ACT 1980

14 The Criminal Appeal (Northern Ireland) Act 1980 (c. 47) has effect subject to the following amendments.

#### Commencement Information

**I208** Sch. 8 para. 14 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26**

#### *Time limit on grant of certificates of fitness for appeal*

15 In section 1 (appeal against conviction), in paragraph (b) after “if” insert “ , within 28 days from the date of the conviction, ”.

#### Commencement Information

**I209** Sch. 8 para. 15 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26**

16 In section 12 (appeal against finding of not guilty on ground of insanity), in subsection (1)(b) after “if” insert “ , within 28 days from the date of the finding, ”.

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

**Commencement Information**

**I210** Sch. 8 para. 16 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 26

- 17 In section 13A (appeal against finding of unfitness to be tried), in subsection (2)(b) after “if” insert “, within 28 days from the date of the finding that the person did the act or made the omission charged,”.

**Commencement Information**

**I211** Sch. 8 para. 17 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 26

*Powers of Court to substitute different sentence*

- 18 (1) Section 4 (alteration of sentence on appeal against conviction) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) Subsection (1A) applies where—
- (a) two or more related sentences are passed,
  - (b) the Court of Appeal allows an appeal against conviction in respect of one or more of the offences for which the sentences were passed (“the related offences”), but
  - (c) the appellant remains convicted of one or more of those offences.
- (1A) The Court may, in respect of any related offence of which the appellant remains convicted, pass such sentence, in substitution for the sentence passed thereon at the trial, as it thinks proper and is authorised by law.”
- (3) After subsection (2) insert—
- “(3) For the purposes of subsection (1)(a), two or more sentences are related if—
- (a) they are passed on the same day,
  - (b) they are passed on different days but the court in passing any one of them states that it is treating that one together with the other or others as substantially one sentence, or
  - (c) they are passed on different days but in respect of counts on the same indictment.
- (4) Where—
- (a) two or more sentences are related to each other by virtue of subsection (3)(a) or (b), and
  - (b) any one or more of those sentences is related to one or more other sentences by virtue of subsection (3)(c),
- all the sentences are to be treated as related for the purposes of subsection (1)(a).”

**Commencement Information**

**I212** Sch. 8 para. 18 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 26 (with Sch. 2 para. 8)

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

### *Interim hospital orders*

- 19 Section 10(6) (effect of interim hospital orders made by Court of Appeal) is omitted.

#### **Commencement Information**

**I213** Sch. 8 para. 19 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 26 (with Sch. 2 para. 9)

- 20 (1) For the cross-heading preceding section 30 substitute— “ Supplementary ”.  
(2) Before section 30 (but after the cross-heading preceding it) insert—

#### **Effect of interim hospital orders**

“29A(1) This section applies where the Court of Appeal—

- (a) makes an interim hospital order by virtue of any provision of this Part, or
- (b) renews an interim hospital order so made.

- (2) The Crown Court shall be treated for the purposes of Article 45(6) of the Mental Health Order (absconding offenders) as the court that made the order.”

#### **Commencement Information**

**I214** Sch. 8 para. 20 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 26 (with Sch. 2 para. 9)

- 21 In section 45 (powers of Court which are exercisable by single judge) after subsection (3) insert—

“(3ZA) The power of the Court of Appeal to renew an interim hospital order made by it by virtue of any provision of this Act may be exercised by a single judge in the same manner as it may be exercised by the Court.”

#### **Commencement Information**

**I215** Sch. 8 para. 21 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 26 (with Sch. 2 para. 9)

### *Evidence*

- 22 (1) Section 25 (evidence) is amended as follows.
- (2) In subsection (1) after “an appeal” insert “, or an application for leave to appeal, ”.
- (3) In that subsection, for paragraph (b) substitute—  
“(b) order any witness to attend and be examined before the Court (whether or not he was called at the trial); and”.
- (4) After subsection (1) insert—  
“(1A) The power conferred by subsection (1)(a) may be exercised so as to require the production of any document, exhibit or other thing mentioned in that subsection to—



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**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) the Court;
- (b) the appellant;
- (c) the respondent.”

(5) After subsection (3) insert—

“(4) In this section, “respondent” includes a person who will be a respondent if leave to appeal is granted.”

**Commencement Information**

**I216** Sch. 8 para. 22 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 26

23 In section 26 (additional powers of Court), in subsection (1) after “an appeal” insert “ , or an application for leave to appeal, ”.

**Commencement Information**

**I217** Sch. 8 para. 23 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 26

*Detention of defendant pending appeal to Supreme Court*

24 (1) Section 36 (detention of defendant on appeal by Crown) is amended as follows.

(2) In subsection (1) for the words from “may make” to the end substitute “shall make—

- (a) an order providing for his detention, or directing that he shall not be released except on bail (which may be granted by the Court as under section 35 above), so long as the appeal is pending, or
- (b) an order that he be released without bail.”

(3) After subsection (1) insert—

“(1A) The Court may make an order under subsection (1)(b) only if it thinks that it is in the interests of justice that the defendant should not be liable to be detained as a result of the decision of the Supreme Court on the appeal.”

(4) In subsection (2) for “subsection (1)” substitute “ subsection (1)(a) ”.

(5) In subsection (3) for “this section” (in each place where it occurs) substitute “ subsection (1)(a) ”.

(6) In subsection (3A) for “this section” (in the first place where it occurs) substitute “ subsection (1)(a) ”.

(7) For subsection (4) substitute—

“(4) The defendant shall not be liable to be detained again as a result of the decision of the Supreme Court on the appeal if—

- (a) the Court of Appeal has made an order under subsection (1)(b), or
- (b) the Court has made an order under subsection (1)(a) but the order has ceased to have effect by virtue of subsection (2) or the defendant has been released or discharged by virtue of subsection (3) or (3A).”

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

#### Commencement Information

**I218** Sch. 8 para. 24 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26** (with Sch. 2 para. 1014)

#### *Powers of single judge*

- 25 (1) Section 45 (powers of Court of Appeal which are exercisable by single judge) is amended as follows.
- (2) After subsection (3C) insert—
- “(3D) The power of the Court of Appeal to grant leave to appeal under Article 8(11) of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 may be exercised by a single judge in the same manner as it may be exercised by the Court.”

#### Commencement Information

**I219** Sch. 8 para. 25 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26**

### PART 3

#### AMENDMENTS OF OTHER ACTS

#### *Detention of defendant pending appeal from High Court to Supreme Court*

- 26 (1) Section 5 of the Administration of Justice Act 1960 (c. 65) (power to order detention or admission to bail of defendant) is amended as follows.
- (2) In subsection (1) for the words from “may make” to the end substitute “shall make—
- (a) an order providing for the detention of the defendant, or directing that he shall not be released except on bail (which may be granted by the court as under section 4 above), so long as the appeal is pending, or
- (b) an order that the defendant be released without bail.”
- (3) After subsection (1) insert—
- “(1A) The court may make an order under subsection (1)(b) only if it thinks that it is in the interests of justice that the defendant should not be liable to be detained as a result of the decision of the Supreme Court on the appeal.”
- (4) In subsection (3) for “subsection (1)” substitute “ subsection (1)(a) ”.
- (5) In subsection (4) for “the said subsection (1)” substitute “ the said subsection (1)(a) ”.
- (6) In subsection (4A) for “the said subsection (1)” substitute “ the said subsection (1)(a) ”.
- (7) For subsection (5) substitute—
- “(5) The defendant shall not be liable to be detained again as a result of the decision of the Supreme Court on the appeal if—

*Status:* This version of this Act contains provisions that are prospective.

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) the court has made an order under subsection (1)(b), or
- (b) the court has made an order under subsection (1)(a) but the order has ceased to have effect by virtue of subsection (3) or the defendant has been released or discharged by virtue of subsection (4) or (4A).”

**Commencement Information**

**I220** Sch. 8 para. 26 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26** (with Sch. 2 para. 1114)

*Variation of sentences by Crown Court*

- 27 (1) Section 49 of the Judicature (Northern Ireland) Act 1978 (c. 23) (sentences imposed and other decisions made by Crown Court) is amended as follows.
- (2) In subsection (2)—
- (a) for “28 days” substitute “ 56 days ”, and
  - (b) omit the words from “or, where subsection (3) applies,” to the end.
- (3) After subsection (2) insert—
- “(2A) The power conferred by subsection (1) may not be exercised in relation to any sentence or order if an appeal, or an application for leave to appeal, against that sentence or order has been determined.”
- (4) Subsection (3) is omitted.

**Commencement Information**

**I221** Sch. 8 para. 27 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26** (with Sch. 2 para. 12)

F139<sup>28</sup> .....

**Textual Amendments**

**F139** Sch. 8 para. 28 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

SCHEDULE 9

Section 48

ALTERNATIVES TO PROSECUTION FOR PERSONS UNDER 18

- 1 The Crime and Disorder Act 1998 (c. 37) has effect subject to the following amendments.

**Commencement Information**

**I222** Sch. 9 para. 1 in force at 1.2.2009 by S.I. 2009/140, art. 2(e)(i)

F140<sup>2</sup> .....

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

### Textual Amendments

**F140** Sch. 9 para. 2 omitted (8.4.2013) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 24 para. 30](#) (with s. 135(4)); S.I. 2013/453, art. 4(f)

3 After section 66 insert—

*“Young offenders: youth conditional cautions*

#### **66A Youth conditional cautions**

- (1) An authorised person may give a youth conditional caution to a child or young person (“the offender”) if—
  - (a) the offender has not previously been convicted of an offence, and
  - (b) each of the five requirements in section 66B is satisfied.
- (2) In this Chapter, “youth conditional caution” means a caution which is given in respect of an offence committed by the offender and which has conditions attached to it with which the offender must comply.
- (3) The conditions which may be attached to such a caution are those which have one or more of the following objects—
  - (a) facilitating the rehabilitation of the offender;
  - (b) ensuring that the offender makes reparation for the offence;
  - (c) punishing the offender.
- (4) The conditions that may be attached to a youth conditional caution include—
  - (a) (subject to section 66C) a condition that the offender pay a financial penalty;
  - (b) a condition that the offender attend at a specified place at specified times.

“Specified” means specified by a relevant prosecutor.
- (5) Conditions attached by virtue of subsection (4)(b) may not require the offender to attend for more than 20 hours in total, not including any attendance required by conditions attached for the purpose of facilitating the offender's rehabilitation.
- (6) The Secretary of State may by order amend subsection (5) by substituting a different figure.
- (7) In this section, “authorised person” means—
  - (a) a constable,
  - (b) an investigating officer, or
  - (c) a person authorised by a relevant prosecutor for the purposes of this section.

#### **66B The five requirements**

- (1) The first requirement is that the authorised person has evidence that the offender has committed an offence.

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- (2) The second requirement is that a relevant prosecutor decides—
  - (a) that there is sufficient evidence to charge the offender with the offence, and
  - (b) that a youth conditional caution should be given to the offender in respect of the offence.
- (3) The third requirement is that the offender admits to the authorised person that he committed the offence.
- (4) The fourth requirement is that the authorised person explains the effect of the youth conditional caution to the offender and warns him that failure to comply with any of the conditions attached to the caution may result in his being prosecuted for the offence.
- (5) If the offender is aged 16 or under, the explanation and warning mentioned in subsection (4) must be given in the presence of an appropriate adult.
- (6) The fifth requirement is that the offender signs a document which contains—
  - (a) details of the offence,
  - (b) an admission by him that he committed the offence,
  - (c) his consent to being given the youth conditional caution, and
  - (d) the conditions attached to the caution.

### **66C Financial penalties**

- (1) A condition that the offender pay a financial penalty (a “financial penalty condition”) may not be attached to a youth conditional caution given in respect of an offence unless the offence is one that is prescribed, or of a description prescribed, in an order made by the Secretary of State.
- (2) An order under subsection (1) must prescribe, in respect of each offence or description of offence in the order, the maximum amount of the penalty that may be specified under subsection (5)(a).
- (3) The amount that may be prescribed in respect of any offence must not exceed £100.
- (4) The Secretary of State may by order amend subsection (3) by substituting a different figure.
- (5) Where a financial penalty condition is attached to a youth conditional caution, a relevant prosecutor must also specify—
  - (a) the amount of the penalty, and
  - (b) the person to whom the financial penalty is to be paid and how it may be paid.
- (6) To comply with the condition, the offender must pay the penalty in accordance with the provision specified under subsection (5)(b).
- (7) Where a financial penalty is (in accordance with the provision specified under subsection (5)(b)) paid to a person other than a designated officer for a local justice area, the person to whom it is paid must give the payment to such an officer.

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### **66D Variation of conditions**

A relevant prosecutor may, with the consent of the offender, vary the conditions attached to a youth conditional caution by—

- (a) modifying or omitting any of the conditions;
- (b) adding a condition.

### **66E Failure to comply with conditions**

- (1) If the offender fails, without reasonable excuse, to comply with any of the conditions attached to the youth conditional caution, criminal proceedings may be instituted against the person for the offence in question.
- (2) The document mentioned in section 66B(6) is to be admissible in such proceedings.
- (3) Where such proceedings are instituted, the youth conditional caution is to cease to have effect.
- (4) Section 24A(1) of the Criminal Justice Act 2003 (“the 2003 Act”) applies in relation to the conditions attached to a youth conditional caution as it applies in relation to the conditions attached to a conditional caution (within the meaning of Part 3 of that Act).
- (5) Sections 24A(2) to (9) and 24B of the 2003 Act apply in relation to a person who is arrested under section 24A(1) of that Act by virtue of subsection (4) above as they apply in relation to a person who is arrested under that section for failing to comply with any of the conditions attached to a conditional caution (within the meaning of Part 3 of that Act).

### **66F Restriction on sentencing powers where youth conditional caution given**

Where a person who has been given a youth conditional caution is convicted of an offence committed within two years of the giving of the caution, the court by or before which the person is so convicted—

- (a) may not make an order under section 12(1)(b) of the Powers of Criminal Courts (Sentencing) Act 2000 (conditional discharge) in respect of the offence unless it is of the opinion that there are exceptional circumstances relating to the offence or the offender which justify its doing so; and
- (b) where it does make such an order, must state in open court that it is of that opinion and why it is.

### **66G Code of practice on youth conditional cautions**

- (1) The Secretary of State must prepare a code of practice in relation to youth conditional cautions.
- (2) The code may, in particular, make provision as to—
  - (a) the circumstances in which youth conditional cautions may be given,
  - (b) the procedure to be followed in connection with the giving of such cautions,

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- (c) the conditions which may be attached to such cautions and the time for which they may have effect,
  - (d) the category of constable or investigating officer by whom such cautions may be given,
  - (e) the persons who may be authorised by a relevant prosecutor for the purposes of section 66A,
  - (f) the form which such cautions are to take and the manner in which they are to be given and recorded,
  - (g) the places where such cautions may be given,
  - (h) the provision which may be made by a relevant prosecutor under section 66C(5)(b),
  - (i) the monitoring of compliance with conditions attached to such cautions,
  - (j) the exercise of the power of arrest conferred by section 24A(1) of the Criminal Justice Act 2003 (c. 44) as it applies by virtue of section 66E(4),
  - (k) who is to decide how a person should be dealt with under section 24A(2) of that Act as it applies by virtue of section 66E(5).
- (3) After preparing a draft of the code the Secretary of State—
- (a) must publish the draft,
  - (b) must consider any representations made to him about the draft, and
  - (c) may amend the draft accordingly,
- but he may not publish or amend the draft without the consent of the Attorney General.
- (4) After the Secretary of State has proceeded under subsection (3) he must lay the code before each House of Parliament.
- (5) When he has done so he may bring the code into force by order.
- (6) The Secretary of State may from time to time revise a code of practice brought into force under this section.
- (7) Subsections (3) to (6) are to apply (with appropriate modifications) to a revised code as they apply to an original code.

### *Interpretation of Chapter 1*

#### **66H Interpretation**

In this Chapter—

- (a) “appropriate adult” has the meaning given by section 65(7);
- (b) “authorised person” has the meaning given by section 66A(7);
- (c) “investigating officer” means an officer of Revenue and Customs, appointed in accordance with section 2(1) of the Commissioners for Revenue and Customs Act 2005, or a person designated as an investigating officer under section 38 of the Police Reform Act 2002 (c. 30);
- (d) “the offender” has the meaning given by section 66A(1);
- (e) “relevant prosecutor” means—

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- (i) the Attorney General,
  - (ii) the Director of the Serious Fraud Office,
  - (iii) the Director of Revenue and Customs Prosecutions,
  - (iv) the Director of Public Prosecutions,
  - (v) the Secretary of State, or
  - (vi) a person who is specified in an order made by the Secretary of State as being a relevant prosecutor for the purposes of this Chapter;
- (f) “youth conditional caution” has the meaning given by section 66A(2).”

#### Commencement Information

- I223** Sch. 9 para. 3 in force at 1.2.2009 for specified purposes by S.I. 2009/140, art. 2(e)(ii)  
**I224** Sch. 9 para. 3 in force at 1.4.2009 for specified purposes by S.I. 2009/860, art. 2(1)(h)  
**I225** Sch. 9 para. 3 in force at 16.11.2009 for specified purposes by S.I. 2009/2780, art. 2(1)(c)(2)  
**I226** Sch. 9 para. 3 in force at 8.4.2013 in so far as not already in force by S.I. 2013/616, art. 2(b)

- 4 (1) Section 114 (orders and regulations) is amended as follows.
- (2) In subsection (2) (which specifies orders that are subject to annulment in pursuance of a resolution of either House of Parliament), for “or 10(6)” substitute “ 10(6), 66C(1) or 66H(e)(vi) ”.
- (3) After subsection (2) insert—
- “(2A) Subsection (2) also applies to a statutory instrument containing—
- (a) an order under section 66C(4) unless the order makes provision of the kind mentioned in subsection (3A)(a) below, or
  - (b) an order under section 66G(5) other than the first such order.”
- (4) In subsection (3) (which specifies orders that may not be made unless a draft has been approved by a resolution of each House of Parliament) after “41(6)” insert “ , 66A(6) ”.
- (5) After subsection (3) insert—
- “(3A) Subsection (3) also applies to—
- (a) an order under section 66C(4) which makes provision increasing the figure in section 66C(3) by more than is necessary to reflect changes in the value of money, and
  - (b) the first order under section 66G(5).”

#### Commencement Information

- I227** Sch. 9 para. 4 in force at 1.2.2009 by S.I. 2009/140, art. 2(e)(iii)



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## SCHEDULE 10

Section 49

### PROTECTION FOR SPENT CAUTIONS UNDER REHABILITATION OF OFFENDERS ACT 1974

1 The Rehabilitation of Offenders Act 1974 (c. 53) is amended as follows.

#### Commencement Information

**I228** Sch. 10 para. 1 in force at 19.12.2008 by S.I. 2008/3260, art. 2(1)(d)

F1412 .....

#### Textual Amendments

**F141** Sch. 10 para. 2 repealed (10.3.2014) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 25 Pt. 2 (with s. 141(1)-(6)); S.I. 2014/423, art. 2(c) (with art. 3)

3 After section 8 (defamation actions) there is inserted—

#### “8A Protection afforded to spent cautions

- (1) Schedule 2 to this Act (protection for spent cautions) shall have effect.
- (2) In this Act “caution” means—
  - (a) a conditional caution, that is to say, a caution given under section 22 of the Criminal Justice Act 2003 (c. 44) (conditional cautions for adults) or under section 66A of the Crime and Disorder Act 1998 (c. 37) (conditional cautions for children and young persons);
  - (b) any other caution given to a person in England and Wales in respect of an offence which, at the time the caution is given, that person has admitted;
  - (c) a reprimand or warning given under section 65 of the Crime and Disorder Act 1998 (reprimands and warnings for persons aged under 18);
  - (d) anything corresponding to a caution, reprimand or warning falling within paragraphs (a) to (c) (however described) which is given to a person in respect of an offence under the law of a country outside England and Wales.”

#### Commencement Information

**I229** Sch. 10 para. 3 in force at 19.12.2008 by S.I. 2008/3260, art. 2(1)(d)

4 After section 9 (unauthorised disclosure of spent convictions) insert—

#### “9A Unauthorised disclosure of spent cautions

- (1) In this section—
  - (a) “official record” means a record which—
    - (i) contains information about persons given a caution for any offence or offences; and

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- (ii) is kept for the purposes of its functions by any court, police force, Government department or other public authority in England and Wales;
- (b) “caution information” means information imputing that a named or otherwise identifiable living person (“the named person”) has committed, been charged with or prosecuted or cautioned for any offence which is the subject of a spent caution; and
- (c) “relevant person” means any person who, in the course of his official duties (anywhere in the United Kingdom), has or at any time has had custody of or access to any official record or the information contained in it.
- (2) Subject to the terms of any order made under subsection (5), a relevant person shall be guilty of an offence if, knowing or having reasonable cause to suspect that any caution information he has obtained in the course of his official duties is caution information, he discloses it, otherwise than in the course of those duties, to another person.
- (3) In any proceedings for an offence under subsection (2) it shall be a defence for the defendant to show that the disclosure was made—
- (a) to the named person or to another person at the express request of the named person;
- (b) to a person whom he reasonably believed to be the named person or to another person at the express request of a person whom he reasonably believed to be the named person.
- (4) Any person who obtains any caution information from any official record by means of any fraud, dishonesty or bribe shall be guilty of an offence.
- (5) The Secretary of State may by order make such provision as appears to him to be appropriate for excepting the disclosure of caution information derived from an official record from the provisions of subsection (2) in such cases or classes of case as may be specified in the order.
- (6) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (7) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 5 on the standard scale, or to imprisonment for a term not exceeding 51 weeks, or to both.
- (8) Proceedings for an offence under subsection (2) shall not be instituted except by or on behalf of the Director of Public Prosecutions.”

**Commencement Information**

1230 Sch. 10 para. 4 in force at 19.12.2008 by S.I. 2008/3260, art. 2(1)(d)

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### Textual Amendments

**F142** Sch. 10 para. 5 repealed (10.3.2014) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), s. 151(1), **Sch. 25 Pt. 2** (with s. 141(1)-(6)); S.I. 2014/423, art. 2(c) (with art. 3)

6 After that Schedule insert—

## “SCHEDULE 2

### PROTECTION FOR SPENT CAUTIONS

#### *Preliminary*

- 1 (1) For the purposes of this Schedule a caution shall be regarded as a spent caution—
  - (a) in the case of a conditional caution (as defined in section 8A(2)(a)), at the end of the relevant period for the caution;
  - (b) in any other case, at the time the caution is given.
- (2) In sub-paragraph (1)(a) “the relevant period for the caution” means (subject to sub-paragraph (3)) the period of three months from the date on which the conditional caution was given.
- (3) If the person concerned is subsequently prosecuted and convicted of the offence in respect of which a conditional caution was given—
  - (a) the relevant period for the caution shall end at the same time as the rehabilitation period for the offence; and
  - (b) if the conviction occurs after the end of the period mentioned in sub-paragraph (1)(a), the caution shall be treated for the purposes of this Schedule as not having become spent in relation to any period before the end of the rehabilitation period for the offence.
- 2 (1) In this Schedule “ancillary circumstances”, in relation to a caution, means any circumstances of the following—
  - (a) the offence which was the subject of the caution or the conduct constituting that offence;
  - (b) any process preliminary to the caution (including consideration by any person of how to deal with that offence and the procedure for giving the caution);
  - (c) any proceedings for that offence which take place before the caution is given (including anything which happens after that time for the purpose of bringing the proceedings to an end);
  - (d) any judicial review proceedings relating to the caution;
  - (e) in the case of a warning under section 65 of the Crime and Disorder Act 1998 (c. 37), anything done in pursuance of or undergone in compliance with a requirement to participate in a rehabilitation programme under section 66(2) of that Act;
  - (f) in the case of a conditional caution, any conditions attached to the caution or anything done in pursuance of or undergone in compliance with those conditions.

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- (2) Where the caution relates to two or more offences, references in sub-paragraph (1) to the offence which was the subject of the caution include a reference to each of the offences concerned.
- (3) In this Schedule “proceedings before a judicial authority” has the same meaning as in section 4.

*Protection relating to spent cautions and ancillary circumstances*

- 3 (1) A person who is given a caution for an offence shall, from the time the caution is spent, be treated for all purposes in law as a person who has not committed, been charged with or prosecuted for, or been given a caution for the offence; and notwithstanding the provisions of any other enactment or rule of law to the contrary—
  - (a) no evidence shall be admissible in any proceedings before a judicial authority exercising its jurisdiction or functions in England and Wales to prove that any such person has committed, been charged with or prosecuted for, or been given a caution for the offence; and
  - (b) a person shall not, in any such proceedings, be asked and, if asked, shall not be required to answer, any question relating to his past which cannot be answered without acknowledging or referring to a spent caution or any ancillary circumstances.
- (2) Nothing in sub-paragraph (1) applies in relation to any proceedings for the offence which are not part of the ancillary circumstances relating to the caution.
- (3) Where a question seeking information with respect to a person's previous cautions, offences, conduct or circumstances is put to him or to any other person otherwise than in proceedings before a judicial authority—
  - (a) the question shall be treated as not relating to spent cautions or to any ancillary circumstances, and the answer may be framed accordingly; and
  - (b) the person questioned shall not be subjected to any liability or otherwise prejudiced in law by reason of any failure to acknowledge or disclose a spent caution or any ancillary circumstances in his answer to the question.
- (4) Any obligation imposed on any person by any rule of law or by the provisions of any agreement or arrangement to disclose any matters to any other person shall not extend to requiring him to disclose a spent caution or any ancillary circumstances (whether the caution is his own or another's).
- (5) A caution which has become spent or any ancillary circumstances, or any failure to disclose such a caution or any such circumstances, shall not be a proper ground for dismissing or excluding a person from any office, profession, occupation or employment, or for prejudicing him in any way in any occupation or employment.
- (6) This paragraph has effect subject to paragraphs 4 to 6.
- 4 The Secretary of State may by order—

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- (a) make provision for excluding or modifying the application of either or both of paragraphs (a) or (b) of paragraph 3(3) in relation to questions put in such circumstances as may be specified in the order;
  - (b) provide for exceptions from the provisions of sub-paragraphs (4) and (5) of paragraph 3, in such cases or classes of case, and in relation to cautions of such a description, as may be specified in the order.
- 5 Nothing in paragraph 3 affects—
  - (a) the operation of the caution in question; or
  - (b) the operation of any enactment by virtue of which, in consequence of any caution, a person is subject to any disqualification, disability, prohibition or other restriction or effect, the period of which extends beyond the rehabilitation period applicable to the caution.
- 6 (1) Section 7(2), (3) and (4) apply for the purposes of this Schedule as follows.
  - (2) Subsection (2) (apart from paragraphs (b) and (d)) applies to the determination of any issue, and the admission or requirement of any evidence, relating to a person's previous cautions or to ancillary circumstances as it applies to matters relating to a person's previous convictions and circumstances ancillary thereto.
  - (3) Subsection (3) applies to evidence of a person's previous cautions and ancillary circumstances as it applies to evidence of a person's convictions and the circumstances ancillary thereto; and for this purpose subsection (3) shall have effect as if—
    - (a) any reference to subsection (2) or (4) of section 7 were a reference to that subsection as applied by this paragraph; and
    - (b) the words “or proceedings to which section 8 below applies” were omitted.
  - (4) Subsection (4) applies for the purpose of excluding the application of paragraph 3(1); and for that purpose subsection (4) shall have effect as if the words “(other than proceedings to which section 8 below applies)” were omitted.
  - (5) References in the provisions applied by this paragraph to section 4(1) are to be read as references to paragraph 3(1).”

**Commencement Information**

**I231** Sch. 10 para. 6 in force at 19.12.2008 by S.I. 2008/3260, art. 2(1)(d)

SCHEDULE 11

Section 51

ELECTRONIC MONITORING OF PERSONS RELEASED ON BAIL SUBJECT TO CONDITIONS

1 The Bail Act 1976 (c. 63) has effect subject to the following amendments.

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**Commencement Information**

**I232** Sch. 11 para. 1 in force at 3.11.2008 by S.I. 2008/2712, art. 2, Sch. para. 15

- 2 In section 3 (general provisions) for subsection (6ZAA) substitute—
- “(6ZAA) The requirements which may be imposed under subsection (6) include electronic monitoring requirements.
- The imposition of electronic monitoring requirements is subject to section 3AA (in the case of a child or young person), section 3AB (in the case of other persons) and section 3AC (in all cases).
- (6ZAB) In this section and sections 3AA to 3AC “electronic monitoring requirements” means requirements imposed for the purpose of securing the electronic monitoring of a person's compliance with any other requirement imposed on him as a condition of bail.”

**Commencement Information**

**I233** Sch. 11 para. 2 in force at 3.11.2008 by S.I. 2008/2712, art. 2, Sch. para. 15

- 3 (1) Section 3AA (electronic monitoring of compliance with bail conditions) is amended as follows.
- (2) In the heading to the section, for “Electronic monitoring of compliance with bail conditions” substitute “ Conditions for the imposition of electronic monitoring requirements: children and young persons ”.
- (3) For subsection (1) substitute—
- “(1) A court may not impose electronic monitoring requirements on a child or young person unless each of the following conditions is met.”
- (4) For subsection (4) substitute—
- “(4) The third condition is that the court is satisfied that the necessary provision for dealing with the person concerned can be made under arrangements for the electronic monitoring of persons released on bail that are currently available in each local justice area which is a relevant area.”
- (5) In subsection (5), for “such a requirement” substitute “ electronic monitoring requirements ”.
- (6) Subsections (6) to (10) and (12) (which are superseded by section 3AC) are omitted.

**Commencement Information**

**I234** Sch. 11 para. 3 in force at 3.11.2008 by S.I. 2008/2712, art. 2, Sch. para. 15

- 4 After section 3AA insert—

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### **“3AB Conditions for the imposition of electronic monitoring requirements: other persons**

- (1) A court may not impose electronic monitoring requirements on a person who has attained the age of seventeen unless each of the following conditions is met.
- (2) The first condition is that the court is satisfied that without the electronic monitoring requirements the person would not be granted bail.
- (3) The second condition is that the court is satisfied that the necessary provision for dealing with the person concerned can be made under arrangements for the electronic monitoring of persons released on bail that are currently available in each local justice area which is a relevant area.
- (4) If the person is aged seventeen, the third condition is that a youth offending team has informed the court that in its opinion the imposition of electronic monitoring requirements will be suitable in his case.

### **3AC Electronic monitoring: general provisions**

- (1) Where a court imposes electronic monitoring requirements as a condition of bail, the requirements must include provision for making a person responsible for the monitoring.
- (2) A person may not be made responsible for the electronic monitoring of a person on bail unless he is of a description specified in an order made by the Secretary of State.
- (3) The Secretary of State may make rules for regulating—
  - (a) the electronic monitoring of persons on bail;
  - (b) without prejudice to the generality of paragraph (a), the functions of persons made responsible for such monitoring.
- (4) The rules may make different provision for different cases.
- (5) Any power of the Secretary of State to make an order or rules under this section is exercisable by statutory instrument.
- (6) A statutory instrument containing rules under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) For the purposes of section 3AA or 3AB a local justice area is a relevant area in relation to a proposed electronic monitoring requirement if the court considers that it will not be practicable to secure the electronic monitoring in question unless electronic monitoring arrangements are available in that area.
- (8) Nothing in sections 3, 3AA or 3AB is to be taken to require the Secretary of State to ensure that arrangements are made for the electronic monitoring of persons released on bail.”

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**Commencement Information**

**I235** Sch. 11 para. 4 in force at 3.11.2008 by S.I. 2008/2712, art. 2, Sch. para. 15

SCHEDULE 12

Section 52

BAIL FOR SUMMARY OFFENCES AND CERTAIN OTHER OFFENCES TO BE TRIED SUMMARILY

1 The Bail Act 1976 (c. 63) is amended as follows.

**Commencement Information**

**I236** Sch. 12 para. 1 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 27

2 In section 3(6D)(a) (condition to be imposed on person in relation to whom paragraph 6B(1)(a) to (c) of Part 1 of Schedule 1 to that Act apply), after “apply” insert “ (including where P is a person to whom the provisions of Part 1A of Schedule 1 apply) ”.

**Commencement Information**

**I237** Sch. 12 para. 2 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 27

3 After section 9 (offence of agreeing to indemnify sureties in criminal proceedings) insert—

**“9A Bail decisions relating to persons aged under 18 who are accused of offences mentioned in Schedule 2 to the Magistrates' Courts Act 1980**

- (1) This section applies whenever—
  - (a) a magistrates' court is considering whether to withhold or grant bail in relation to a person aged under 18 who is accused of a scheduled offence; and
  - (b) the trial of that offence has not begun.
- (2) The court shall, before deciding whether to withhold or grant bail, consider whether, having regard to any representations made by the prosecutor or the accused person, the value involved does not exceed the relevant sum for the purposes of section 22.
- (3) The duty in subsection (2) does not apply in relation to an offence if—
  - (a) a determination under subsection (4) has already been made in relation to that offence; or
  - (b) the accused person is, in relation to any other offence of which he is accused which is not a scheduled offence, a person to whom Part 1 of Schedule 1 to this Act applies.
- (4) If where the duty in subsection (2) applies it appears to the court clear that, for the offence in question, the amount involved does not exceed the relevant sum, the court shall make a determination to that effect.



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(5) In this section—

- (a) “relevant sum” has the same meaning as in section 22(1) of the Magistrates' Courts Act 1980 (certain either way offences to be tried summarily if value involved is less than the relevant sum);
- (b) “scheduled offence” means an offence mentioned in Schedule 2 to that Act (offences for which the value involved is relevant to the mode of trial); and
- (c) “the value involved” is to be construed in accordance with section 22(10) to (12) of that Act.”

**Commencement Information**

**I238** Sch. 12 para. 3 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 27

4 Schedule 1 (persons entitled to bail: supplementary provisions) is amended as follows.

**Commencement Information**

**I239** Sch. 12 para. 4 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 27

5 (1) Paragraph 1 (defendants to whom Part 1 applies) becomes sub-paragraph (1) of that paragraph.

(2) In that sub-paragraph at the beginning insert “ Subject to sub-paragraph (2), ”.

(3) After that sub-paragraph insert—

“(2) But those provisions do not apply by virtue of sub-paragraph (1)(a) if the offence, or each of the offences punishable with imprisonment, is—

- (a) a summary offence; or
- (b) an offence mentioned in Schedule 2 to the Magistrates' Courts Act 1980 (offences for which the value involved is relevant to the mode of trial) in relation to which—
  - (i) a determination has been made under section 22(2) of that Act (certain either way offences to be tried summarily if value involved is less than the relevant sum) that it is clear that the value does not exceed the relevant sum for the purposes of that section; or
  - (ii) a determination has been made under section 9A(4) of this Act to the same effect.”

**Commencement Information**

**I240** Sch. 12 para. 5 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 27

6 After Part 1 insert—

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## “PART 1A

### DEFENDANTS ACCUSED OR CONVICTED OF IMPRISONABLE OFFENCES TO WHICH PART 1 DOES NOT APPLY

#### *Defendants to whom Part 1A applies*

- 1 The following provisions of this Part apply to the defendant if—
- (a) the offence or one of the offences of which he is accused or convicted is punishable with imprisonment, but
  - (b) Part 1 does not apply to him by virtue of paragraph 1(2) of that Part.

#### *Exceptions to right to bail*

- 2 The defendant need not be granted bail if—
- (a) it appears to the court that, having been previously granted bail in criminal proceedings, he has failed to surrender to custody in accordance with his obligations under the grant of bail; and
  - (b) the court believes, in view of that failure, that the defendant, if released on bail (whether subject to conditions or not) would fail to surrender to custody.
- 3 The defendant need not be granted bail if—
- (a) it appears to the court that the defendant was on bail in criminal proceedings on the date of the offence; and
  - (b) the court is satisfied that there are substantial grounds for believing that the defendant, if released on bail (whether subject to conditions or not) would commit an offence while on bail.
- 4 The defendant need not be granted bail if the court is satisfied that there are substantial grounds for believing that the defendant, if released on bail (whether subject to conditions or not), would commit an offence while on bail by engaging in conduct that would, or would be likely to, cause—
- (a) physical or mental injury to any person other than the defendant; or
  - (b) any person other than the defendant to fear physical or mental injury.
- 5 The defendant need not be granted bail if the court is satisfied that the defendant should be kept in custody for his own protection or, if he is a child or young person, for his own welfare.
- 6 The defendant need not be granted bail if he is in custody in pursuance of a sentence of a court or a sentence imposed by an officer under the Armed Forces Act 2006.
- 7 The defendant need not be granted bail if—
- (a) having been released on bail in or in connection with the proceedings for the offence, he has been arrested in pursuance of section 7 of this Act; and
  - (b) the court is satisfied that there are substantial grounds for believing that the defendant, if released on bail (whether subject to conditions or not) would fail to surrender to custody, commit an offence while

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on bail or interfere with witnesses or otherwise obstruct the course of justice (whether in relation to himself or any other person).

- 8 The defendant need not be granted bail where the court is satisfied that it has not been practicable to obtain sufficient information for the purpose of taking the decisions required by this Part of this Schedule for want of time since the institution of the proceedings against him.

*Application of paragraphs 6A to 6C of Part 1*

- 9 Paragraphs 6A to 6C of Part 1 (exception applicable to drug users in certain areas and related provisions) apply to a defendant to whom this Part applies as they apply to a defendant to whom that Part applies.”

**Commencement Information**

**I241** Sch. 12 para. 6 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 27

SCHEDULE 13

Section 53

ALLOCATION OF CASES TRIABLE EITHER WAY ETC.

- 1 Schedule 3 to the Criminal Justice Act 2003 (c. 44) (allocation of cases triable either way, and sending cases to the Crown Court etc.) has effect subject to the following amendments.
- 2 In paragraph 2, in the paragraph set out in sub-paragraph (2), after “committed” insert “ for sentence ”.
- 3 In paragraph 6, for subsection (2)(c) of the section set out in that paragraph substitute—
- “ (c) that if he is tried summarily and is convicted by the court, he may be committed for sentence to the Crown Court under section 3 or (if applicable) section 3A of the Powers of Criminal Courts (Sentencing) Act 2000 if the court is of such opinion as is mentioned in subsection (2) of the applicable section.”
- 4 In paragraph 8, in sub-paragraph (2)(a) for “trial on indictment” substitute “ summary trial ”.
- 5 (1) Paragraph 9 is amended as follows.
- (2) In sub-paragraph (3) after “(1A)” insert “ , (1B) ”.
- (3) After sub-paragraph (3) insert—
- “ (4) In subsection (3) for “the said Act of 2000” substitute “ the Powers of Criminal Courts (Sentencing) Act 2000 ”.”
- 6 Paragraph 13 is omitted.
- 7 Paragraph 22 is omitted.

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**Textual Amendments**

**F143** Sch. 13 paras. 8-10 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

F143<sup>9</sup> .....

**Textual Amendments**

**F143** Sch. 13 paras. 8-10 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

F143<sup>10</sup> .....

**Textual Amendments**

**F143** Sch. 13 paras. 8-10 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

SCHEDULE 14

Section 68

SPECIAL RULES RELATING TO PROVIDERS OF INFORMATION SOCIETY SERVICES

*Domestic service providers: extension of liability*

F144<sup>1</sup> .....

**Textual Amendments**

**F144** Sch. 14 para. 1 omitted (29.7.2021) by virtue of [The Criminal Justice \(Electronic Commerce\) \(Amendment\) \(EU Exit\) Regulations 2021 \(S.I. 2021/835\)](#), regs. 1, **6(a)**

*Non-UK service providers: restriction on institution of proceedings*

F145<sup>2</sup> .....

**Textual Amendments**

**F145** Sch. 14 para. 2 omitted (29.7.2021) by virtue of [The Criminal Justice \(Electronic Commerce\) \(Amendment\) \(EU Exit\) Regulations 2021 \(S.I. 2021/835\)](#), regs. 1, **6(b)**

*Exceptions for mere conduits*

3 (1) A service provider is not capable of being guilty of an offence under section 63 in respect of anything done in the course of providing so much of an information society service as consists in—

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- (a) the provision of access to a communication network, or
  - (b) the transmission in a communication network of information provided by a recipient of the service,
- if the condition in sub-paragraph (2) is satisfied.
- (2) The condition is that the service provider does not—
    - (a) initiate the transmission,
    - (b) select the recipient of the transmission, or
    - (c) select or modify the information contained in the transmission.
  - (3) For the purposes of sub-paragraph (1)—
    - (a) the provision of access to a communication network, and
    - (b) the transmission of information in a communication network,includes the automatic, intermediate and transient storage of the information transmitted so far as the storage is solely for the purpose of carrying out the transmission in the network.
  - (4) Sub-paragraph (3) does not apply if the information is stored for longer than is reasonably necessary for the transmission.

#### Commencement Information

**I242** Sch. 14 para. 3 in force at 26.1.2009 by S.I. 2008/2993, art. 2(2)(i)

#### *Exception for caching*

- 4 (1) This paragraph applies where an information society service consists in the transmission in a communication network of information provided by a recipient of the service.
- (2) The service provider is not capable of being guilty of an offence under section 63 in respect of the automatic, intermediate and temporary storage of information so provided, if—
  - (a) the storage of the information is solely for the purpose of making more efficient the onward transmission of the information to other recipients of the service at their request, and
  - (b) the condition in sub-paragraph (3) is satisfied.
- (3) The condition is that the service provider—
  - (a) does not modify the information,
  - (b) complies with any conditions attached to having access to the information, and
  - (c) (where sub-paragraph (4) applies) expeditiously removes the information or disables access to it.
- (4) This sub-paragraph applies if the service provider obtains actual knowledge that—
  - (a) the information at the initial source of the transmission has been removed from the network,
  - (b) access to it has been disabled, or
  - (c) a court or administrative authority has ordered the removal from the network of, or the disablement of access to, the information.

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#### Commencement Information

**I243** Sch. 14 para. 4 in force at 26.1.2009 by S.I. 2008/2993, art. 2(2)(i)

#### *Exception for hosting*

- 5 (1) A service provider is not capable of being guilty of an offence under section 63 in respect of anything done in the course of providing so much of an information society service as consists in the storage of information provided by a recipient of the service, if—
- (a) the service provider had no actual knowledge when the information was provided that it contained offending material, or
  - (b) on obtaining actual knowledge that the information contained offending material, the service provider expeditiously removed the information or disabled access to it.
- (2) “Offending material” means material the possession of which constitutes an offence under section 63.
- (3) Sub-paragraph (1) does not apply if the recipient of the service is acting under the authority or control of the service provider.

#### Commencement Information

**I244** Sch. 14 para. 5 in force at 26.1.2009 by S.I. 2008/2993, art. 2(2)(i)

#### *Interpretation*

- 6 (1) This paragraph applies for the purposes of this Schedule.
- <sup>F146</sup>(2) . . . . .
- (3) “Information society services”—
- (a) has the meaning given in Article 2(a) of the E-Commerce Directive (which refers to Article 1(2) of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations), and
  - (b) is summarised in recital 17 of the E-Commerce Directive as covering “any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing (including digital compression) and storage of data, and at the individual request of a recipient of a service”;
- and “the E-Commerce Directive” means Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce).
- (4) “Recipient”, in relation to a service, means any person who, for professional ends or otherwise, uses an information society service, in particular for the purposes of seeking information or making it accessible.
- (5) “Service provider” means a person providing an information society service.

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F147 (6) .....

#### Textual Amendments

**F146** Sch. 14 para. 6(2) omitted (13.4.2015) by virtue of [Criminal Justice and Courts Act 2015 \(c. 2\), ss. 37\(5\)\(b\)](#), 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 31 (with Sch. 2 para. 1)

**F147** Sch. 14 para. 6(6) omitted (29.7.2021) by virtue of [The Criminal Justice \(Electronic Commerce\) \(Amendment\) \(EU Exit\) Regulations 2021 \(S.I. 2021/835\)](#), regs. 1, 6(c)

#### Commencement Information

**I245** Sch. 14 para. 6 in force at 26.1.2009 by [S.I. 2008/2993](#), art. 2(2)(i)

## SCHEDULE 15

Section 73

### SEXUAL OFFENCES: GROOMING AND ADOPTION

#### *Meeting a child following sexual grooming*

- 1 In section 15(1) of the Sexual Offences Act 2003 (c. 42) (meeting a child following sexual grooming etc) for paragraphs (a) and (b) substitute—
- “(a) A has met or communicated with another person (B) on at least two occasions and subsequently—
- (i) A intentionally meets B,
  - (ii) A travels with the intention of meeting B in any part of the world or arranges to meet B in any part of the world, or
  - (iii) B travels with the intention of meeting A in any part of the world,
- (b) A intends to do anything to or in respect of B, during or after the meeting mentioned in paragraph (a)(i) to (iii) and in any part of the world, which if done will involve the commission by A of a relevant offence.”.

#### Commencement Information

**I246** Sch. 15 para. 1 in force at 14.7.2008 by [S.I. 2008/1586](#), art. 2(1), [Sch. 1 para. 35](#)

#### *Adoption*

- 2 The Sexual Offences Act 2003 (c. 42) has effect subject to the following amendments.
- 3 In section 27(1)(b) (family relationships) after “but for” insert “ section 39 of the Adoption Act 1976 or ”.
- 4 In section 29(1)(b) (sections 25 and 26: sexual relationships which pre-date family relationships) after “if” insert “ section 39 of the Adoption Act 1976 or ”.
- 5 (1) Section 64 (sex with an adult relative: penetration) is amended as follows.

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- (2) In subsection (1) after “(A)” insert “ (subject to subsection (3A)) ”.
- (3) In subsection (3) after “In subsection (2)—” insert—
- “(za) “parent” includes an adoptive parent;  
 (zb) “child” includes an adopted person within the meaning of Chapter 4 of Part 1 of the Adoption and Children Act 2002;”.
- (4) After that subsection insert—
- “(3A) Where subsection (1) applies in a case where A is related to B as B's child by virtue of subsection (3)(zb), A does not commit an offence under this section unless A is 18 or over.”
- (5) After subsection (5) insert—
- “(6) Nothing in—
- (a) section 47 of the Adoption Act 1976 (which disappplies the status provisions in section 39 of that Act for the purposes of this section in relation to adoptions before 30 December 2005), or
- (b) section 74 of the Adoption and Children Act 2002 (which disappplies the status provisions in section 67 of that Act for those purposes in relation to adoptions on or after that date),
- is to be read as preventing the application of section 39 of the Adoption Act 1976 or section 67 of the Adoption and Children Act 2002 for the purposes of subsection (3)(za) and (zb) above.”
- 6 (1) Section 65 (sex with an adult relative: consenting to penetration) is amended as follows.
- (2) In subsection (1) after “(A)” insert “ (subject to subsection (3A)) ”.
- (3) In subsection (3) after “In subsection (2)—” insert—
- “(za) “parent” includes an adoptive parent;  
 (zb) “child” includes an adopted person within the meaning of Chapter 4 of Part 1 of the Adoption and Children Act 2002;”.
- (4) After that subsection insert—
- “(3A) Where subsection (1) applies in a case where A is related to B as B's child by virtue of subsection (3)(zb), A does not commit an offence under this section unless A is 18 or over.”
- (5) After subsection (5) insert—
- “(6) Nothing in—
- (a) section 47 of the Adoption Act 1976 (which disappplies the status provisions in section 39 of that Act for the purposes of this section in relation to adoptions before 30 December 2005), or
- (b) section 74 of the Adoption and Children Act 2002 (which disappplies the status provisions in section 67 of that Act for those purposes in relation to adoptions on or after that date),
- is to be read as preventing the application of section 39 of the Adoption Act 1976 or section 67 of the Adoption and Children Act 2002 for the purposes of subsection (3)(za) and (zb) above.”



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- 7 In section 47(1) of the Adoption Act 1976 (c. 36) (disapplication of section 39 (status conferred by adoption) for the purposes of miscellaneous enactments) for “sections 10 and 11 (incest) of the Sexual Offences Act 1956” substitute “ or sections 64 and 65 of the Sexual Offences Act 2003 (sex with an adult relative) ”.

## SCHEDULE 16

Section 74

### HATRED ON THE GROUNDS OF SEXUAL ORIENTATION

- 1 Part 3A of the Public Order Act 1986 (c. 64) (hatred against persons on religious grounds) has effect subject to the following amendments.

#### Commencement Information

I247 Sch. 16 para. 1 in force at 23.3.2010 by S.I. 2010/712, art. 2(d)

- 2 In the heading for Part 3A at the end insert “ OR GROUNDS OF SEXUAL ORIENTATION ”.

#### Commencement Information

I248 Sch. 16 para. 2 in force at 23.3.2010 by S.I. 2010/712, art. 2(d)

- 3 In the italic cross-heading before section 29A at the end insert “ *and “hatred on the grounds of sexual orientation”* ”.

#### Commencement Information

I249 Sch. 16 para. 3 in force at 23.3.2010 by S.I. 2010/712, art. 2(d)

- 4 After that section insert—

#### “29AB Meaning of “hatred on the grounds of sexual orientation”

In this Part “hatred on the grounds of sexual orientation” means hatred against a group of persons defined by reference to sexual orientation (whether towards persons of the same sex, the opposite sex or both).”

#### Commencement Information

I250 Sch. 16 para. 4 in force at 23.3.2010 by S.I. 2010/712, art. 2(d)

- 5 In the italic cross-heading before section 29B at the end insert “ *or hatred on the grounds of sexual orientation* ”.

#### Commencement Information

I251 Sch. 16 para. 5 in force at 23.3.2010 by S.I. 2010/712, art. 2(d)

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- 6 (1) Section 29B (use of words or behaviour or display of written material) is amended as follows.
- (2) In subsection (1), after “religious hatred” insert “ or hatred on the grounds of sexual orientation ”.
- (3) Omit subsection (3).

**Commencement Information**

**I252** Sch. 16 para. 6(3) in force at Royal Assent, see s. 153(1)(j)

**I253** Sch. 16 para. 6(1) (2) in force at 23.3.2010 by [S.I. 2010/712](#), [art. 2\(d\)](#)

- 7 In section 29C(1) (publishing or distributing written material), after “religious hatred” insert “ or hatred on the grounds of sexual orientation ”.

**Commencement Information**

**I254** Sch. 16 para. 7 in force at 23.3.2010 by [S.I. 2010/712](#), [art. 2\(d\)](#)

- 8 In section 29D(1) (public performance of play), after “religious hatred” insert “ or hatred on the grounds of sexual orientation ”.

**Commencement Information**

**I255** Sch. 16 para. 8 in force at 23.3.2010 by [S.I. 2010/712](#), [art. 2\(d\)](#)

- 9 In section 29E(1) (distributing, showing or playing a recording), after “religious hatred” insert “ or hatred on the grounds of sexual orientation ”.

**Commencement Information**

**I256** Sch. 16 para. 9 in force at 23.3.2010 by [S.I. 2010/712](#), [art. 2\(d\)](#)

- 10 In section 29F(1) (broadcasting or including programme in programme service), after “religious hatred” insert “ or hatred on the grounds of sexual orientation ”.

**Commencement Information**

**I257** Sch. 16 para. 10 in force at 23.3.2010 by [S.I. 2010/712](#), [art. 2\(d\)](#)

- 11 In section 29G(1) (possession of inflammatory material), for “religious hatred to be stirred up thereby” substitute “ thereby to stir up religious hatred or hatred on the grounds of sexual orientation ”.

**Commencement Information**

**I258** Sch. 16 para. 11 in force at 23.3.2010 by [S.I. 2010/712](#), [art. 2\(d\)](#)

- 12 (1) Section 29H (powers of entry and search) is amended as follows.
- (2) In subsection (1), omit “in England and Wales”.

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- (3) Omit subsection (2).
- 13 (1) Section 29I (power to order forfeiture) is amended as follows.
- (2) In subsection (2)—
- (a) in paragraph (a), omit “in the case of an order made in proceedings in England and Wales,”; and
- (b) omit paragraph (b).
- (3) Omit subsection (4).
- 14 After section 29J insert—
- “29JA Protection of freedom of expression (sexual orientation)**
- In this Part, for the avoidance of doubt, the discussion or criticism of sexual conduct or practices or the urging of persons to refrain from or modify such conduct or practices shall not be taken of itself to be threatening or intended to stir up hatred.”
- 15 In section 29K(1) (savings for reports of parliamentary or judicial proceedings), for “or in the Scottish Parliament” substitute “, in the Scottish Parliament or in the National Assembly for Wales”.
- 16 (1) Section 29L (procedure and punishment) is amended as follows.
- (2) In subsections (1) and (2), omit “in England and Wales”.
- (3) In subsection (3), in paragraph (b), for “six months” substitute “ 12 months ”.
- (4) After that subsection insert—
- “(4) In subsection (3)(b) the reference to 12 months shall be read as a reference to 6 months in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003.”
- 17 In section 29N (interpretation), after the definition of “dwelling” insert—
- ““hatred on the grounds of sexual orientation” has the meaning given by section 29AB;”.

**Commencement Information**

**I259** Sch. 16 para. 17 in force at 23.3.2010 by S.I. 2010/712, art. 2(d)

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## SCHEDULE 17

Section 75

### OFFENCES RELATING TO NUCLEAR MATERIAL AND NUCLEAR FACILITIES

#### PART 1

##### AMENDMENTS OF NUCLEAR MATERIAL (OFFENCES) ACT 1983

- 1 The Nuclear Material (Offences) Act 1983 (c. 18) has effect subject to the following amendments.

**Commencement Information**

**I260** Sch. 17 para. 1 in force at 30.11.2009 by S.I. 2009/3074, art. 2(q)

- 2 (1) Section 1 (extended scope of certain offences) is amended as follows.
- (2) In subsection (1)(b) (offences under certain enactments) for “section 78 of the Criminal Justice (Scotland) Act 1980” substitute “ section 52 of the Criminal Law (Consolidation) (Scotland) Act 1995 ”.
- (3) After subsection (1) insert—
- “(1A) If—
- (a) a person, whatever his nationality, does outside the United Kingdom an act directed at a nuclear facility, or which interferes with the operation of such a facility,
- (b) the act causes death, injury or damage resulting from the emission of ionising radiation or the release of radioactive material, and
- (c) had he done that act in any part of the United Kingdom, it would have made him guilty of an offence mentioned in subsection (1)(a) or (b) above,
- the person shall in any part of the United Kingdom be guilty of such of the offences mentioned in subsection (1)(a) and (b) as are offences of which the act would have made him guilty had he done it in that part of the United Kingdom.”
- (4) Omit subsection (2) (definition of “act”).

**Commencement Information**

**I261** Sch. 17 para. 2 in force at 30.11.2009 by S.I. 2009/3074, art. 2(q)

- 3 After section 1 insert—

**“1A Increase in penalties for offences committed in relation to nuclear material etc.**

- (1) If—
- (a) a person is guilty of an offence to which subsection (2), (3) or (4) applies, and
- (b) the penalty provided by this subsection would not otherwise apply,

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the person shall be liable, on conviction on indictment, to imprisonment for life.

- (2) This subsection applies to an offence mentioned in section 1(1)(a) or (b) where the act making the person guilty of the offence was done in England and Wales or Northern Ireland and either—
  - (a) the act was done in relation to or by means of nuclear material, or
  - (b) the act—
    - (i) was directed at a nuclear facility, or interfered with the operation of such a facility, and
    - (ii) caused death, injury or damage resulting from the emission of ionising radiation or the release of radioactive material.
- (3) This subsection applies to an offence mentioned in section 1(1)(c) or (d) where the act making the person guilty of the offence—
  - (a) was done in England and Wales or Northern Ireland, and
  - (b) was done in relation to or by means of nuclear material.
- (4) This subsection applies to an offence mentioned in section 1(1)(a) to (d) where the offence is an offence in England and Wales or Northern Ireland by virtue of section 1(1) or (1A).

### **1B Offences relating to damage to environment**

- (1) If a person, whatever his nationality, in the United Kingdom or elsewhere contravenes subsection (2) or (3) he is guilty of an offence.
- (2) A person contravenes this subsection if without lawful authority—
  - (a) he receives, holds or deals with nuclear material, and
  - (b) he does so either—
    - (i) intending to cause, or for the purpose of enabling another to cause, damage to the environment by means of that material, or
    - (ii) being reckless as to whether, as a result of his so receiving, holding or dealing with that material, damage would be caused to the environment by means of that material.
- (3) A person contravenes this subsection if without lawful authority—
  - (a) he does an act directed at a nuclear facility, or which interferes with the operation of such a facility, and
  - (b) he does so either—
    - (i) intending to cause, or for the purpose of enabling another to cause, damage to the environment by means of the emission of ionising radiation or the release of radioactive material, or
    - (ii) being reckless as to whether, as a result of his act, damage would be caused to the environment by means of such an emission or release.
- (4) A person guilty of an offence under this section shall be liable, on conviction on indictment, to imprisonment for life.

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### **1C Offences of importing or exporting etc. nuclear material: extended jurisdiction**

- (1) If a person, whatever his nationality, outside the United Kingdom contravenes subsection (2) below he shall be guilty of an offence.
- (2) A person contravenes this subsection if he is knowingly concerned in—
  - (a) the unlawful export or shipment as stores of nuclear material from one country to another, or
  - (b) the unlawful import of nuclear material into one country from another.
- (3) For the purposes of subsection (2)—
  - (a) the export or shipment as stores of nuclear material from a country, or
  - (b) the import of nuclear material into a country,
 is unlawful if it is contrary to any prohibition or restriction on the export, shipment as stores or import (as the case may be) of nuclear material having effect under or by virtue of the law of that country.
- (4) A statement in a certificate issued by or on behalf of the government of a country outside the United Kingdom to the effect that a particular export, shipment as stores or import of nuclear material is contrary to such a prohibition or restriction having effect under or by virtue of the law of that country, shall be evidence (in Scotland, sufficient evidence) that the export, shipment or import was unlawful for the purposes of subsection (2).
- (5) In any proceedings a document purporting to be a certificate of the kind mentioned in subsection (4) above shall be taken to be such a certificate unless the contrary is proved.
- (6) A person guilty of an offence under this section shall be liable, on conviction on indictment, to imprisonment for a term not exceeding 14 years.
- (7) In this section “country” includes territory.

### **1D Offences under section 1C: investigations and proceedings etc.**

- (1) Where the Commissioners for Her Majesty's Revenue and Customs investigate, or propose to investigate, any matter with a view to determining—
  - (a) whether there are grounds for believing that an offence under section 1C above has been committed, or
  - (b) whether a person should be prosecuted for such an offence,
 the matter is to be treated as an assigned matter within the meaning of CEMA 1979 (see section 1(1) of that Act).
- (2) Section 138 of CEMA 1979 (provisions as to arrest of persons) applies to a person who has committed, or whom there are reasonable grounds to suspect of having committed, an offence under section 1C above as it applies to a person who has committed, or whom there are reasonable grounds to suspect of having committed, an offence for which he is liable to be arrested under the customs and excise Acts.

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- (3) Sections 145 to 148 and 150 to 155 of CEMA 1979 (provisions as to legal proceedings) apply in relation to an offence under section 1C above, and to the penalty and proceedings for the offence, as they apply in relation to offences, penalties and proceedings under the customs and excise Acts.
- (4) In this section—
- “CEMA 1979” means the Customs and Excise Management Act 1979;
- “the customs and excise Acts”, “shipment” and “stores” have the same meanings as in CEMA 1979 (see section 1(1) of that Act).”

#### Commencement Information

**I262** Sch. 17 para. 3 in force at 30.11.2009 by S.I. 2009/3074, art. 2(q)

4 For section 2 substitute—

### “2 Offences involving preparatory acts and threats

- (1) If a person, whatever his nationality, in the United Kingdom or elsewhere contravenes subsection (2), (3), (4) or (7) he shall be guilty of an offence.
- (2) A person contravenes this subsection if without lawful authority—
- (a) he receives, holds or deals with nuclear material, and
- (b) he does so either—
- (i) intending to cause, or for the purpose of enabling another to cause, relevant injury or damage by means of that material, or
- (ii) being reckless as to whether, as a result of his so receiving, holding or dealing with that material, relevant injury or damage would be caused by means of that material.
- (3) A person contravenes this subsection if without lawful authority—
- (a) he does an act directed at a nuclear facility, or which interferes with the operation of such a facility, and
- (b) he does so either—
- (i) intending to cause, or for the purpose of enabling another to cause, relevant injury or damage by means of the emission of ionising radiation or the release of radioactive material, or
- (ii) being reckless as to whether, as a result of his act, relevant injury or damage would be caused by means of such an emission or release.
- (4) A person contravenes this subsection if he—
- (a) makes a threat of a kind falling within subsection (5), and
- (b) intends that the person to whom the threat is made shall fear that it will be carried out.

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- (5) A threat falls within this subsection if it is a threat that the person making it or any other person will cause any of the consequences set out in subsection (6) either—
- (a) by means of nuclear material, or
  - (b) by means of the emission of ionising radiation or the release of radioactive material resulting from an act which is directed at a nuclear facility, or which interferes with the operation of such a facility.
- (6) The consequences mentioned in subsection (5) are—
- (a) relevant injury or damage, or
  - (b) damage to the environment.
- (7) A person contravenes this subsection if, in order to compel a State, international organisation or person to do, or abstain from doing, any act, he threatens that he or any other person will obtain nuclear material by an act which, whether by virtue of section 1(1) above or otherwise, is an offence mentioned in section 1(1)(c) above.
- (8) A person guilty of an offence under this section shall be liable, on conviction on indictment, to imprisonment for life.
- (9) In this section references to relevant injury or damage are references to death or to injury or damage of a type which constitutes an element of any offence mentioned in section 1(1)(a) or (b) above.

## **2A Inchoate and secondary offences: extended jurisdiction**

- (1) If a person, whatever his nationality—
- (a) does an act outside the United Kingdom, and
  - (b) his act, if done in any part of the United Kingdom, would constitute an offence falling within subsection (2),
- he shall be guilty in that part of the United Kingdom of the offence.
- (2) The offences are—
- (a) attempting to commit a nuclear offence;
  - (b) conspiring to commit a nuclear offence;
  - (c) inciting the commission of a nuclear offence;
  - (d) aiding, abetting, counselling or procuring the commission of a nuclear offence.
- (3) In subsection (2) a “nuclear offence” means any of the following (wherever committed)—
- (a) an offence mentioned in section 1(1)(a) to (d) above (other than a blackmail offence), the commission of which is (or would have been) in relation to or by means of nuclear material;
  - (b) an offence mentioned in section 1(1)(a) or (b) above, the commission of which involves (or would have involved) an act—
    - (i) directed at a nuclear facility, or which interferes with the operation of such a facility, and



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- (ii) which causes death, injury or damage resulting from the emission of ionising radiation or the release of radioactive material;
  - (c) an offence under section 1B, 1C or 2(1) and (2) or (3) above;
  - (d) an offence under section 50(2) or (3), 68(2) or 170(1) or (2) of the Customs and Excise Management Act 1979 the commission of which is (or would have been) in connection with a prohibition or restriction relating to the exportation, shipment as stores or importation of nuclear material;
  - (e) for the purposes of subsection (2)(b) to (d)—
    - (i) a blackmail offence, the commission of which is in relation to or by means of nuclear material;
    - (ii) an offence under section 2(1) and (4) or (7) above;
    - (iii) an offence of attempting to commit an offence mentioned in paragraphs (a) to (d).
- (4) In subsection (3) “a blackmail offence” means—
- (a) an offence under section 21 of the Theft Act 1968,
  - (b) an offence under section 20 of the Theft Act (Northern Ireland) 1969, or
  - (c) an offence of extortion.
- (5) In subsection (2)(c) the reference to incitement is—
- (a) a reference to incitement under the law of Scotland, or
  - (b) in relation to any time before the coming into force of Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) in relation to England and Wales or Northern Ireland, a reference to incitement under the common law of England and Wales or (as the case may be) of Northern Ireland.”

#### Commencement Information

**I263** Sch. 17 para. 4 in force at 30.11.2009 by S.I. 2009/3074, art. 2(q)

5 After section 3 (supplemental) insert—

#### “3A Application to activities of armed forces

- (1) Nothing in this Act applies in relation to acts done by the armed forces of a country or territory—
  - (a) in the course of an armed conflict, or
  - (b) in the discharge of their functions.
- (2) If in any proceedings a question arises whether an act done by the armed forces of a country or territory was an act falling within subsection (1), a certificate issued by or under the authority of the Secretary of State and stating that it was, or was not, such an act shall be conclusive of that question.
- (3) In any proceedings a document purporting to be such a certificate as is mentioned in subsection (2) shall be taken to be such a certificate unless the contrary is proved.”

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### Commencement Information

**I264** Sch. 17 para. 5 in force at 30.11.2009 by S.I. 2009/3074, art. 2(q)

- 6 (1) Section 6 (material to which the Act applies) is amended as follows.
- (2) Before subsection (1) insert—
- “(A1) This section applies for the purposes of this Act.”
- (3) In subsection (1), omit “in this Act”.
- (4) After subsection (1) insert—
- “(1A) “A nuclear facility” means a facility (including associated buildings and equipment) used for peaceful purposes in which nuclear material is produced, processed, used, handled, stored or disposed of.
- (1B) For the purposes of subsections (1) and (1A)—
- (a) nuclear material is not used for peaceful purposes if it is used or retained for military purposes, and
- (b) a facility is not used for peaceful purposes if it contains any nuclear material which is used or retained for military purposes.”
- (5) In subsection (2) (question whether or not nuclear material used for peaceful purposes to be determined conclusively by certificate of Secretary of State to that effect) after “material” insert “ or facility ”.
- (6) For subsection (5) substitute—
- “(5) “Act” includes omission.
- (6) “The Convention” means the Convention on the Physical Protection of Nuclear Material and Nuclear Facilities (formerly the Convention on the Physical Protection of Nuclear Material and renamed by virtue of the Amendment adopted at Vienna on 8th July 2005).
- (7) “The environment” includes land, air and water and living organisms supported by any of those media.
- (8) “Radioactive material” means nuclear material or any other radioactive substance which—
- (a) contains nuclides that undergo spontaneous disintegration in a process accompanied by the emission of one or more types of ionising radiation, such as alpha radiation, beta radiation, neutron particles or gamma rays, and
- (b) is capable, owing to its radiological or fissile properties, of—
- (i) causing bodily injury to a person,
- (ii) causing damage or destruction to property,
- (iii) endangering a person's life, or
- (iv) causing damage to the environment.”
- (7) For the sidenote, substitute “ Interpretation ”.

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#### Commencement Information

I265 Sch. 17 para. 6 in force at 30.11.2009 by S.I. 2009/3074, art. 2(q)

- 7 In section 7 (application to the Channel Islands, Isle of Man etc.) in subsection (2), for “any colony” substitute “ any British overseas territory ”.

#### Commencement Information

I266 Sch. 17 para. 7 in force at 30.11.2009 by S.I. 2009/3074, art. 2(q)

## PART 2

### AMENDMENTS OF CUSTOMS AND EXCISE MANAGEMENT ACT 1979

- 8 (1) The Customs and Excise Management Act 1979 (c. 2) is amended as follows.
- (2) In section 1 (interpretation) in subsection (1) insert at the appropriate place—
- ““nuclear material” has the same meaning as in the Nuclear Material (Offences) Act 1983 (see section 6 of that Act);”.
- (3) In section 50 (penalty for improper importation of goods)—
- (a) in subsection (4) (penalty for offence) for “or (5B)” substitute “ , (5B) or (5C) ”;
- (b) after subsection (5B) insert—
- “(5C) In the case of an offence under subsection (2) or (3) above in connection with a prohibition or restriction relating to the importation of nuclear material, subsection (4)(b) above shall have effect as if for the words “7 years” there were substituted the words “ 14 years ”.”
- (4) In section 68 (offences in relation to exportation of prohibited or restricted goods)—
- (a) in subsection (3) (penalty for offence) for “or (4A)” substitute “ , (4A) or (4B) ”;
- (b) after subsection (4A) insert—
- “(4B) In the case of an offence under subsection (2) above in connection with a prohibition or restriction relating to the exportation or shipment as stores of nuclear material, subsection (3)(b) above shall have effect as if for the words “7 years” there were substituted the words “ 14 years ”.”
- (5) In section 170 (penalty for fraudulent evasion of duty, etc.)—
- (a) in subsection (3) (penalty for offence) for “or (4B)” substitute “ , (4B) or (4C) ”;
- (b) after subsection (4B) insert—
- “(4C) In the case of an offence under subsection (1) or (2) above in connection with a prohibition or restriction relating to the importation, exportation or shipment as stores of nuclear material,

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subsection (3)(b) above shall have effect as if for the words “7 years” there were substituted the words “ 14 years ”.”

**Commencement Information**

**I267** Sch. 17 para. 8 in force at 30.11.2009 by S.I. 2009/3074, art. 2(q)

- 9 (1) Her Majesty may by Order in Council provide for any provisions of section 1, 50, 68 or 170 of the Customs and Excise Management Act 1979 (c. 2) as amended by paragraph 8 to extend, with or without modifications, to any of the Channel Islands or any British overseas territory.
- (2) Section 147(2) applies in relation to an Order in Council under sub-paragraph (1) as it applies in relation to an order made by the Secretary of State.

**Commencement Information**

**I268** Sch. 17 para. 9 in force at 30.11.2009 by S.I. 2009/3074, art. 2(q)

F148 SCHEDULE 18

Section 91(1)

**Textual Amendments**

**F148** Sch. 18 omitted (31.12.2020) by virtue of [The Criminal Justice \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/780), regs. 1(1), **19(1)(c)** (with regs. 19(2), 20) (as amended by S.I. 2020/1408, regs. 1, 49, 50); 2020 c. 1, Sch. 5 para. 1(1)

F149 SCHEDULE 19

Section 91(2)

**Textual Amendments**

**F149** Sch. 19 omitted (31.12.2020) by virtue of [The Criminal Justice \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/780), regs. 1(1), **19(1)(d)** (with regs. 19(2), 20) (as amended by S.I. 2020/1408, regs. 1, 49, 50); 2020 c. 1, Sch. 5 para. 1(1)

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F150 SCHEDULE 20

Section 118

CLOSURE ORDERS: PREMISES ASSOCIATED WITH PERSISTENT DISORDER OR NUISANCE

**Textual Amendments**

**F150** Sch. 20 repealed (20.10.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), s. 185\(1\), Sch. 11 para. 50](#) (with [ss. 21, 33, 42, 58, 75, 93](#)); [S.I. 2014/2590, art. 3\(g\)\(viii\)\(hh\)](#) (as renumbered (20.10.2014) by [S.I. 2014/2754, arts. 1, 3\(b\)](#))

PROSPECTIVE

F150

SCHEDULE 21

Section 122

NUISANCE OR DISTURBANCE ON HSS PREMISES

*Offence of causing nuisance or disturbance on HSS premises*

- 1 (1) A person commits an offence if—
  - (a) the person causes, without reasonable excuse and while on HSS premises, a nuisance or disturbance to an HSS staff member who is working there or is otherwise there in connection with work,
  - (b) the person refuses, without reasonable excuse, to leave the HSS premises when asked to do so by a constable or an HSS staff member, and
  - (c) the person is not on the HSS premises for the purpose of obtaining medical advice, treatment or care for himself or herself.
- (2) A person who commits an offence under this paragraph is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) For the purposes of this paragraph—
  - (a) a person ceases to be on HSS premises for the purpose of obtaining medical advice, treatment or care for himself or herself once the person has received the advice, treatment or care, and
  - (b) a person is not on HSS premises for the purpose of obtaining medical advice, treatment or care for himself or herself if the person has been refused the advice, treatment or care during the last 8 hours.
- (4) In this paragraph—

“hospital grounds” means land in the vicinity of a hospital and associated with it,

“HSS premises” means—

  - (a) any hospital vested in, or managed by, an HSS trust,

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(b) any building or other structure, or vehicle, associated with the hospital and situated on hospital grounds (whether or not vested in, or managed by, an HSS trust), and

(c) the hospital grounds,

“HSS staff member” means a person employed by an HSS trust or otherwise working for it (whether as or on behalf of a contractor, as a volunteer or otherwise),

“HSS trust” means a Health and Social Services trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991 (S.I. 1991/194 (N.I. 1)), and

“vehicle” includes an air ambulance.

#### Commencement Information

**I269** Sch. 21 para. 1(1)-(3) in force at 18.10.2010 by S.R. 2010/349, art. 2

**I270** Sch. 21 para. 1(4) in force at 22.6.2009 by S.R. 2009/243, art. 2(b)

#### *Power to remove person causing nuisance or disturbance*

- 2 (1) If a constable reasonably suspects that a person is committing or has committed an offence under paragraph 1, the constable may remove the person from the HSS premises concerned.
- (2) If an authorised officer reasonably suspects that a person is committing or has committed an offence under paragraph 1, the authorised officer may—
- (a) remove the person from the HSS premises concerned, or
  - (b) authorise an HSS staff member to do so.
- (3) Any person removing another person from HSS premises under this paragraph may use reasonable force (if necessary).
- (4) An authorised officer cannot remove a person under this paragraph or authorise another person to do so if the authorised officer has reason to believe that—
- (a) the person to be removed requires medical advice, treatment or care for himself or herself, or
  - (b) the removal of the person would endanger the person's physical or mental health.
- (5) In this paragraph—
- “authorised officer” means any HSS staff member authorised by an HSS trust to exercise the powers conferred on an authorised officer by this paragraph, and
- “HSS premises”, “HSS staff member” and “HSS trust” have the same meaning as in paragraph 1.

#### Commencement Information

**I271** Sch. 21 para. 2(1)-(4) in force at 18.10.2010 by S.R. 2010/349, art. 2

**I272** Sch. 21 para. 2(5) in force at 22.6.2009 by S.R. 2009/243, art. 2(b)

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*Guidance about the power to remove etc.*

- 3 (1) The Department of Health, Social Services and Public Safety may from time to time prepare and publish guidance to HSS trusts and authorised officers about the powers in paragraph 2.
- (2) Such guidance may, in particular, relate to—
- (a) the authorisation by HSS trusts of authorised officers,
  - (b) the authorisation by authorised officers of HSS staff members to remove persons under paragraph 2,
  - (c) training requirements for authorised officers and HSS staff members authorised by them to remove persons under paragraph 2,
  - (d) matters that may be relevant to a consideration by authorised officers for the purposes of paragraph 2 of whether offences are being, or have been, committed under paragraph 1,
  - (e) matters to be taken into account by authorised officers in deciding whether there is reason to believe that a person requires medical advice, treatment or care for himself or herself or that the removal of a person would endanger the person's physical or mental health,
  - (f) the procedure to be followed by authorised officers or persons authorised by them before using the power of removal in paragraph 2,
  - (g) the degree of force that it may be appropriate for authorised officers or persons authorised by them to use in particular circumstances,
  - (h) arrangements for ensuring that persons on HSS premises are aware of the offence in paragraph 1 and the powers of removal in paragraph 2, or
  - (i) the keeping of records.
- (3) Before publishing guidance under this paragraph, the Department of Health, Social Services and Public Safety must consult such persons as the Department considers appropriate.
- (4) An HSS trust and an authorised officer must have regard to any guidance published under this paragraph when exercising functions under, or in connection with, paragraph 2.
- (5) In this paragraph—  
“authorised officer” has the same meaning as in paragraph 2, and  
“HSS premises”, “HSS staff member” and “HSS trust” have the same meaning as in paragraph 1.

**Commencement Information**

**I273** Sch. 21 para. 3(1)-(3)(5) in force at 22.6.2009 by S.R. 2009/243, art. 2(b)

**I274** Sch. 21 para. 3(4) in force at 18.10.2010 by S.R. 2010/349, art. 2

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## SCHEDULE 22

Section 126

## POLICE MISCONDUCT AND PERFORMANCE PROCEDURES

## PART 1

## AMENDMENTS OF POLICE ACT 1996

1 The Police Act 1996 (c. 16) has effect subject to the following amendments.

**Commencement Information**

**I275** Sch. 22 para. 1 in force at 3.11.2008 by S.I. 2008/2712, art. 2, Sch. para. 16(a)

*General duty of Secretary of State*

2 In section 36(2)(d) (general duty of Secretary of State) for “section 85” substitute “sections 84 and 85”.

**Commencement Information**

**I276** Sch. 22 para. 2 in force at 3.11.2008 by S.I. 2008/2712, art. 2, Sch. para. 16(a)

*Regulations for police forces*

3 (1) Section 50 (regulations for police forces) is amended as follows.

(2) For subsection (3) substitute—

“(3) Without prejudice to the powers conferred by this section, regulations under this section shall—

(a) establish, or

(b) make provision for the establishment of,

procedures for the taking of disciplinary proceedings in respect of the conduct, efficiency and effectiveness of members of police forces, including procedures for cases in which such persons may be dealt with by dismissal.”

(3) In subsection (4) omit “, subject to subsection (3)(b),”.

**Commencement Information**

**I277** Sch. 22 para. 3 in force at 3.11.2008 for specified purposes by S.I. 2008/2712, art. 2, Sch. para. 16(b) (with art. 4)

**I278** Sch. 22 para. 3 in force at 1.12.2008 in so far as not already in force by S.I. 2008/2993, art. 2(1)(h) (i) (with art. 3)

*Regulations for special constables*

4 (1) Section 51 (regulations for special constables) is amended as follows.



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(2) In subsection (2)(ba) (conduct of special constables) after “conduct” insert “, efficiency and effectiveness”.

(3) After subsection (2) insert—

“(2A) Without prejudice to the powers conferred by this section, regulations under this section shall—

(a) establish, or

(b) make provision for the establishment of,

procedures for the taking of disciplinary proceedings in respect of the conduct, efficiency and effectiveness of special constables, including procedures for cases in which such persons may be dealt with by dismissal.”

#### Commencement Information

**I279** Sch. 22 para. 4 in force at 3.11.2008 for specified purposes by S.I. 2008/2712, art. 2, Sch. para. 16(b) (with art. 4)

**I280** Sch. 22 para. 4 in force at 1.12.2008 in so far as not already in force by S.I. 2008/2993, art. 2(1)(h)(i) (with art. 3)

#### Police Federations

5 In section 59(3) (representation only by another member of a police force except in certain circumstances) for “provided by” substitute “ provided in regulations made in accordance with ”.

#### Commencement Information

**I281** Sch. 22 para. 5 in force at 1.12.2008 by S.I. 2008/2993, art. 2(1)(h)(ii) (with art. 3)

#### Police Advisory Board

6 (1) Section 63(3) (supply of draft regulations to the Police Advisory Board) is amended as follows.

(2) In paragraph (a), for “regulations under section 50 or 52” substitute “ regulations or rules under section 50, 52, 84 or 85 ”.

(3) After “a draft of the regulations” insert “ or rules ”.

#### Commencement Information

**I282** Sch. 22 para. 6 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 47

#### Representation at disciplinary and other proceedings

7 For section 84 substitute—

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

### **“84 Representation etc. at disciplinary and other proceedings**

- (1) The Secretary of State shall by regulations make provision for or in connection with—
- (a) enabling the officer concerned or a relevant authority to be represented in proceedings conducted under regulations made in pursuance of section 50(3) or section 51(2A);
  - (b) enabling the panel conducting such proceedings to receive advice from a relevant lawyer or another person falling within any prescribed description of persons.
- (2) Regulations under this section may in particular make provision—
- (a) specifying the circumstances in which the officer concerned or a relevant authority is entitled to be legally represented (by a relevant lawyer);
  - (b) specifying the circumstances in which the officer concerned or a relevant authority is entitled to be represented by a person (other than a relevant lawyer) who falls within any prescribed description of persons;
  - (c) for securing that—
    - (i) a relevant authority may be legally represented, and
    - (ii) the panel conducting the proceedings may receive advice from a relevant lawyer,
 whether or not the officer concerned is legally represented.
- (3) Without prejudice to the powers conferred by this section, regulations under this section shall, in relation to cases where the officer concerned is entitled to legal or other representation, make provision—
- (a) for securing that the officer is notified of his right to such representation;
  - (b) specifying when the officer is to be so notified;
  - (c) for securing that proceedings at which the officer may be dismissed are not to take place unless the officer has been notified of his right to such representation.
- (4) In this section—
- “the officer concerned”, in relation to proceedings within subsection (1)(a), means the member of a police force or special constable to whom the proceedings relate;
- “the panel”, in relation to proceedings within subsection (1)(a), means the panel of persons, or the person, prescribed for the purpose of conducting the proceedings;
- “prescribed” means prescribed by regulations under this section;
- “relevant authority” means—
- (a) where the officer concerned is a member of a police force (other than a senior officer), or a special constable, the chief officer of police of the police force of which the officer is a member, or for which the officer is appointed as a special constable;

*Status:* This version of this Act contains provisions that are prospective.

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (b) where the officer concerned is a senior officer, the police authority for the police force of which the officer is a member;  
“relevant lawyer” means a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience (within the meaning of that Act);  
“senior officer” means a member of a police force holding a rank above that of chief superintendent.
- (5) But in prescribed circumstances “relevant authority” also includes the Independent Police Complaints Commission.
- (6) Regulations under this section may make different provision for different cases and circumstances.
- (7) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) Subsection (7) does not apply to a statutory instrument containing (whether alone or with other provision) any regulations under this section coming into force at a time that is the earliest time at which any regulations under this section are to come into force since the commencement of paragraph 7 of Schedule 22 to the Criminal Justice and Immigration Act 2008.
- (9) A statutory instrument within subsection (8) may not be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.”

#### Commencement Information

- I283** Sch. 22 para. 7 in force at 3.11.2008 for specified purposes by S.I. 2008/2712, art. 2, Sch. para. 16(b) (with art. 4)
- I284** Sch. 22 para. 7 in force at 1.12.2008 in so far as not already in force by S.I. 2008/2993, art. 2(1)(h) (i) (with art. 3)

#### *Appeals against dismissal etc.*

- 8 (1) Section 85 (appeals against dismissal etc.) is amended as follows.
- (2) For subsections (1) and (2) substitute—
- “(1) The Secretary of State shall by rules make provision specifying the cases in which a member of a police force or a special constable may appeal to a police appeals tribunal.
- (2) A police appeals tribunal may, on the determination of an appeal under this section, make an order dealing with the appellant in any way in which he could have been dealt with by the person who made the decision appealed against.”
- (3) For subsection (4) substitute—
- “(4) Rules made under this section may, in particular, make provision—

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (a) for enabling a police appeals tribunal, in such circumstances as are specified in the rules, to determine a case without a hearing;
- (b) for the appellant or the respondent to be entitled, in a case where there is a hearing, to be represented—
  - (i) by a relevant lawyer within the meaning of section 84, or
  - (ii) by a person who falls within any description of persons prescribed by the rules;
- (c) for enabling a police appeals tribunal to require any person to attend a hearing to give evidence or to produce documents,

and rules made in pursuance of paragraph (c) may apply subsections (2) and (3) of section 250 of the Local Government Act 1972 with such modifications as may be set out in the rules.

(4A) Rules under this section may make different provision for different cases and circumstances.”

(4) For subsection (5) substitute—

“(5) A statutory instrument containing rules under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5A) Subsection (5) does not apply to a statutory instrument containing (whether alone or with other provision) the first rules made under this section after the commencement of paragraph 8 of Schedule 22 to the Criminal Justice and Immigration Act 2008: such an instrument may not be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.”

#### **Commencement Information**

**I285** Sch. 22 para. 8 in force at 3.11.2008 for specified purposes by S.I. 2008/2712, art. 2, Sch. para. 16(c) (with art. 4)

**I286** Sch. 22 para. 8 in force at 1.12.2008 in so far as not already in force by S.I. 2008/2993, art. 2(1)(h) (i) (with art. 3)

#### *Guidance concerning disciplinary proceedings etc.*

9 (1) Section 87 (guidance concerning disciplinary proceedings etc.) is amended as follows.

(2) For subsection (1) substitute—

“(1) The Secretary of State may issue relevant guidance to—

- (a) police authorities,
- (b) chief officers of police,
- (c) other members of police forces,
- (d) special constables, and
- (e) persons employed by a police authority who are under the direction and control of the chief officer of police of the police force maintained by that authority.

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(1ZA) “Relevant guidance” is guidance as to the discharge of functions under regulations under section 50 or 51 in relation to the matters mentioned in section 50(2)(e) or 51(2)(ba).”

(3) In subsection (1A), after “section 50” insert “ or 51 ”.

(4) In subsection (5), after “section 50” insert “ or 51 ”.

#### Commencement Information

**I287** Sch. 22 para. 9 in force at 1.12.2008 by S.I. 2008/2993, art. 2(1)(h)(ii) (with art. 3)

PROSPECTIVE

#### *Police officers engaged on service outside their force*

10 (1) Section 97 (police officers engaged on service outside their force) is amended as follows.

(2) In subsection (6)—

(a) in paragraph (b), omit “or is required to resign as an alternative to dismissal”;

(b) in paragraph (c), omit “or is required to resign as an alternative to dismissal”.

(3) In subsection (7), omit “, or required to resign as an alternative to dismissal,”.

#### *Police Appeals Tribunals*

11 (1) Schedule 6 (appeals to police appeals tribunals) is amended as follows.

(2) In paragraph 1(1) (appeals by senior officers) for paragraphs (b) and (c) substitute—

“(b) one shall be Her Majesty's Chief Inspector of Constabulary appointed under section 54(1) or one of Her Majesty's Inspectors of Constabulary nominated by the Chief Inspector, and

(c) one shall be the permanent secretary to the Home Office or a Home Office director nominated by the permanent secretary.”

(3) In paragraph 2 (appeals by other members of police forces) for sub-paragraph (1) substitute—

“(1) In the case of an appeal by a member of a police force (other than a senior officer) or a special constable, the police appeals tribunal shall consist of four members appointed by the relevant police authority, of whom—

(a) one shall be a person chosen from the list referred to in paragraph 1(1)(a),

(b) one shall be a senior officer,

(c) one shall be a member of the relevant police authority, and

(d) one shall be a retired member of a police force who, at the time of his retirement, was a member of an appropriate staff association.”

(4) Omit paragraph 6 (hearings).

*Status: This version of this Act contains provisions that are prospective.*

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(5) In paragraph 7 (effect of orders) for sub-paragraph (1) substitute—

“(1) Where on the determination of an appeal the tribunal makes such an order as is mentioned in section 85(2), the order shall take effect—

- (a) by way of substitution for the decision appealed against, and
- (b) as from the date of that decision.”

(6) In paragraph 10 (interpretation)—

(a) for sub-paragraph (b) substitute—

“(b) “the relevant police authority” means the police authority which maintains—

(i) the police force of which the appellant is a member, or

(ii) the police force for the area for which the appellant is appointed as a special constable,

as the case may be.”

<sup>F151</sup>(b) .....

**Textual Amendments**

**F151** Sch. 22 para. 11(6)(b) omitted (31.1.2017 for specified purposes, 1.2.2020 in so far as not already in force) by virtue of Policing and Crime Act 2017 (c. 3), ss. 31(6)(a), 183(1)(5)(e); S.I. 2020/5, reg. 2(1) (with art. 3(3))

**Commencement Information**

**I288** Sch. 22 para. 11 in force at 1.12.2008 by S.I. 2008/2993, art. 2(1)(h)(ii) (with art. 3)

**PART 2**

AMENDMENTS OF MINISTRY OF DEFENCE POLICE ACT 1987

12 The Ministry of Defence Police Act 1987 (c. 4) has effect subject to the following amendments.

**Commencement Information**

**I289** Sch. 22 para. 12 in force at 30.11.2009 by S.I. 2009/3074, art. 2(r)

*Defence Police Federation*

13 In section 3(4) (representation of a member of the Ministry of Defence Police by the Federation) for “on an appeal to the Secretary of State or as provided by” substitute “as provided in regulations made under ”.

**Commencement Information**

**I290** Sch. 22 para. 13 in force at 30.11.2009 by S.I. 2009/3074, art. 2(r)

*Status:* This version of this Act contains provisions that are prospective.

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

*Regulations relating to disciplinary matters*

14 (1) Section 3A (regulations relating to disciplinary matters) is amended as follows.

(2) For subsection (1) substitute—

“(1) The Secretary of State may make regulations with respect to—

- (a) the conduct of members of the Ministry of Defence Police and the maintenance of discipline;
- (b) the suspension from duty of members of the Ministry of Defence Police.

(1A) Without prejudice to the powers conferred by subsection (1), regulations under this section shall—

- (a) establish, or
- (b) make provision for the establishment of,

procedures for the taking of disciplinary proceedings in respect of the conduct of members of the Ministry of Defence Police, including procedures for cases in which such persons may be dealt with by dismissal.”

(3) For subsection (2) substitute—

“(2) The regulations may provide for decisions which would otherwise fall to be taken by the Secretary of State or the chief constable of the Ministry of Defence Police to be taken instead by—

- (a) a person appointed in accordance with the regulations; or
- (b) the Ministry of Defence Police Committee.”

**Commencement Information**

**I291** Sch. 22 para. 14 in force at 30.11.2009 by S.I. 2009/3074, art. 2(r)

*Representation etc. at disciplinary proceedings*

15 For section 4 substitute—

**“4 Representation etc. at disciplinary proceedings**

(1) The Secretary of State shall by regulations make provision for or in connection with—

- (a) enabling the officer concerned or the relevant authority to be represented in proceedings conducted under regulations made in pursuance of section 3A;
- (b) enabling the panel conducting such proceedings to receive advice from a relevant lawyer or another person falling within any prescribed description of persons.

(2) Regulations under this section may in particular make provision—

- (a) specifying the circumstances in which the officer concerned or the relevant authority is entitled to be represented by a relevant lawyer;
- (b) specifying the circumstances in which the officer concerned or the relevant authority is entitled to be represented by a person (other

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**Changes to legislation:** *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- than a relevant lawyer) who falls within any prescribed description of persons;
- (c) for securing that—
- (i) the relevant authority may be legally represented, and
  - (ii) the panel conducting the proceedings may receive advice from a relevant lawyer,
- whether or not the officer concerned is legally represented.
- (3) Without prejudice to the powers conferred by this section, regulations under this section shall, in relation to cases where the officer concerned is entitled to legal or other representation, make provision—
- (a) for securing that the officer is notified of his right to such representation;
  - (b) specifying when the officer is to be so notified;
  - (c) for securing that proceedings at which the officer may be dismissed are not to take place unless the officer has been notified of his right to such representation.
- (4) In this section—
- “the officer concerned”, in relation to proceedings within subsection (1)(a), means the member of the Ministry of Defence Police to whom the proceedings relate;
- “the panel”, in relation to proceedings within subsection (1)(a), means the panel of persons, or the person, prescribed for the purpose of conducting the proceedings;
- “prescribed” means prescribed by regulations under this section;
- “relevant authority” means—
- (a) where the officer concerned is a member of the Ministry of Defence Police (other than a senior officer), the chief constable for the Ministry of Defence Police;
  - (b) where the officer concerned is a senior officer, the Ministry of Defence Police Committee;
- “relevant lawyer” means—
- (a) in relation to England and Wales, a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience (within the meaning of that Act), and
  - (b) in relation to Scotland or Northern Ireland, counsel or a solicitor;
- “senior officer” means a member of the Ministry of Defence Police holding a rank above that of chief superintendent.
- (5) But in prescribed circumstances “relevant authority” also includes—
- (a) in relation to England and Wales, the Independent Police Complaints Commission;
  - (b) in relation to Scotland, the Police Complaints Commissioner for Scotland;
  - (c) in relation to Northern Ireland, the Police Ombudsman for Northern Ireland.



*Status:* This version of this Act contains provisions that are prospective.

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (6) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) Subsection (6) does not apply to a statutory instrument containing (whether alone or with other provision) any regulations under this section coming into force at a time that is the earliest time at which any regulations under this section are to come into force since the commencement of paragraph 15 of Schedule 22 to the Criminal Justice and Immigration Act 2008.
- (8) A statutory instrument within subsection (7) may not be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.”

#### Commencement Information

**I292** Sch. 22 para. 15 in force at 30.11.2009 by S.I. 2009/3074, art. 2(r)

#### *Appeals against dismissal etc.*

16 For section 4A substitute—

#### “4A Appeals against dismissal etc.

- (1) The Secretary of State shall by regulations—
  - (a) make provision specifying the cases in which a member of the Ministry of Defence Police may appeal to a police appeals tribunal;
  - (b) make provision equivalent, subject to such modifications as the Secretary of State thinks fit, to that made (or authorised to be made) in relation to police appeals tribunals by any provision of Schedule 6 to the Police Act 1996 (c. 16) or Schedule 3 to the Police (Scotland) Act 1967 (c. 77).
- (2) A police appeals tribunal may, on the determination of an appeal under this section, make an order dealing with the appellant in any way in which he could have been dealt with by the person who made the decision appealed against.
- (3) The Secretary of State may make regulations as to the procedure on appeals to police appeals tribunals under this section.
- (4) Regulations under this section may, in particular, make provision—
  - (a) for enabling a police appeals tribunal, in such circumstances as are specified in the regulations, to determine a case without a hearing;
  - (b) for the appellant or the respondent to be entitled, in a case where there is a hearing, to be represented—
    - (i) by a relevant lawyer, or
    - (ii) by a person who falls within any description of persons prescribed by the regulations;
  - (c) for enabling a police appeals tribunal to require any person to attend a hearing to give evidence or to produce documents,

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

and regulations made in pursuance of paragraph (c) may apply subsections (2) and (3) of section 250 of the Local Government Act 1972 with such modifications as may be set out in the regulations.

- (5) Any statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) Subsection (5) does not apply to a statutory instrument containing (whether alone or with other provision) the first regulations made under this section after the commencement of paragraph 16 of Schedule 22 to the Criminal Justice and Immigration Act 2008: such an instrument may not be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.
- (7) In this section—  
“police appeals tribunal” means a tribunal constituted in accordance with regulations under this section;  
“relevant lawyer” has the same meaning as in section 4.”

**Commencement Information**

**I293** Sch. 22 para. 16 in force at 30.11.2009 by S.I. 2009/3074, art. 2(r)

**PART 3**

AMENDMENTS OF RAILWAYS AND TRANSPORT SAFETY ACT 2003

- 17 The Railways and Transport Safety Act 2003 (c. 20) has effect subject to the following amendments.

**Commencement Information**

**I294** Sch. 22 para. 17 in force at 1.12.2008 by S.I. 2008/2993, art. 2(1)(h)(ii)

*Police regulations: general*

- 18 (1) Section 36 (police regulations: general) is amended as follows.
- (2) In subsection (1) (power to make regulations about constables) after “conditions” insert “ of service ”.
- (3) For subsection (2) substitute—  
“(2) The Authority shall also make regulations similar to the provision made by and under—  
(a) sections 84 and 85 of the Police Act 1996 (representation etc. at disciplinary and other proceedings, and appeal), and  
(b) Schedule 6 to that Act (appeals to police appeals tribunals).”

*Status:* This version of this Act contains provisions that are prospective.

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

**Commencement Information**

**I295** Sch. 22 para. 18 in force at 1.12.2008 by S.I. 2008/2993, art. 2(1)(h)(ii)

*Police regulations: special constables*

- 19 After section 37(1) (power to make regulations about special constables) insert—
- “(1A) The Authority shall also make regulations similar to the provision made by and under—
- (a) sections 84 and 85 of the Police Act 1996 (representation etc. at disciplinary and other proceedings, and appeal), and
  - (b) Schedule 6 to that Act (appeals to police appeals tribunals).”

**Commencement Information**

**I296** Sch. 22 para. 19 in force at 1.12.2008 by S.I. 2008/2993, art. 2(1)(h)(ii)

*Police regulations by Secretary of State*

- 20 For section 42(3) substitute—
- “(3) If regulations under this section make provision for a matter specified in section 50(3) or section 51(2A) of the Police Act 1996 (disciplinary proceedings), they must also make provision similar to that made by and under—
- (a) sections 84 and 85 of that Act (representation etc. at disciplinary and other proceedings, and appeal), and
  - (b) Schedule 6 to that Act (appeals to police appeals tribunals).”

**Commencement Information**

**I297** Sch. 22 para. 20 in force at 1.12.2008 by S.I. 2008/2993, art. 2(1)(h)(ii)

*Regulations: further appeal*

- 21 Omit section 43 (regulations: further appeal).

**Commencement Information**

**I298** Sch. 22 para. 21 in force at 1.12.2008 by S.I. 2008/2993, art. 2(1)(h)(ii)

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

**Commencement Information**

**I299** Sch. 23 para. 1 in force at 3.11.2008 by S.I. 2008/2712, art. 2, Sch. para. 17(a)

- 2 In section 23(2) (regulations) after paragraph (q) insert—
  - “(r) for enabling representations on behalf of a person to whose conduct an investigation relates to be made to the Commission by a person who is not that person's legal representative but is of a description specified in the regulations.”

**Commencement Information**

**I300** Sch. 23 para. 2 in force at 3.11.2008 by S.I. 2008/2712, art. 2, Sch. para. 17(a)

- 3 Schedule 3 (handling of complaints and conduct matters etc.) is amended as follows.

**Commencement Information**

**I301** Sch. 23 para. 3 in force at 3.11.2008 by S.I. 2008/2712, art. 2, Sch. para. 17(a)

- 4 In paragraph 6(4) (handling of complaints by appropriate authority: use of local resolution procedures) in each of paragraphs (a)(ii) and (b)(ii), for the words from “, a requirement to resign” to the end substitute “ or the giving of a final written warning.”

**Commencement Information**

**I302** Sch. 23 para. 4 in force at 1.12.2008 by S.I. 2008/2993, art. 2(1)(i)(i) (with art. 3)

F152<sub>5</sub> .....

**Textual Amendments**

**F152** Sch. 23 paras. 5-10 omitted (31.1.2017 for specified purposes, 1.2.2020 in so far as not already in force) by virtue of Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), Sch. 5 para. 50; S.I. 2020/5, reg. 2(n) (with art. 3(1)(2)(4))

F152<sub>6</sub> .....

**Textual Amendments**

**F152** Sch. 23 paras. 5-10 omitted (31.1.2017 for specified purposes, 1.2.2020 in so far as not already in force) by virtue of Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), Sch. 5 para. 50; S.I. 2020/5, reg. 2(n) (with art. 3(1)(2)(4))

F152<sub>7</sub> .....

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

**Textual Amendments**

**F152** Sch. 23 paras. 5-10 omitted (31.1.2017 for specified purposes, 1.2.2020 in so far as not already in force) by virtue of [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), [Sch. 5 para. 50](#); S.I. 2020/5, reg. 2(n) (with art. 3(1)(2)(4))

F152<sup>8</sup> .....

**Textual Amendments**

**F152** Sch. 23 paras. 5-10 omitted (31.1.2017 for specified purposes, 1.2.2020 in so far as not already in force) by virtue of [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), [Sch. 5 para. 50](#); S.I. 2020/5, reg. 2(n) (with art. 3(1)(2)(4))

F152<sup>9</sup> .....

**Textual Amendments**

**F152** Sch. 23 paras. 5-10 omitted (31.1.2017 for specified purposes, 1.2.2020 in so far as not already in force) by virtue of [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), [Sch. 5 para. 50](#); S.I. 2020/5, reg. 2(n) (with art. 3(1)(2)(4))

F152<sup>10</sup> .....

**Textual Amendments**

**F152** Sch. 23 paras. 5-10 omitted (31.1.2017 for specified purposes, 1.2.2020 in so far as not already in force) by virtue of [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), [Sch. 5 para. 50](#); S.I. 2020/5, reg. 2(n) (with art. 3(1)(2)(4))

- 11 (1) Paragraph 21A (procedure where conduct matter is revealed in course of investigation of DSI matter) is amended as follows.
- (2) In sub-paragraph (5) (DSI matter is to be recorded as conduct matter) omit the words from “(and the other provisions” to the end.
- (3) After sub-paragraph (5) insert—
- “(6) Where a DSI matter is recorded under paragraph 11 as a conduct matter by virtue of sub-paragraph (5)—
- (a) the person investigating the DSI matter shall (subject to any determination made by the Commission under paragraph 15(5)) continue the investigation as if appointed or designated to investigate the conduct matter, and
  - (b) the other provisions of this Schedule shall apply in relation to that matter accordingly.”

**Commencement Information**

**I303** Sch. 23 para. 11 in force at 1.12.2008 by S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#)

*Status: This version of this Act contains provisions that are prospective.*

*Changes to legislation: Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- 12 (1) Paragraph 22 (final reports on investigations) is amended as follows.
- (2) In sub-paragraph (1) (cases where paragraph 22 applies)—
- (a) after paragraph (a) insert “ or ”;
  - (b) omit paragraph (c).
- (3) In sub-paragraph (4) (meaning of appropriate authority in the case of a conduct matter which was formerly a DSI matter) for the words from “a DSI matter” to “or (4)” substitute “ a matter that was formerly a DSI matter but has been recorded as a conduct matter in pursuance of paragraph 21A(5) ”.
- (4) At the end insert—
- “(7) The Secretary of State may by regulations make provision requiring a report on an investigation within paragraph 19C(1)(a) or (b)—
- (a) to include such matters as are specified in the regulations;
  - (b) to be accompanied by such documents or other items as are so specified.
- (8) A person who has submitted a report under this paragraph on an investigation within paragraph 19C(1)(a) or (b) must supply the appropriate authority with such copies of further documents or other items in that person's possession as the authority may request.
- (9) The appropriate authority may only make a request under sub-paragraph (8) in respect of a copy of a document or other item if the authority—
- (a) considers that the document or item is of relevance to the investigation, and
  - (b) requires a copy of the document or the item for either or both of the purposes mentioned in sub-paragraph (10).
- (10) Those purposes are—
- (a) complying with any obligation under regulations under section 50(3) or 51(2A) of the 1996 Act which the authority has in relation to any person to whose conduct the investigation related;
  - (b) ensuring that any such person receives a fair hearing at any disciplinary proceedings in respect of any such conduct of his.”

#### **Commencement Information**

- I304** Sch. 23 para. 12(1) in force at 3.11.2008 by [S.I. 2008/2712, art. 2, Sch. para. 17\(a\)](#)
- I305** Sch. 23 para. 12(1)-(3) in force at 1.12.2008 by [S.I. 2008/2993, art. 2\(1\)\(i\)\(ii\)](#) (with [art. 3](#))
- I306** Sch. 23 para. 12(4) in force at 3.11.2008 for specified purposes by [S.I. 2008/2712, art. 2, Sch. para. 17\(b\)](#) (with [art. 4](#))
- I307** Sch. 23 para. 12(4) in force at 1.12.2008 in so far as not already in force by [S.I. 2008/2993, art. 2\(1\)\(i\)\(ii\)](#) (with [art. 3](#))

- 13 (1) Paragraph 23 (action by Commission in response to investigation report) is amended as follows.
- (2) In sub-paragraph (2) (action to be taken on receipt of report)—
- (a) for paragraph (b) substitute—

*Status:* This version of this Act contains provisions that are prospective.

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- “(b) shall determine whether the conditions set out in sub-paragraphs (2A) and (2B) are satisfied in respect of the report;”;
  - (b) in paragraph (c), for “the report does so indicate” substitute “ those conditions are so satisfied ”;
  - (c) in paragraph (d), after “appropriate authority” insert “ and the persons mentioned in sub-paragraph (5) ”.
- (3) After sub-paragraph (2) insert—
- “(2A) The first condition is that the report indicates that a criminal offence may have been committed by a person to whose conduct the investigation related.
  - (2B) The second condition is that—
    - (a) the circumstances are such that, in the opinion of the Commission, it is appropriate for the matters dealt with in the report to be considered by the Director of Public Prosecutions, or
    - (b) any matters dealt with in the report fall within any prescribed category of matters.”
- (4) In sub-paragraph (5) (persons to be notified) for “Those” substitute “ The ”.
- F153 (5) . . . . .
- F153 (6) . . . . .

**Textual Amendments**  
F153 Sch. 23 para. 13(5)(6) omitted (31.1.2017 for specified purposes, 1.2.2020 in so far as not already in force) by virtue of Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), Sch. 5 para. 50; S.I. 2020/5, reg. 2(n) (with art. 3(1)(2)(4))

**Commencement Information**  
I308 Sch. 23 para. 13 in force at 1.12.2008 by S.I. 2008/2993, art. 2(1)(i)(i) (with art. 3)

- 14 (1) Paragraph 24 (action by the appropriate authority in response to investigation report) is amended as follows.
- (2) In sub-paragraph (2) (action to be taken on receipt of report)—
- (a) for paragraph (a) substitute—
    - “(a) shall determine whether the conditions set out in sub-paragraphs (2A) and (2B) are satisfied in respect of the report;”;
  - (b) in paragraph (b), for “the report does so indicate” substitute “ those conditions are so satisfied ”;
  - (c) after paragraph (b) insert “and
    - (c) shall notify the persons mentioned in sub-paragraph (5) of its determination under paragraph (a) and of any action taken by it under paragraph (b).”
- (3) After sub-paragraph (2) insert—

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**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

“(2A) The first condition is that the report indicates that a criminal offence may have been committed by a person to whose conduct the investigation related.

(2B) The second condition is that—

- (a) the circumstances are such that, in the opinion of the appropriate authority, it is appropriate for the matters dealt with in the report to be considered by the Director of Public Prosecutions, or
- (b) any matters dealt with in the report fall within any prescribed category of matters.”

(4) In sub-paragraph (5) (persons to be notified) for “Those” substitute “ The ”.

F154(5) . . . . .

(6) For sub-paragraph (6) substitute—

“(6) On receipt of the report or (as the case may be) copy, the appropriate authority shall also—

- (a) in accordance with regulations under section 50 or 51 of the 1996 Act, determine—
  - (i) whether any person to whose conduct the investigation related has a case to answer in respect of misconduct or gross misconduct or has no case to answer, and
  - (ii) what action (if any) the authority is required to, or will in its discretion, take in respect of the matters dealt with in the report, and
- (b) determine what other action (if any) the authority will in its discretion take in respect of those matters.”

F155(7) . . . . .

F155(8) . . . . .

**Textual Amendments**

**F154** Sch. 23 para. 14(5) omitted (31.1.2017 for specified purposes, 1.2.2020 in so far as not already in force) by virtue of [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), [Sch. 5 para. 50](#); S.I. 2020/5, reg. 2(n) (with [art. 3\(1\)\(2\)\(4\)](#))

**F155** Sch. 23 para. 14(7)(8) omitted (31.1.2017 for specified purposes, 1.2.2020 in so far as not already in force) by virtue of [Policing and Crime Act 2017 \(c. 3\)](#), [ss. 15\(1\)\(a\)](#), 183(1)(5)(e); S.I. 2020/5, reg. 2(c) (with [art. 3\(1\)\(2\)\(4\)](#))

**Commencement Information**

**I309** Sch. 23 para. 14 in force at 1.12.2008 by [S.I. 2008/2993](#), [art. 2\(1\)\(i\)\(i\)](#) (with [art. 3](#))

15 In paragraph 24A(2) (final reports on investigations into other DSI matters: obligation to submit report) for the words from “A person appointed” to “paragraph 19” substitute “ The person investigating ”.

**Commencement Information**

**I310** Sch. 23 para. 15 in force at 1.12.2008 by [S.I. 2008/2993](#), [art. 2\(1\)\(i\)\(i\)](#) (with [art. 3](#))



*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- 16 (1) Paragraph 24B (action in response to a report on a DSI matter) is amended as follows.
- (2) In sub-paragraph (2) (circumstances in which appropriate authority must record matter as a conduct matter) omit the words from “(and the other provisions” to the end.
- (3) After sub-paragraph (2) insert—
- “(3) Where a DSI matter is recorded under paragraph 11 as a conduct matter by virtue of sub-paragraph (2)—
- (a) the person investigating the DSI matter shall (subject to any determination made by the Commission under paragraph 15(5)) investigate the conduct matter as if appointed or designated to do so, and
  - (b) the other provisions of this Schedule shall apply in relation to that matter accordingly.”

**Commencement Information**

**I311** Sch. 23 para. 16 in force at 1.12.2008 by S.I. 2008/2993, art. 2(1)(i)(i)

<sup>F156</sup>17 .....

**Textual Amendments**

**F156** Sch. 23 para. 17 omitted (31.1.2017 for specified purposes, 1.2.2020 in so far as not already in force) by virtue of Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), Sch. 5 para. 50; S.I. 2020/5, reg. 2(n) (with art. 3(1)(2)(4))

- 18 (1) Paragraph 27 (duties with respect to disciplinary proceedings) is amended as follows.
- (2) In sub-paragraph (1) (application of paragraph) in each of paragraphs (a) and (b), for “proposing to” substitute “required to or will, in its discretion, ”.

<sup>F157</sup>(3) .....

**Textual Amendments**

**F157** Sch. 23 para. 18(3) omitted (31.1.2017 for specified purposes, 1.2.2020 in so far as not already in force) by virtue of Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), Sch. 5 para. 50; S.I. 2020/5, reg. 2(n) (with art. 3(1)(2)(4))

**Commencement Information**

**I312** Sch. 23 para. 18 in force at 1.12.2008 by S.I. 2008/2993, art. 2(1)(i)(i) (with art. 3)

- 19 After paragraph 28 insert—

*“Minor definitions*

- 29 In this Part of this Schedule—
- “gross misconduct” means a breach of the Standards of Professional Behaviour that is so serious as to justify dismissal;

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“misconduct” means a breach of the Standards of Professional Behaviour;

“the person investigating”, in relation to a complaint, recordable conduct matter or DSI matter, means the person appointed or designated to investigate that complaint or matter;

“prescribed” means prescribed by regulations made by the Secretary of State;

“the Standards of Professional Behaviour” means the standards so described in, and established by, regulations made by the Secretary of State.”

#### Commencement Information

**I313** Sch. 23 para. 19 in force at 3.11.2008 for specified purposes by [S.I. 2008/2712](#), [art. 2](#), [Sch. para. 17\(b\)](#) (with [art. 4](#))

**I314** Sch. 23 para. 19 in force at 1.12.2008 in so far as not already in force by [S.I. 2008/2993](#), [art. 2\(1\)\(i\)](#) (ii) (with [art. 3](#))

## SCHEDULE 24

Section 140

### SECTION 327A OF CRIMINAL JUSTICE ACT 2003: MEANING OF “CHILD SEX OFFENCE”

#### Commencement Information

**I315** [Sch. 24](#) in force at 14.7.2008 by [S.I. 2008/1586](#), [art. 2\(1\)](#), [Sch. 1 para. 43](#)

The following is the Schedule to be inserted as Schedule 34A to the Criminal Justice Act 2003 (c. 44)—

### “SCHEDULE 34A

#### CHILD SEX OFFENCES FOR PURPOSES OF SECTION 327A

##### *Offences under provisions repealed by Sexual Offences Act 2003*

- 1 An offence under—
  - (a) section 5 or 6 of the Sexual Offences Act 1956 (intercourse with girl under 13 or 16), or
  - (b) section 28 of that Act (causing or encouraging the prostitution of, intercourse with or indecent assault on girl under 16).
- 2 An offence under any of—
  - (a) section 1 of that Act (rape),
  - (b) section 10 of that Act (incest by a man), and
  - (c) sections 12 to 16 of that Act (buggery, indecency between men, indecent assault and assault with intent to commit buggery),

where the victim or (as the case may be) the other party was under 18 at the time of the offence.

*Status:* This version of this Act contains provisions that are prospective.

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- 3 An offence under section 1 of the Indecency with Children Act 1960 (indecent conduct towards child under 14).
- 4 An offence under section 9 of the Theft Act 1968 of burglary with intent to commit rape where the intended offence was an offence against a person under 18.
- 5 An offence under section 54 of the Criminal Law Act 1977 (incitement of child under 16 to commit incest).
- 6 An offence under section 3 of the Sexual Offences (Amendment) Act 2000 (abuse of position of trust).

#### *Other offences*

- 7 An offence under any of—
  - (a) sections 5 to 8 of the Sexual Offences Act 2003 (rape and other offences against children under 13),
  - (b) sections 9 to 15 of that Act (child sex offences),
  - (c) sections 16 to 19 of that Act (abuse of position of trust),
  - (d) sections 25 and 26 of that Act (familial child sex offences), and
  - (e) sections 47 to 50 of that Act (abuse of children through prostitution and pornography).
- 8 An offence under any of—
  - (a) sections 1 to 4 of that Act (rape, assault and causing sexual activity without consent),
  - (b) sections 30 to 41 of that Act (persons with a mental disorder impeding choice, inducements etc to persons with a mental disorder, and care workers for persons with a mental disorder), and
  - (c) section 61 of that Act (administering a substance with intent),where the victim of the offence was under 18 at the time of the offence.
- 9 An offence under section 62 or 63 of that Act (committing an offence with intent to commit a sexual offence and trespass with intent to commit a sexual offence) where the intended offence was an offence against a person under 18.
- 10 An offence under section 66 or 67 of that Act (exposure and voyeurism) where the victim or intended victim of the offence was under 18 at the time of the offence.
- 11 An offence under—
  - (a) section 1 of the Protection of Children Act 1978 (indecent photographs of children), or
  - (b) section 160 of the Criminal Justice Act 1988 (possession of indecent photograph of child).
- 12 An offence under section 170 of the Customs and Excise Management Act 1979 (penalty for fraudulent evasion of duty etc) in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (indecent or obscene articles) where the prohibited goods included any indecent photograph showing a person under 18.
- 13 An offence under section 63 of the Criminal Justice and Immigration Act 2008 (possession of extreme pornographic images) in relation to an image showing a person under 18.

*Status: This version of this Act contains provisions that are prospective.*

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### General

- 14 A reference in this Schedule to an offence (“offence A”) includes—
- (a) a reference to an attempt to commit offence A,
  - (b) a reference to a conspiracy to commit offence A,
  - (c) a reference to incitement to commit offence A,
  - (d) a reference to an offence under Part 2 of the Serious Crime Act 2007 in relation to which offence A is the offence (or one of the offences) which the person intended or believed would be committed, and
  - (e) a reference to aiding and abetting, counselling or procuring the commission of offence A.
- 15 A reference in this Schedule to an offence (“offence A”) includes—
- (a) a reference to an offence under section 70 of the Army Act 1955, section 70 of the Air Force Act 1955 or section 42 of the Naval Discipline Act 1957 as respects which the corresponding civil offence (within the meaning given by the section in question) is offence A, and
  - (b) a reference to an offence under section 42 of the Armed Forces Act 2006 as respects which the corresponding offence under the law of England and Wales (within the meaning given by that section) is offence A;
- and section 48 of that Act (attempts etc. outside England and Wales) applies for the purposes of paragraph (b) as if the reference in subsection (3)(b) to any of the following provisions of that Act were a reference to that paragraph.”

## SCHEDULE 25

Section 145

### AMENDMENTS TO ARMED FORCES LEGISLATION

#### PART 1

##### COURTS-MARTIAL (APPEALS) ACT 1968

- 1 The Courts-Martial (Appeals) Act 1968 (c. 20) has effect subject to the following amendments.

#### Commencement Information

**I316** Sch. 25 para. 1 in force at 31.10.2009 by S.I. 2009/1028, art. 2(a)

*Power to dismiss certain appeals following references by the CCRC*

- 2 After section 25B insert—

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*“Appeals following references by the CCRC*

**25C Power to dismiss certain appeals following references by the CCRC**

- (1) This section applies where there is an appeal under this Part following a reference by the Criminal Cases Review Commission under section 12A(1)(a), (7) or (8) of the Criminal Appeal Act 1995.
- (2) Notwithstanding anything in section 12, 21 or 25 of this Act, the Appeal Court may dismiss the appeal if—
  - (a) the only ground for allowing it would be that there has been a development in the law since the date of the conviction or finding that is the subject of the appeal, and
  - (b) the condition in subsection (3) is met.
- (3) The condition in this subsection is that if—
  - (a) the reference had not been made, but
  - (b) the appellant had made (and had been entitled to make) an application for an extension of time within which to seek leave to appeal on the ground of the development in the law,the Court would not think it appropriate to grant the application by exercising the power conferred by section 9(3).”

**Commencement Information**

**I317** Sch. 25 para. 2 in force at 31.10.2009 by S.I. 2009/1028, art. 2(a)

*Interim hospital orders*

- 3 Section 16(5) (effect of interim hospital order made by Appeal Court) is omitted.

**Commencement Information**

**I318** Sch. 25 para. 3 in force at 31.10.2009 by S.I. 2009/1028, art. 2(a)

- 4 Section 25B(3) (as substituted by the Armed Forces Act 2006) (effect of interim hospital order made by Appeal Court) is omitted.

**Commencement Information**

**I319** Sch. 25 para. 4 in force at 31.10.2009 by S.I. 2009/1028, art. 2(a)

- 5 Before section 36 (but after the cross-heading preceding it) insert—

**Effect of interim hospital orders**

- “35A(1) This section applies where the Appeal Court—
  - (a) make an interim hospital order by virtue of any provision of this Part, or

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(b) renew an interim hospital order so made.

(2) The Court Martial shall be treated for the purposes of section 38(7) of the Mental Health Act 1983 (absconding offenders) as the court that made the order.”

**Commencement Information**

**I320** Sch. 25 para. 5 in force at 31.10.2009 by S.I. 2009/1028, art. 2(a)

- 6 In section 36 (powers of Court under Part 2 which are exercisable by single judge), in subsection (1) after paragraph (h) insert—
- “(ha) to renew an interim hospital order made by them by virtue of any provision of this Part;”.

**Commencement Information**

**I321** Sch. 25 para. 6 in force at 31.10.2009 by S.I. 2009/1028, art. 2(a)

*Evidence*

- 7 (1) Section 28 (evidence) is amended as follows.
- (2) In subsection (1), at the beginning insert “ For the purposes of an appeal or an application for leave to appeal, ”.
- (3) In that subsection, for paragraph (b) substitute—
- “(b) order any witness to attend for examination and be examined before the Court (whether or not he was called in the proceedings from which the appeal lies); and”.
- (4) After subsection (1) insert—
- “(1A) The power conferred by subsection (1)(a) may be exercised so as to require the production of any document, exhibit or other thing mentioned in that subsection to—
- (a) the Appeal Court;
- (b) the appellant;
- (c) the respondent.”
- (5) In subsection (4), at the beginning insert “ For the purposes of an appeal or an application for leave to appeal, ”.
- (6) After subsection (4) insert—
- “(5) In this section, “respondent” includes a person who will be a respondent if leave to appeal is granted.”

**Commencement Information**

**I322** Sch. 25 para. 7 in force at 31.10.2009 by S.I. 2009/1028, art. 2(a)

*Status:* This version of this Act contains provisions that are prospective.

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### *Appeals against procedural directions*

- 8 In section 36C (appeals against procedural directions), subsections (1) and (2) are omitted.

#### **Commencement Information**

**I323** Sch. 25 para. 8 in force at 31.10.2009 by S.I. 2009/1028, art. 2(a)

### *Detention of accused pending appeal to Supreme Court*

- 9 (1) Section 43 (as amended by the Armed Forces Act 2006) (detention of accused on appeal by Crown) is amended as follows.
- (2) In subsection (1) for “may make an order under this section” substitute “ shall make one of the orders specified in subsection (1A) ”.
- (3) In subsection (1A)—
- (a) for “An order under this section is” substitute “ The orders specified in this subsection are ”,
  - (b) the word “or” at the end of paragraph (a) is omitted, and
  - (c) after paragraph (b) insert—  
“(c) an order that the accused be released without bail.”
- (4) After subsection (1B) insert—  
“(1C) The Appeal Court may make an order within subsection (1A)(c) only if they think that it is in the interests of justice that the accused should not be liable to be detained as a result of the decision of the Supreme Court on the appeal.”
- (5) In subsection (2) for “under this section” substitute “ within subsection (1A)(a) or (b) ”.
- (6) For subsection (5) substitute—  
“(5) The accused shall not be liable to be detained again as a result of the decision of the Supreme Court on the appeal if—
- (a) the Appeal Court have made an order within subsection (1A)(c), or
  - (b) the Appeal Court have made an order within subsection (1A) (a) or (b) but the order has ceased to have effect by virtue of subsection (2) or the accused has been released or discharged by virtue of subsection (3).”

#### **Commencement Information**

**I324** Sch. 25 para. 9 in force at 31.10.2009 by S.I. 2009/1028, art. 2(a)

## **PART 2**

### **ARMED FORCES ACT 2006**

- 10 The Armed Forces Act 2006 (c. 52) has effect subject to the following amendments.

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

**Commencement Information**

**I325** Sch. 25 para. 10 in force at 31.10.2009 by S.I. 2009/1028, art. 2(b)

*Consecutive custodial sentences*

- 11 In section 188(4) (consecutive custodial sentences), after “Part 12 of the 2003 Act” insert “ or under Part 2 of the Criminal Justice Act 1991 ”.

**Commencement Information**

**I326** Sch. 25 para. 11 in force at 31.10.2009 by S.I. 2009/1028, art. 2(b)

*Dangerous offenders*

- 12 In section 209 (offenders under 18 convicted of certain serious offences), in subsection (7) for “sections 221, 222 and 227” substitute “ section 226(2) of the 2003 Act (as applied by section 221(2) of this Act) and section 227 of this Act ”.

**Commencement Information**

**I327** Sch. 25 para. 12 in force at 31.10.2009 by S.I. 2009/1028, art. 2(b)

- 13 (1) Section 219 (dangerous offenders aged 18 or over) is amended as follows.
- (2) In subsection (1) for the words from “a person” to the end substitute “—
- (a) a person aged 18 or over is convicted by the Court Martial of an offence under section 42 (criminal conduct),
  - (b) the corresponding offence under the law of England and Wales is a serious offence, and
  - (c) the court is of the required opinion (defined by section 223).”
- (3) For subsections (2) and (3) substitute—
- “(2) Section 225(2) to (4) of the 2003 Act apply in relation to the offender.
- (3) In section 225(2) and (3A) of the 2003 Act (as applied by subsection (2)), references to “the offence” are to be read as references to the offence under section 42 of this Act.”
- (4) For the italic cross-heading before section 219 substitute “ *Required or discretionary sentences for particular offences* ”.

**Commencement Information**

**I328** Sch. 25 para. 13 in force at 31.10.2009 by S.I. 2009/1028, art. 2(b)

- 14 (1) Section 220 (certain violent or sexual offences: offenders aged 18 or over) is amended as follows.
- (2) In subsection (1) for the words from “a person” to the end substitute “—



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- (a) a person aged 18 or over is convicted by the Court Martial of an offence under section 42 (criminal conduct),
- (b) the corresponding offence under the law of England and Wales is a specified offence,
- (c) the court is of the required opinion (defined by section 223), and
- (d) where the corresponding offence under the law of England and Wales is a serious offence, the case is not one in which the court is required by section 225(2) of the 2003 Act (as applied by section 219(2) of this Act) to impose a sentence of imprisonment for life.”

(3) For subsection (2) substitute—

“(2) Section 227(2) to (5) of the 2003 Act apply in relation to the offender.”

(4) In subsection (3)—

(a) for “section 227” substitute “ section 227(2) to (5) ”,

(b) before paragraph (a) insert—

“(za) the reference in section 227(2A) to “the offence” is to be read as a reference to the offence under section 42 of this Act;”, and

(c) in paragraph (a) for “subsection (2)(b)” substitute “ subsection (2C)(b) ”.

(5) After subsection (3) insert—

“(3A) The power conferred by section 227(6) of the 2003 Act includes power to amend section 227(2B) as applied by this section.”

#### Commencement Information

**I329** Sch. 25 para. 14 in force at 31.10.2009 by S.I. 2009/1028, art. 2(b)

- 15 (1) Section 221 (dangerous offenders aged under 18) is amended as follows.
- (2) In subsection (1) for the words from “a person” to the end substitute “—
- (a) a person aged under 18 is convicted by the Court Martial of an offence under section 42 (criminal conduct),
  - (b) the corresponding offence under the law of England and Wales is a serious offence, and
  - (c) the court is of the required opinion (defined by section 223).”
- (3) For subsection (2) substitute—
- “(2) Section 226(2) to (4) of the 2003 Act apply in relation to the offender.”
- (4) In subsection (3)—
- (a) for the words from the beginning to “is” substitute “ In section 226(2) of the 2003 Act (as applied subsection (2)) ”, and
  - (b) in paragraphs (a) and (b) the words “in section 226(2)” are omitted.
- (5) Subsection (4) is omitted.

*Status: This version of this Act contains provisions that are prospective.*

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#### Commencement Information

**I330** Sch. 25 para. 15 in force at 31.10.2009 by S.I. 2009/1028, art. 2(b)

- 16 (1) Section 222 (offenders aged under 18: certain violent or sexual offences) is amended as follows.
- (2) In subsection (1), in paragraph (d) for the words from “section 221” to the end substitute “ section 226(2) of the 2003 Act (as applied by section 221(2) of this Act) to impose a sentence of detention for life. ”
- (3) For subsection (2) substitute—
- “(2) Section 228(2) to (5) of the 2003 Act apply in relation to the offender.”
- (4) In subsection (3)—
- (a) for “section 228” substitute “ section 228(2) to (5) ”, and
- (b) in paragraph (a) for “subsection (2)(b)” substitute “ subsection (2B)(b) ”.
- (5) After subsection (3) insert—
- “(3A) The power conferred by section 228(7) of the 2003 Act includes power to amend section 228(2A) as applied by this section.”

#### Commencement Information

**I331** Sch. 25 para. 16 in force at 31.10.2009 by S.I. 2009/1028, art. 2(b)

- 17 (1) Section 223 (the required opinion for the purposes of sections 219 to 222) is amended as follows.
- (2) In subsection (1) for “219(2), 220(2), 221(2)” substitute “ 219(1), 220(1), 221(1) ”.
- (3) In subsection (2) for “section 229(2) to (4)” substitute “ section 229(2) and (2A) ”.
- (4) In subsection (3) the words “to (4)” are omitted.

#### Commencement Information

**I332** Sch. 25 para. 17 in force at 31.10.2009 by S.I. 2009/1028, art. 2(b)

- 18 (1) Section 228 (appeals where previous convictions set aside) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) Subsection (3) applies where—
- (a) a sentence has been imposed on any person under section 225(3) or 227(2) of the 2003 Act (as applied by section 219(2) or 220(2) of this Act),
- (b) the condition in section 225(3A) or (as the case may be) 227(2A) of the 2003 Act was met but the condition in section 225(3B) or (as the case may be) 227(2B) of that Act was not, and

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- (c) any previous conviction of his without which the condition in section 225(3A) or (as the case may be) 227(2A) would not have been met has been subsequently set aside on appeal.”

**Commencement Information**

I333 Sch. 25 para. 18 in force at 31.10.2009 by S.I. 2009/1028, art. 2(b)

- 19 In section 237 (purposes of sentencing), in subsection (3)(b)—
- (a) for “to 222” substitute “, 221”, and
  - (b) for “any of sections 225 to 228” substitute “section 225(2) or 226(2)”.

**Commencement Information**

I334 Sch. 25 para. 19 in force at 31.10.2009 by S.I. 2009/1028, art. 2(b)

- 20 In section 256 (pre-sentence reports), in subsection (1)(c) for the words from “section” to the end substitute “section 219(1), 220(1), 221(1) or 222(1) (sentences for dangerous offenders).”

**Commencement Information**

I335 Sch. 25 para. 20 in force at 31.10.2009 by S.I. 2009/1028, art. 2(b)

- 21 In section 260 (discretionary custodial sentences: general restrictions), in subsection (1)(b) for the words from “as a result” to the end substitute “under section 225(2) or 226(2) of the 2003 Act (as applied by section 219(2) or 221(2) of this Act) or as a result of any of sections 225 to 227 of this Act.”

**Commencement Information**

I336 Sch. 25 para. 21 in force at 31.10.2009 by S.I. 2009/1028, art. 2(b)

- 22 In section 261 (length of discretionary custodial sentences: general provision)—
- (a) in subsection (1) for “falling to be imposed as a result of section 219(2) or 221(2)” substitute “imposed under section 225 or 226 of the 2003 Act (as applied by section 219(2) or 221(2) of this Act)”, and
  - (b) in subsection (3) for “required minimum sentences” substitute “sentences that may or must be imposed”.

**Commencement Information**

I337 Sch. 25 para. 22 in force at 31.10.2009 by S.I. 2009/1028, art. 2(b)

- 23 In section 273 (review of unduly lenient sentences by Court Martial Appeal Court), in subsection (6)(b) for “section 219, 220, 221, 222, 225, 226 or 227” substitute “section 225(2) or 226(2) of the 2003 Act (as applied by section 219(2) or 221(2) of this Act) or by section 225, 226 or 227 of this Act”.

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**Commencement Information**

**I338** Sch. 25 para. 23 in force at 31.10.2009 by S.I. 2009/1028, art. 2(b)

*Restrictions on imposing community punishment*

PROSPECTIVE
F158 24 .....

**Textual Amendments**

**F158** Sch. 25 para. 24 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 64\(5\)\(c\)](#), 151(1); S.I. 2012/2906, art. 2(a)

PROSPECTIVE
25            In section 254(1) (savings for powers to mitigate sentence etc.) for “and 270” substitute “, 270 and 270B”.

26    (1) Section 270 (community punishments: general restrictions etc.) is amended as follows.

      (2) After subsection (6) insert—

          “(6A) The fact that by virtue of any provision of this section—

- (a) a community punishment may be awarded in respect of an offence, or
- (b) particular restrictions on liberty may be imposed by a community punishment,

          does not require a court to award such a punishment or to impose those restrictions.”

F159 (3) .....

F159 (4) .....

**Textual Amendments**

**F159** Sch. 25 para. 26(3)(4) repealed (2.4.2012) by [Armed Forces Act 2011 \(c. 18\)](#), s. 32(3), Sch. 3 para. 20(3), [Sch. 5](#); S.I. 2012/669, art. 4(d)(f)(i)

**Commencement Information**

**I339** Sch. 25 para. 26(1)(2) in force at 31.10.2009 by S.I. 2009/1028, art. 2(b)

*Status:* This version of this Act contains provisions that are prospective.

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

PROSPECTIVE

F160  
27

#### Textual Amendments

**F160** Sch. 25 para. 27 repealed (2.4.2012) by Armed Forces Act 2011 (c. 18), s. 32(3), Sch. 3 para. 20(3), Sch. 5; S.I. 2012/669, art. 4(d)(f)(i)

#### *Review of sentence on reference by Attorney General*

28 In section 273 (reviews of unduly lenient sentencing by Court Martial Appeal Court) for subsection (7) substitute—

“(7) Where a reference under subsection (1) relates to a case in which the Court Martial made an order specified in subsection (7A), the Court Martial Appeal Court may not, in deciding what sentence is appropriate for the case, make any allowance for the fact that the offender is being sentenced for a second time.

(7A) The orders specified in this subsection are—

- (a) an order under section 269(2) of the 2003 Act (determination of minimum term in relation to mandatory life sentence);
- (b) an order under section 82A(2) of the Sentencing Act (determination of minimum term in relation to discretionary life sentences and certain other sentences).”

#### Commencement Information

**I340** Sch. 25 para. 28 in force at 31.10.2009 by S.I. 2009/1028, art. 2(b)

#### *Compensation for miscarriages of justice*

29 (1) Section 276 (compensation for miscarriages of justice) is amended as follows.

(2) In subsection (1) for “subsections (2) and (3)” substitute “ subsections (2) to (3A) ”.

(3) At the end of subsection (3) insert “before the end of the period of 2 years beginning with the date on which the conviction of the person concerned is reversed or he is pardoned.

(3A) But the Secretary of State may direct that an application for compensation made after the end of that period is to be treated as if it had been made within that period if the Secretary of State considers that there are exceptional circumstances which justify doing so.”

(4) For subsection (6) substitute—

“(6) Section 276A applies in relation to the assessment of the amount of the compensation.”

(5) After subsection (7) insert—

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“(7A) But in a case where—

- (a) a person's conviction for an offence is quashed on an appeal out of time, and
- (b) the person is to be subject to a retrial,

the conviction is not to be treated for the purposes of subsection (1) as “reversed” unless and until the person is acquitted of all offences at the retrial or the prosecution indicates that it has decided not to proceed with the retrial.”

#### Commencement Information

**I341** Sch. 25 para. 29 in force at 31.10.2009 by S.I. 2009/1028, art. 2(b)

30 After section 276 insert—

#### “276A Miscarriages of justice: amount of compensation

- (1) This section applies where an assessor is required to assess the amount of compensation payable to or in respect of a person under section 276 for a miscarriage of justice.
- (2) In assessing so much of any compensation payable under section 276 as is attributable to suffering, harm to reputation or similar damage, the assessor must have regard in particular to—
  - (a) the seriousness of the offence of which the person was convicted and the severity of the punishment resulting from the conviction, and
  - (b) the conduct of the investigation and prosecution of the offence.
- (3) The assessor may make from the total amount of compensation that the assessor would otherwise have assessed as payable under section 276 any deduction or deductions that the assessor considers appropriate by reason of either or both of the following—
  - (a) any conduct of the person appearing to the assessor to have directly or indirectly caused, or contributed to, the conviction concerned; and
  - (b) any other convictions of the person and any punishment resulting from them.
- (4) If, having had regard to any matters falling within subsection (3)(a) or (b), the assessor considers that there are exceptional circumstances which justify doing so, the assessor may determine that the amount of compensation payable under section 276 is to be a nominal amount only.
- (5) The total amount of compensation payable to or in respect of a person under section 276 for a particular miscarriage of justice must not exceed the overall compensation limit. That limit is—
  - (a) £1 million in a case to which section 276B applies, and
  - (b) £500,000 in any other case.
- (6) The total amount of compensation payable under section 276 for a person's loss of earnings or earnings capacity in respect of any one year must not exceed the earnings compensation limit.

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That limit is an amount equal to 1.5 times the median annual gross earnings according to the latest figures published by the Office of National Statistics at the time of the assessment.

- (7) The Secretary of State may by order amend subsection (5) or (6) so as to alter any amount for the time being specified as the overall compensation limit or the earnings compensation limit.

### **276B Cases where person has been detained for at least 10 years**

- (1) For the purposes of section 276A(5) this section applies to any case where the person concerned (“P”) has been in qualifying detention for a period (or total period) of at least 10 years by the time when—
- (a) the conviction is reversed, or
  - (b) the pardon is given,
- as mentioned in section 276(1).
- (2) P was “in qualifying detention” at any time when P was detained in a prison, a hospital or at any other place, if P was so detained—
- (a) by virtue of a sentence passed in respect of the relevant offence,
  - (b) under mental health legislation by reason of P's conviction of that offence (disregarding any conditions other than the fact of the conviction that had to be fulfilled in order for P to be so detained), or
  - (c) as a result of P's having been ordered to be kept in service custody, or remanded for mental health purposes, in connection with the relevant offence or with any other offence the charge for which was founded on the same facts or evidence as that for the relevant offence.
- (3) In calculating the period (or total period) during which P has been in qualifying detention as mentioned in subsection (1), no account is to be taken of any period of time during which P was both—
- (a) in qualifying detention, and
  - (b) in excluded concurrent detention.
- (4) P was “in excluded concurrent detention” at any time when P was detained in a prison, a hospital or at any other place, if P was so detained—
- (a) during the term of a sentence passed in respect of an offence other than the relevant offence,
  - (b) under mental health legislation by reason of P's conviction of any such other offence (disregarding any conditions other than the fact of the conviction that had to be fulfilled in order for P to be so detained), or
  - (c) as a result of P's having been ordered to be kept in service custody, or remanded for mental health purposes, in connection with an offence for which P was subsequently convicted other than—
    - (i) the relevant offence, or
    - (ii) any other offence the charge for which was founded on the same facts or evidence as that for the relevant offence.
- (5) But P was not “in excluded concurrent detention” at any time by virtue of subsection (4)(a), (b) or (c) if P's conviction of the other offence mentioned

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in that provision was quashed on appeal, or a pardon was given in respect of it.

(6) In this section—

“kept in service custody” means—

- (a) kept in service custody under section 105(2) of the Armed Forces Act 2006, or
- (b) kept in military, air-force or naval custody under section 75A(2) of the Army Act 1955 or of the Air Force Act 1955 or section 47G(2) of the Naval Discipline Act 1957 (as the case may be);

“mental health legislation” means—

- (a) Part 3 of the Mental Health Act 1983, or
- (b) the provisions of any earlier enactment corresponding to Part 3 of that Act;

“the relevant offence” means the offence in respect of which the conviction is quashed or the pardon is given (but see subsection (7));

“remanded for mental health purposes” means remanded or admitted to hospital under section 35, 36 or 38 of the Mental Health Act 1983 or under any corresponding provision of any earlier enactment;

“reversed” has the same meaning as in section 276 of this Act.

(7) If, as a result of the miscarriage of justice—

- (a) two or more convictions are reversed, or
- (b) a pardon is given in respect of two or more offences,

“the relevant offence” means any of the offences concerned.”

#### Commencement Information

I342 Sch. 25 para. 30 in force at 31.10.2009 by S.I. 2009/1028, art. 2(b)

31 In section 373 (orders, regulations etc.) in subsection (3)(a), after “113,” insert “276A(7),”.

#### Commencement Information

I343 Sch. 25 para. 31 in force at 31.10.2009 by S.I. 2009/1028, art. 2(b)

#### *Imposition of unpaid work requirement for breach of service community order or overseas service community order*

32 In paragraph 14(b) of Schedule 5 (modifications of Schedule 8 to the Criminal Justice Act 2003 as it applies to overseas community orders), for “(3)” substitute “(3A)”.

#### Commencement Information

I344 Sch. 25 para. 32 in force at 31.10.2009 by S.I. 2009/1028, art. 2(b)



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*Suspended prison sentences: further conviction or breach of requirement*

- 33 In paragraph 9(1)(b) of Schedule 7 (which provides for paragraph 9 of Schedule 12 to the Criminal Justice Act 2003, as it applies to an order under paragraph 8 of that Schedule made by a service court, to have effect with substituted sub-paragraphs (2) and (3))—
- (a) in the substituted text of sub-paragraph (2), after “Part 12” insert “ of this Act or under Part 2 of the Criminal Justice Act 1991 ”; and
  - (b) in the substituted text of sub-paragraph (3), after “287” insert “ of the Armed Forces Act 2006 ”.

**Commencement Information**

**I345** Sch. 25 para. 33 in force at 31.10.2009 by S.I. 2009/1028, art. 2(b)

**PART 3**

TRANSITIONAL PROVISIONS

*Transitional provisions: compensation for miscarriage of justice*

- 34 (1) Paragraph 29(3) has effect in relation to any application for compensation made in relation to—
- (a) a conviction which is reversed, and
  - (b) a pardon which is given,
- on or after the commencement date.
- (2) Paragraphs 29(4) and 30 have effect in relation to—
- (a) any application for compensation made on or after the commencement date, and
  - (b) any application for compensation made before that date in relation to which the question whether there is a right to compensation has not been determined before that date by the Secretary of State under section 276(4) of the 2006 Act.
- (3) Paragraph 29(5) has effect in relation to any conviction quashed on an appeal out of time in respect of which an application for compensation has not been made before the commencement date.
- (4) Paragraph 29(5) so has effect whether a conviction was quashed before, on or after the commencement date.
- (5) In the case of—
- (a) a conviction which is reversed, or
  - (b) a pardon which is given,
- before the commencement date but in relation to which an application for compensation has not been made before that date, any such application must be made before the end of the period of 2 years beginning with that date.
- (6) But the Secretary of State may direct that an application for compensation in relation to a case falling within sub-paragraph (5) which is made after the end of that period

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is to be treated as if it had been made before the end of that period if the Secretary of State considers that there are exceptional circumstances which justify doing so.

(7) In this paragraph—

“the 2006 Act” means the Armed Forces Act 2006 (c. 52);

“application for compensation” means an application for compensation made under section 276(3) of the 2006 Act;

“the commencement date” means the date on which paragraphs 29 and 30 come into force;

“reversed” has the same meaning as in section 276(1) of the 2006 Act (as amended by paragraph 29(5)).

#### Commencement Information

**I346** Sch. 25 para. 34 in force at 31.10.2009 by S.I. 2009/2606, art. 3(h)

## SCHEDULE 26

Section 148

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### PART 1

##### FINE DEFAULTERS

PROSPECTIVE

#### *Magistrates' Courts Act 1980 (c. 43)*

1 In section 81(3) of the Magistrates' Courts Act 1980 (enforcement of fines imposed on young offenders) for paragraph (a) substitute—

“(a) a youth default order under section 39 of the Criminal Justice and Immigration Act 2008; or”.

#### *Criminal Justice Act 2003 (c. 44)*

2 (1) The Criminal Justice Act 2003 is amended as follows.

(2) In section 221(2) (provision of attendance centres) after paragraph (b) insert—

“(c) default orders under section 300 of this Act, or

(d) youth default orders under section 39 of the Criminal Justice and Immigration Act 2008.”

(3) In section 300 (power to impose unpaid work requirement or curfew requirement on fine defaulter)—

(a) in subsection (1)—

(i) for “16” substitute “ 18 ”, and

(ii) omit paragraph (b), and

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(b) in subsection (2), omit from “or, as the case may be” to “young offender”.

(4) In Schedule 31 (modifications of community order provisions for purposes of default order) after paragraph 3 insert—

*“Attendance centre requirement*

3A In its application to a default order, section 214(2) (attendance centre requirement) is modified by the substitution for “not be less than 12 or more than 36” of “be—

- (a) not less than 12, and
- (b) in the case of an amount in default which is specified in the first column of the following Table, not more than the number of hours set out opposite that amount in the second column.

TABLE

<i>Amount</i>	<i>Number of hours</i>
An amount not exceeding £200	18 hours
An amount exceeding £200 but not exceeding £500	21 hours
An amount exceeding £500 but not exceeding £1,000	24 hours
An amount exceeding £1,000 but not exceeding £2,500	30 hours
An amount exceeding £2,500	36 hours”.

(5) In paragraph 4(5)(a) of that Schedule (modifications of community order provisions for purposes of default order) omit “, (5)”.

(6) In paragraph 5 of that Schedule, for “or 3” substitute “, 3 or 3A”.

**Commencement Information**

**I347** Sch. 26 para. 2(1)(2)Sch. 26 para. 2(4)-(6) in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(a)

**PART 2**

OTHER AMENDMENTS

*Prison Act 1952 (c. 52)*

3 In section 43(1)(aa) of the Prison Act 1952 (provision by Secretary of State of young offender institutions), at the end insert “ or other persons who may be lawfully detained there ”.

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#### Commencement Information

**I348** Sch. 26 para. 3 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(b)

#### *Criminal Justice Act 1961 (c. 39)*

- 4 In section 38(3)(c) of the Criminal Justice Act 1961 (construction of references to imprisonment or detention in case of children and young persons) after “in accordance with” insert “ a determination of the Secretary of State or of a person authorised by him, in accordance with arrangements made by the Secretary of State or in accordance with ”.

#### Commencement Information

**I349** Sch. 26 para. 4 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(c)

#### *Children and Young Persons Act 1969 (c. 54)*

F1615 .....

#### Textual Amendments

**F161** Sch. 26 para. 5 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 12 para. 55; S.I. 2012/2906, art. 2(j) (with art. 7(2)(3))

#### *Criminal Appeal (Northern Ireland) Act 1980 (c. 47)*

- 6 In section 13A(3) of the Criminal Appeal (Northern Ireland) Act 1980 (grounds for allowing appeal against finding of unfitness to be tried), in paragraph (a) for “the finding” substitute “ a finding ”.

#### Commencement Information

**I350** Sch. 26 para. 6 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(d)

#### *Wildlife and Countryside Act 1981 (c. 69)*

- 7 In section 19XA(1) of the Wildlife and Countryside Act 1981 (constables' powers in connection with samples) for “by this section” substitute “ by section 19 ”.

#### Commencement Information

**I351** Sch. 26 para. 7 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(e)

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*Mental Health Act 1983 (c. 20)*

- 8 In section 37 of the Mental Health Act 1983 (powers of court to order hospital admission or guardianship), in subsection (1A)(c) for “any of sections 225 to 228” substitute “ section 225(2) or 226(2) ”.

**Commencement Information**

**I352** Sch. 26 para. 8 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(f)

*Repatriation of Prisoners Act 1984 (c. 47)*

- 9 The Repatriation of Prisoners Act 1984 has effect subject to the following amendments.

**Commencement Information**

**I353** Sch. 26 para. 9 in force at 9.6.2008 by S.I. 2008/1466, art. 2(c)(i)

- 10 Before section 1 insert— “ Transfer of prisoners to or from the United Kingdom ”.

**Commencement Information**

**I354** Sch. 26 para. 10 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)

- 11 (1) Section 1 (issue of warrant for transfer) is amended as follows.
- (2) In subsections (2) and (3) for “warrant under this Act” substitute “ warrant under this section ”.
- (3) In subsection (4)—
- (a) for “warrant under this Act” (in both places) substitute “ warrant under this section ”;
  - (b) in paragraph (b) omit the words “under this Act”.
- (4) In subsection (5) (as it applies in cases in which the relevant Minister is the Scottish Ministers and in cases in which the relevant Minister is the Secretary of State) for “warrant under this Act” substitute “ warrant under this section ”.
- (5) In subsection (6) after “warrant” (in the first place it appears) insert “ under this section ”.
- (6) In subsection (7)(b) after “under” insert “ any of ”.
- (7) In subsection (8)—
- (a) after “similar to” insert “ any of ”;
  - (b) after “respect to” insert “—  
(a) ”; and
  - (c) at the end insert “; or  
(b) the transfer between different countries and territories (or different parts of a country or territory) of responsibility for the detention and release of persons who are required to be so detained in one of those countries or territories (or parts

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of a country or territory) but are present in the other country or territory (or part of a country or territory).”

#### Commencement Information

**I355** Sch. 26 para. 11 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)

- 12 (1) Section 2 (transfer out of the United Kingdom) is amended as follows.
- (2) In subsection (1) after “warrant” insert “ under section 1 ”.
- (3) In subsection (4)—
- (a) in paragraph (a) for “warrant under this Act” substitute “ warrant under section 1 ”; and
  - (b) in paragraph (b)(i) (as it continues to have effect in relation to prisoners sentenced for offences committed before 4th April 2005) after “33(1)(b)” insert “ , (1A) ”.
- (4) In subsection (7) for “warrant under this Act” substitute “ warrant under section 1 ”.

#### Commencement Information

**I356** Sch. 26 para. 12(1)(3)(b) in force at 9.6.2008 by S.I. 2008/1466, art. 2(c)(i)

**I357** Sch. 26 para. 12(2)(3)(a)(4) in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)

- 13 (1) Section 3 (transfer into the United Kingdom) is amended as follows.
- (2) In subsection (1), after “a warrant” insert “ under section 1 ”.
- (3) In subsections (2), (4) and (6), for “warrant under this Act” substitute “ warrant under section 1 ”.
- (4) In subsection (7)—
- (a) at the beginning insert “ Part 1 of ”; and
  - (b) for “warrant under this Act” substitute “ warrant under section 1 ”.
- (5) Subsection (10) is omitted.

#### Commencement Information

**I358** Sch. 26 para. 13 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)

- 14 (1) Section 4 (temporary return) is amended as follows
- (2) In subsection (1)—
- (a) for “warrant under this Act” substitute “ warrant under section 1 ”;
  - (b) in paragraph (a), after “Kingdom” (in the second place it appears) insert “ , or from which responsibility for his detention and release has previously been transferred to the United Kingdom, ”;
  - (c) in paragraph (b), after “transferred” insert “ , or to which responsibility for his detention and release has previously been transferred, ”.
- (3) In subsection (2)—

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- (a) for “a warrant under this Act” substitute “ a warrant under section 1 ”;
  - (b) for “earlier warrant under this Act” substitute “ earlier warrant under section 1 or section 4A ”.
- (4) In subsection (3)—
- (a) for “issued under this Act” substitute “ issued under section 1 ”;
  - (b) after “an earlier warrant” insert “ under section 1 or section 4A ”.
- (5) In subsection (4) for “warrant under this Act” substitute “ warrant under section 1 ”.
- (6) After subsection (5) insert—
- “(6) Any reference in subsection (5)(a) to the prisoner having previously been transferred into or from Scotland includes a reference to responsibility for his detention and release having previously been transferred to or from the Scottish Ministers (as the case may be).”.

**Commencement Information**

**I359** Sch. 26 para. 14 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)

- 15 Before section 5 (operation of warrant and retaking prisoners) insert— “ Supplementary and general provisions ”.

**Commencement Information**

**I360** Sch. 26 para. 15 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)

- 16 (1) Section 5 (operation of warrant and retaking prisoners) is amended as follows.
- (2) In subsection (1)—
- (a) for “under this Act” substitute “ under section 1 ”; and
  - (b) after “this section” insert “ (apart from subsection (9)) ”.
- (3) After subsection (8) insert—
- “(9) Where—
- (a) a warrant under section 4A has been issued, and
  - (b) the relevant person is a person to whom subsection (3) of that section applies,
- subsections (2) to (8) above apply for the purposes of that warrant (but with the modifications contained in subsection (10)), except (without prejudice to section 4C(4) or any enactment contained otherwise than in this Act) in relation to any time when the relevant person is required to be detained in accordance with provisions contained in the warrant by virtue of section 4C(1)(b).
- (10) In their application for the purposes of a warrant under section 4A those subsections shall have effect as if—
- (a) any reference to the warrant under section 1 (however expressed) were a reference to the warrant under section 4A;
  - (b) any reference to the prisoner were a reference to the relevant person;
  - (c) in subsection (4)—

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- (i) in paragraph (a) for “that person” there were substituted “the authorised person”; and
- (ii) paragraph (b) were omitted; and
- (d) in subsection (8)(a) for “transfer of a prisoner to or from Scotland” there were substituted “transfer of responsibility for the detention and release of the relevant person to the Scottish Ministers”.

#### Commencement Information

**I361** Sch. 26 para. 16 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)

- 17 (1) Section 6 (revocation etc. of warrants) is amended as follows.
- (2) In subsection (1)—
- (a) for “warrant under this Act” (in the first place they appear) substitute “warrant under section 1”;
  - (b) in paragraph (b) for “this Act” substitute “that section”.
- (3) After subsection (1) insert—
- “(1A) Subject to section 4A(8), if at any time it appears to the relevant Minister appropriate, in order that effect may be given to any such arrangements as are mentioned in section 4A(5)(a) for a warrant under section 4A to be revoked or varied, he may as the case may require—
- (a) revoke that warrant; or
  - (b) revoke that warrant and issue a new warrant under section 4A containing provision superseding some or all of the provisions of the previous warrant.”
- (4) In subsections (2) and (3) after “subsection (1)(b)” insert “or (1A)(b)”.
- (5) In subsection (5)(a), for the words from “where” to the end substitute “in a case where—
- (i) the warrant was issued under section 1 and provides for the transfer of the prisoner to or from Scotland; or
  - (ii) the warrant was issued under section 4A and provides for the transfer of responsibility for the detention and release of the relevant person to those Ministers;”.

#### Commencement Information

**I362** Sch. 26 para. 17 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)

- 18 (1) Section 8 is amended as follows.
- (2) In subsection (1) after the definition of “the prisoner” insert “; and  
“the relevant person” has the meaning given by section 4A(5)(b).”
- (3) In subsection (3)—
- (a) in paragraph (a) after “section 1(1)(a)” insert “or 4A(5)(a)”;
  - (b) in paragraph (b) for “such a party” substitute “a party to such international arrangements as are mentioned in section 1(1)(a)”;



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- (c) after paragraph (b) (but before the “or” after that paragraph) insert—
- “(ba) that the appropriate authority of a country or territory which is a party to such international arrangements as are mentioned in section 4A(5)(a) has agreed to the transfer of responsibility for the detention and release of a particular person in accordance with those arrangements.”.

**Commencement Information**

**I363** Sch. 26 para. 18 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)

- 19 (1) The Schedule (operation of certain enactments in relation to the prisoner) is amended as follows.
- (2) For the cross-heading before paragraph 1 substitute— “ Part 1 Warrants under section 1 Application of Part 1 ”.
- (3) In paragraph 1—
- (a) at the beginning insert “ This Part of ”;
- (b) after “under” insert “ section 1 of ”; and
- (c) after “; and in” insert “ this Part of ”.
- <sup>F162</sup>(4) .....
- <sup>F163</sup>(5) .....
- (6) After paragraph 8 insert—

**“PART 2**

WARRANTS UNDER SECTION 4A TRANSFERRING  
RESPONSIBILITY TO THE RELEVANT MINISTER

- 9 This Part of this Schedule applies where a warrant is issued under section 4A providing for the transfer of responsibility for the detention and release of the relevant person to the relevant Minister (within the meaning of that section).
- 10 Paragraphs 2 to 8 above apply as they apply where a warrant is issued under section 1, but with the following modifications.
- 11 Any reference to “the relevant provisions” is to be read as a reference to the provisions contained in the warrant by virtue of section 4C(1)(b).
- 12 (1) Any reference to the prisoner is to be read as a reference to the relevant person.
- (2) Sub-paragraph (1) does not apply to the words “a short-term or long-term prisoner” in paragraph 2(3) (as it applies in Scotland to repatriated prisoners any of whose sentences were imposed on or after 1 October 1993).
- 13 In paragraph 2 (as it applies in Scotland to repatriated prisoners any of whose sentences were imposed on or after 1 October 1993) the reference to prisoners repatriated to Scotland is to be read as a reference to any relevant person—

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- (a) in whose case the warrant under section 4A transfers responsibility for his detention and release from a country or territory outside the British Islands to the Scottish Ministers; and
  - (b) whose sentence or any of whose sentences in that country or territory were imposed on or after 1 October 1993.
- 14 The reference in paragraph 7 to the time of the prisoner's transfer into the United Kingdom is to be read as a reference to the time at which the warrant under section 4A was issued."

#### Textual Amendments

**F162** Sch. 26 para. 19(4) repealed (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 145(3)(a), 208(5)(p)

**F163** Sch. 26 para. 19(5) repealed (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 145(3)(a), 208(5)(p)

#### Commencement Information

**I364** Sch. 26 para. 19(1)(4) in force at 9.6.2008 by S.I. 2008/1466, art. 2(c)(i) (with art. 4)

**I365** Sch. 26 para. 19(2)(3)(5)(6) in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)

#### *Police and Criminal Evidence Act 1984 (c. 60)*

- 20 (1) In section 37B of the Police and Criminal Evidence Act 1984 (consultation with the Director of Public Prosecutions) in subsection (9) (meaning of caution)—
- (a) after paragraph (a) (and before the word “and” immediately following it) insert—
    - “(aa) a youth conditional caution within the meaning of Chapter 1 of Part 4 of the Crime and Disorder Act 1998”; and
  - (b) in paragraph (b), for “of the Crime and Disorder Act 1998” substitute “ of that Act ”.
- (2) In section 63B of that Act (testing for presence of Class A drugs) in subsection (7) (disclosure of information obtained from drug samples) in paragraph (aa) after “Criminal Justice Act 2003” insert “ or a youth conditional caution under Chapter 1 of Part 4 of the Crime and Disorder Act 1998 ”.

#### Commencement Information

**I366** Sch. 26 para. 20 in force at 16.11.2009 for specified purposes by S.I. 2009/2780, art. 2(1)(d)(2)

#### *Criminal Justice Act 1987 (c. 38)*

- 21 In section 1(17) of the Criminal Justice Act 1987 (application of Serious Fraud Office provisions to Northern Ireland), for “Attorney General for Northern Ireland” substitute “ Advocate General for Northern Ireland ”.

#### Commencement Information

**I367** Sch. 26 para. 21 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(h)

*Status:* This version of this Act contains provisions that are prospective.

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*Criminal Justice Act 1988 (c. 33)*

22 The Criminal Justice Act 1988 has effect subject to the following amendments.

**Commencement Information**

**I368** Sch. 26 para. 22 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(i)

23 In section 36 (reviews of sentencing), in subsection (2)(b)(iii) for “any of sections 225 to 228” substitute “ section 225(2) or 226(2) ”.

**Commencement Information**

**I369** Sch. 26 para. 23 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(i)

24 In section 160(1) (offence of possession of indecent photographs of children) for “Subject to subsection (1A),” substitute “ Subject to section 160A, ”.

*Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988 (S.I. 1988/1847 (N.I. 17))*

25 In article 15(5) of the Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988 (possession of indecent photographs of children) after “Article 2(2)” insert “ , (2A) ”.

*Football Spectators Act 1989 (c. 37)*

26 In paragraph 1(c), (k) and (q) of Schedule 1 to the Football Spectators Act 1989 (offences)—

(a) for “Part III” substitute “ Part 3 or 3A ”; and

(b) for “(racial hatred)” substitute “ (hatred by reference to race etc) ”.

**Commencement Information**

**I370** Sch. 26 para. 26 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(j)

*Criminal Justice (International Co-operation) Act 1990 (c. 5)*

27 In section 6(7) of the Criminal Justice (International Co-operation) Act 1990 (transfer of overseas prisoner to give evidence or assist investigation in the United Kingdom), for the words from “having been” to the end of paragraph (b) substitute “—

(b) having been transferred there, or responsibility for his detention and release having been transferred there, from the United Kingdom under the Repatriation of Prisoners Act 1984;

(c) having been transferred there, or responsibility for his detention and release having been transferred there, under any similar provision or arrangement from any other country or territory.”.

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#### Commencement Information

**I371** Sch. 26 para. 27 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(k)

#### *Broadcasting Act 1990 (c. 42)*

- 28 (1) Section 167 of the Broadcasting Act 1990 (power to make copies of recordings) is amended as follows.
- (2) In subsection (4)(b), after “section 24” insert “ or 29H ”.
- (3) In subsection (5)(b), after “section 22” insert “ or 29F ”.

#### Commencement Information

**I372** Sch. 26 para. 28 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(l)

#### *Criminal Justice Act 1991 (c. 53)*

- 29 (1) The Criminal Justice Act 1991 is amended as follows.
- <sup>F164</sup>(2) .....
- <sup>F164</sup>(3) .....
- <sup>F164</sup>(4) .....
- <sup>F164</sup>(5) .....
- (6) In paragraph 10(3)(d) of Schedule 3 (reciprocal enforcement of certain orders)—
- (a) for “references in paragraph 3 to a day centre were references to” substitute “ in paragraph 3 “day centre” meant ”, and
- (b) at the end insert “ or an attendance centre provided under section 221 of that Act ”.
- (7) Sub-paragraph (6) extends to England and Wales and Northern Ireland only.

#### Textual Amendments

**F164** Sch. 26 para. 29(2)-(5) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 16 para. 20(b); S.I. 2012/2906, art. 2(n)

#### Commencement Information

**I373** Sch. 26 para. 29(1)(2)(5) in force at 9.6.2008 by S.I. 2008/1466, art. 2(c)(ii)

**I374** Sch. 26 para. 29(3)(4)(6)(7) in force at 3.11.2008 by S.I. 2008/2712, art. 2, Sch. para. 18(b)

#### *Prisoners and Criminal Proceedings (Scotland) Act 1993 (c. 9)*

- 30 In section 10 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (life prisoners transferred to Scotland), after subsection (4) insert—

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“(4A) The reference in subsection (4)(b) above to a person who has been transferred to Scotland in pursuance of a warrant under the Repatriation of Prisoners Act 1984 includes a reference to a person who is detained in Scotland in pursuance of a warrant issued by the Scottish Ministers under section 4A of that Act (warrant transferring responsibility for detention and release of offender).

(4B) Such a person is to be taken to have been transferred when the warrant under section 4A of that Act was issued in respect of that person.”

**Commencement Information**

**I375** Sch. 26 para. 30 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(m)

*Crime (Sentences) Act 1997 (c. 43)*

31 The Crime (Sentences) Act 1997 has effect subject to the following amendments.

**Commencement Information**

**I376** Sch. 26 para. 31 in force at 9.6.2008 by S.I. 2008/1466, art. 2(c)(iii)

- 32 (1) Schedule 1 (transfer of prisoners within the British Islands) is amended as follows.
- (2) In paragraph 8(2)(a) (as it continues to have effect in relation to prisoners serving sentences of imprisonment for offences committed before 4th April 2005), after “46” insert “, 50A”.
  - (3) In paragraph 8(4)(a) (as it continues to have effect in relation to prisoners serving sentences of imprisonment for offences committed before 4th April 2005), after “46” insert “, 50A”.
  - (4) Any reference in paragraph 8(2)(a) or (4)(a) to section 39 of the 1991 Act is to be read as a reference to section 254(1) of the Criminal Justice Act 2003 (c. 44) in relation to any prisoner to whom paragraph 19 of Schedule 2 to the Criminal Justice Act 2003 (Commencement No. 8 and Transitional and Saving Provisions) Order 2005 (S.I. 2005/950) applies.
  - (5) In paragraph 9(2)(a) (as it continues to have effect in relation to prisoners serving sentences of imprisonment for offences committed before 4th April 2005), after “46” insert “, 50A”.
  - (6) In paragraph 9(4)(a) (as it continues to have effect in relation to prisoners serving sentences of imprisonment for offences committed before 4th April 2005), after “46” insert “, 50A”.
  - (7) Any reference in paragraph 9(2)(a) or (4)(a) to section 39 of the 1991 Act is to be read as a reference to section 254(1) of the Criminal Justice Act 2003 in relation to any prisoner to whom paragraph 19 of Schedule 2 to the Criminal Justice Act 2003 (Commencement No. 8 and Transitional and Saving Provisions) Order 2005 applies.

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#### Commencement Information

**I377** Sch. 26 para. 32 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(n)**

33 (1 Schedule 2 (repatriation of prisoners to the British Islands) is amended as follows.

<sup>F165</sup>(2) . . . . .

<sup>F166</sup>(3) . . . . .

(4) In paragraph 5 (which modifies paragraph 2 of the Schedule to the Repatriation of Prisoners Act 1984 (c. 47) in its application to certain descriptions of prisoner), after sub-paragraph (1)(b) insert—

- “(c) prisoners detained in Scotland in pursuance of warrants which—
- (i) are issued by the Scottish Ministers under section 4A of the Repatriation of Prisoners Act 1984 (warrant transferring responsibility for detention and release); and
  - (ii) relate to sentences that were imposed before 1 October 1993.”

#### Textual Amendments

**F165** Sch. 26 para. 33(2) repealed (28.6.2022) by **Police, Crime, Sentencing and Courts Act 2022 (c. 32)**, **ss. 145(3)(b), 208(5)(p)**

**F166** Sch. 26 para. 33(3) repealed (28.6.2022) by **Police, Crime, Sentencing and Courts Act 2022 (c. 32)**, **ss. 145(3)(b), 208(5)(p)**

#### Commencement Information

**I378** Sch. 26 para. 33(1)-(3) in force at 9.6.2008 by S.I. 2008/1466, **art. 2(c)(iii)**

**I379** Sch. 26 para. 33(4) in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(n)**

#### *Crime and Disorder Act 1998 (c. 37)*

34 (1) Section 38(4) of the Crime and Disorder Act 1998 (which defines “youth justice services” for the purposes of sections 38 to 41) is amended as follows.

(2) After paragraph (a) insert—

“(aa) the provision of assistance to persons determining whether reprimands or warnings should be given under section 65 below;”.

(3) After paragraph (b) insert—

“(ba) the provision of assistance to persons determining whether youth conditional cautions (within the meaning of Chapter 1 of Part 4) should be given and which conditions to attach to such cautions;

(bb) the supervision and rehabilitation of persons to whom such cautions are given;”.

#### Commencement Information

**I380** Sch. 26 para. 34(1)(2) in force at 16.11.2009 by S.I. 2009/2780, **art. 2(3)**

**I381** Sch. 26 para. 34(3) in force at 16.11.2009 for specified purposes by S.I. 2009/2780, **art. 2(1)(d)(2)**

*Status:* This version of this Act contains provisions that are prospective.

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*Youth Justice and Criminal Evidence Act 1999 (c. 23)*

35 The Youth Justice and Criminal Evidence Act 1999 has effect subject to the following amendments.

36 (1) Section 35 (child complainants and other child witnesses) is amended as follows.

(2) In subsection (3) (offences to which section applies), in paragraph (a)—

(a) before sub-paragraph (v) insert—

“(iva) any of sections 33 to 36 of the Sexual Offences Act 1956;” and

(b) in sub-paragraph (vi), at end insert “ or any relevant superseded enactment ”.

(3) After that subsection insert—

“(3A) In subsection (3)(a)(vi) “relevant superseded enactment” means—

(a) any of sections 1 to 32 of the Sexual Offences Act 1956;

(b) the Indecency with Children Act 1960;

(c) the Sexual Offences Act 1967;

(d) section 54 of the Criminal Law Act 1977.”

37 (1) Section 62 (meaning of “sexual offence” and other references to offences) is amended as follows.

(2) In subsection (1) at end insert “ or any relevant superseded offence ”.

(3) After that subsection insert—

“(1A) In subsection (1) “relevant superseded offence” means—

(a) rape or burglary with intent to rape;

(b) an offence under any of sections 2 to 12 and 14 to 17 of the Sexual Offences Act 1956 (unlawful intercourse, indecent assault, forcible abduction etc.);

(c) an offence under section 128 of the Mental Health Act 1959 (unlawful intercourse with person receiving treatment for mental disorder by member of hospital staff etc.);

(d) an offence under section 1 of the Indecency with Children Act 1960 (indecent conduct towards child under 14);

(e) an offence under section 54 of the Criminal Law Act 1977 (incitement of child under 16 to commit incest).”

38 The amendments made by paragraphs 36 and 37 are deemed to have had effect as from 1 May 2004.

39 Where an order under section 61 of the Youth Justice and Criminal Evidence Act 1999 (c. 23) (application of Part 2 of Act to service courts) makes provision as regards the application of any provision of section 35 or 62 of that Act which is amended or inserted by paragraph 36 or 37, the order may have effect in relation to times before the making of the order.

*Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)*

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

**Textual Amendments**

**F167** Sch. 26 paras. 40-49 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**F167** 41 . . . . .

**Textual Amendments**

**F167** Sch. 26 paras. 40-49 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**F167** 42 . . . . .

**Textual Amendments**

**F167** Sch. 26 paras. 40-49 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**F167** 43 . . . . .

**Textual Amendments**

**F167** Sch. 26 paras. 40-49 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**F167** 44 . . . . .

**Textual Amendments**

**F167** Sch. 26 paras. 40-49 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**F167** 45 . . . . .

**Textual Amendments**

**F167** Sch. 26 paras. 40-49 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**F167** 46 . . . . .

**Textual Amendments**

**F167** Sch. 26 paras. 40-49 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**F167** 47 . . . . .



*Status:* This version of this Act contains provisions that are prospective.

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

**Textual Amendments**

**F167** Sch. 26 paras. 40-49 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**F167** 48 . . . . .

**Textual Amendments**

**F167** Sch. 26 paras. 40-49 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**F167** 49 . . . . .

**Textual Amendments**

**F167** Sch. 26 paras. 40-49 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

PROSPECTIVE

*Criminal Justice and Court Services Act 2000 (c. 43)*

50 In section 1 of the Criminal Justice and Court Services Act 2000 (purposes of the Chapter)—  
(a) in subsection (1A)(a) for “authorised persons to be given assistance in” substitute “ the giving of assistance to persons ”, and  
(b) in subsection (4) for “ “authorised person” and “conditional caution” have” substitute “conditional caution” has ”.

*Life Sentences (Northern Ireland) Order 2001 (S.I. 2001/2564) (N.I. 2)*

51 In Article 10 of the Life Sentences (Northern Ireland) Order 2001 (life prisoners transferred to Northern Ireland), after paragraph (5) insert—  
“(6) The reference in paragraph (4)(b) to a person transferred to Northern Ireland in pursuance of a warrant under the Repatriation of Prisoners Act 1984 includes a person who is detained in Northern Ireland in pursuance of a warrant under section 4A of that Act (warrant transferring responsibility for detention and release of offender).”

**Commencement Information**

**I382** Sch. 26 para. 51 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(p)**

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

*Crime (International Co-operation) Act 2003 (c. 32)*

- 52 In section 48(2)(b) of the Crime (International Co-operation) Act 2003 (transfer of EU etc prisoner to assist UK investigation), for the words from “having been” to the end of paragraph (b) substitute “—
- (a) having been transferred there, or responsibility for his detention and release having been transferred there, from the United Kingdom under the Repatriation of Prisoners Act 1984;
  - (b) having been transferred there, or responsibility for his detention and release having been transferred there, under any similar provision or arrangement from any other country or territory.”

**Commencement Information**

**I383** Sch. 26 para. 52 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)

*Sexual Offences Act 2003 (c. 42)*

- 53 The Sexual Offences Act 2003 has effect subject to the following amendments.

**Commencement Information**

**I384** Sch. 26 para. 53 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(r)

- 54 (1) In section 83(6)(a) (notification requirements: initial notification) after “court” insert “ or kept in service custody ”.
- (2) This paragraph extends to England and Wales and Northern Ireland only.

**Commencement Information**

**I385** Sch. 26 para. 54 in force at 31.10.2009 by S.I. 2009/2606, art. 3(i)

- 55 (1) In section 85(4)(a) (notification requirements: periodic notification) after “court” insert “ or kept in service custody ”.
- (2) This paragraph extends to England and Wales and Northern Ireland only.

**Commencement Information**

**I386** Sch. 26 para. 55 in force at 31.10.2009 by S.I. 2009/2606, art. 3(i)

- 56 (1) Section 133 (interpretation) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a) of the definition of “cautioned”, for “by a police officer” substitute “ (or, in Northern Ireland, cautioned by a police officer) ”;
  - (b) at the appropriate place insert—
- ““kept in service custody” means kept in service custody by virtue of an order under section 105(2) of the Armed Forces Act 2006 (but see also subsection (3));”.

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(3) After subsection (2) insert—

“(3) In relation to any time before the commencement of section 105(2) of the Armed Forces Act 2006, “kept in service custody” means being kept in military, air-force or naval custody by virtue of an order made under section 75A(2) of the Army Act 1955 or of the Air Force Act 1955 or section 47G(2) of the Naval Discipline Act 1957 (as the case may be).”

(4) This paragraph extends to England and Wales and Northern Ireland only.

#### Commencement Information

**I387** Sch. 26 para. 56(1)(2)(a)(4) in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(r)

**I388** Sch. 26 para. 56(2)(b)(3) in force at 31.10.2009 by S.I. 2009/2606, art. 3(i)

57 (1) In section 138 (orders and regulations), at the end insert—

“(4) Orders or regulations made by the Secretary of State under this Act may—  
(a) make different provision for different purposes;  
(b) include supplementary, incidental, consequential, transitional, transitory or saving provisions.”

(2) The amendment made by sub-paragraph (1), and the repeals in Part 4 of Schedule 28 of sections 86(4) and 87(6) of the Sexual Offences Act 2003 (which are consequential on that amendment), extend to England and Wales and Northern Ireland only.

#### Commencement Information

**I389** Sch. 26 para. 57 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(r)

58 (1) Schedule 3 (sexual offences in respect of which offender becomes subject to notification requirements) is amended as follows.

(2) After paragraph 35 insert—

“35A An offence under section 63 of the Criminal Justice and Immigration Act 2008 (possession of extreme pornographic images) if the offender—  
(a) was 18 or over, and  
(b) is sentenced in respect of the offence to imprisonment for a term of at least 2 years.”

(3) After paragraph 92 insert—

“92A An offence under section 63 of the Criminal Justice and Immigration Act 2008 (possession of extreme pornographic images) if the offender—  
(a) was 18 or over, and  
(b) is sentenced in respect of the offence to imprisonment for a term of at least 2 years.”

(4) In paragraphs 93(1) and 93A(1) (service offences) for “35” substitute “ 35A ”.

(5) This paragraph extends to England and Wales and Northern Ireland only.

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

#### Commencement Information

**I390** Sch. 26 para. 58 in force at 26.1.2009 by S.I. 2008/2993, art. 2(2)(j)

#### Criminal Justice Act 2003 (c. 44)

59 The Criminal Justice Act 2003 has effect subject to the following amendments.

#### Commencement Information

**I391** Sch. 26 para. 59 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(a)

**I392** Sch. 26 para. 59 in force at 8.7.2009 for specified purposes by S.I. 2009/1678, arts. 2(b)(i), 3(b)(i)

**I393** Sch. 26 para. 59 in force at 8.4.2013 for specified purposes by S.I. 2013/616, art. 2(c)(i)

- 60 (1) Section 23A (financial penalties) is amended as follows.
- (2) In subsection (5), for paragraphs (b) and (c) substitute—
- “(b) the person to whom the financial penalty is to be paid and how it may be paid.”
- (3) In subsection (6), for “to the specified officer” substitute “ in accordance with the provision specified under subsection (5)(b). ”
- (4) After subsection (6) insert—
- “(6A) Where a financial penalty is (in accordance with the provision specified under subsection (5)(b)) paid to a person other than a designated officer for a local justice area, the person to whom it is paid must give the payment to such an officer.”
- (5) Omit subsections (7) to (9).

#### Commencement Information

**I394** Sch. 26 para. 60 in force at 8.7.2009 by S.I. 2009/1678, art. 3(b)(ii)

**I395** Sch. 26 para. 60 in force at 8.4.2013 in so far as not already in force by S.I. 2013/616, art. 2(c)(ii)

61 After section 23A insert—

#### “23B Variation of conditions

A relevant prosecutor may, with the consent of the offender, vary the conditions attached to a conditional caution by—

- (a) modifying or omitting any of the conditions;
- (b) adding a condition.”

#### Commencement Information

**I396** Sch. 26 para. 61 in force at 8.7.2009 by S.I. 2009/1678, art. 2(b)(ii)

62 In section 25 (codes of practice) in subsection (2) after paragraph (g) insert—

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**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

“(ga) the provision which may be made by a relevant prosecutor under section 23A(5)(b),”.

**Commencement Information**

**I397** Sch. 26 para. 62 in force at 8.7.2009 by [S.I. 2009/1678](#), [art. 3\(b\)\(ii\)](#)

**I398** Sch. 26 para. 62 in force at 8.4.2013 in so far as not already in force by [S.I. 2013/616](#), [art. 2\(c\)\(ii\)](#)

63 In sections 88(3), 89(9) and 91(5) (days to be disregarded in calculating certain time periods relating to bail and custody under Part 10), before paragraph (a) insert—  
“(za) Saturday,”.

**Commencement Information**

**I399** Sch. 26 para. 63 in force at 15.7.2008 by [S.I. 2008/1586](#), [art. 2\(2\)](#)

F168~~64~~ .....

**Textual Amendments**

**F168** Sch. 26 paras. 64-70 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with [ss. 413\(4\)\(5\)](#), [416\(7\)](#), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

F168~~65~~ .....

**Textual Amendments**

**F168** Sch. 26 paras. 64-70 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with [ss. 413\(4\)\(5\)](#), [416\(7\)](#), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

F168~~66~~ .....

**Textual Amendments**

**F168** Sch. 26 paras. 64-70 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with [ss. 413\(4\)\(5\)](#), [416\(7\)](#), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

F168~~67~~ .....

**Textual Amendments**

**F168** Sch. 26 paras. 64-70 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with [ss. 413\(4\)\(5\)](#), [416\(7\)](#), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

F168~~68~~ .....

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

#### Textual Amendments

**F168** Sch. 26 paras. 64-70 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**F168**<sup>69</sup> .....

#### Textual Amendments

**F168** Sch. 26 paras. 64-70 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**F168**<sup>70</sup> .....

#### Textual Amendments

**F168** Sch. 26 paras. 64-70 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

71 In section 264 (consecutive terms), in subsection (6)(a)(i) after “means” insert “one-half of”.

#### Commencement Information

**I400** Sch. 26 para. 71 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(a)** (with [Sch. 2 para. 2](#))

**F169**<sup>72</sup> .....

#### Textual Amendments

**F169** Sch. 26 para. 72 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

73 In section 273 (life prisoners transferred to England and Wales), after subsection (4) insert—

“(5) The reference in subsection (2)(b) above to a person who has been transferred to England and Wales in pursuance of a warrant issued under the Repatriation of Prisoners Act 1984 includes a reference to a person who is detained in England and Wales in pursuance of a warrant under section 4A of that Act (warrant transferring responsibility for detention and release of offender).”

#### Commencement Information

**I401** Sch. 26 para. 73 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(a)**

74 (1) Section 325 (arrangements for assessing etc risks posed by certain offenders) is amended as follows.

(2) In subsection (8), for “section 326” substitute “sections 326 and 327A”.

*Status: This version of this Act contains provisions that are prospective.*

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(3) After that subsection insert—

“(8A) Responsible authorities must have regard to any guidance issued under subsection (8) in discharging those functions.”

**Commencement Information**

**I402** Sch. 26 para. 74 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(a)

75 In section 326(5)(a) (review of arrangements), for “and this section” substitute “, this section and section 327A ”.

**Commencement Information**

**I403** Sch. 26 para. 75 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(a)

F170~~76~~ .....

**Textual Amendments**

**F170** Sch. 26 para. 76 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 21 para. 35(b)(iii); S.I. 2012/2906, art. 2(s)

77 In Part 4 of Schedule 37, in the entry relating to the Magistrates' Courts Act 1980, in the second column, omit the words “In section 33(1), paragraph (b) and the word “and” immediately preceding it”.

*Criminal Justice Act 2003 (Commencement No. 8 and Transitional and Saving Provisions) Order 2005 (S.I. 2005/950)*

78 In paragraph 14 of Schedule 2 to the Criminal Justice Act 2003 (Commencement No. 8 and Transitional and Saving Provisions) Order 2005 (saving from certain provisions of the Criminal Justice Act 2003 for sentences of imprisonment of less than 12 months), for “sections 244 to 268” substitute “ sections 244 to 264 and 266 to 268 ”.

**Commencement Information**

**I404** Sch. 26 para. 78 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(s)

*Terrorism Act 2006 (c. 11)*

- 79 (1) Schedule 1 to the Terrorism Act 2006 (Convention offences) is amended as follows.
- (2) In the cross-heading before paragraph 6 (offences involving nuclear material), after “material” add “ or nuclear facilities ”.
- (3) In paragraph 6(1), after “section 1(1)” insert “ (a) to (d) ”.
- (4) For paragraph 6(2) and (3) substitute—

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- “(2) An offence mentioned in section 1(1)(a) or (b) of that Act where the act making the person guilty of the offence (whether done in the United Kingdom or elsewhere)—
- (a) is directed at a nuclear facility or interferes with the operation of such a facility, and
  - (b) causes death, injury or damage resulting from the emission of ionising radiation or the release of radioactive material.
- (3) An offence under any of the following provisions of that Act—
- (a) section 1B (offences relating to damage to environment);
  - (b) section 1C (offences of importing or exporting etc. nuclear material: extended jurisdiction);
  - (c) section 2 (offences involving preparatory acts and threats).
- (4) Expressions used in this paragraph and that Act have the same meanings in this paragraph as in that Act.”

(5) After paragraph 6 insert—

“6A (1) Any of the following offences under the Customs and Excise Management Act 1979—

- (a) an offence under section 50(2) or (3) (improper importation of goods) in connection with a prohibition or restriction relating to the importation of nuclear material;
- (b) an offence under section 68(2) (exportation of prohibited or restricted goods) in connection with a prohibition or restriction relating to the exportation or shipment as stores of nuclear material;
- (c) an offence under section 170(1) or (2) (fraudulent evasion of duty etc.) in connection with a prohibition or restriction relating to the importation, exportation or shipment as stores of nuclear material.

(2) In this paragraph “nuclear material” has the same meaning as in the Nuclear Material (Offences) Act 1983 (see section 6 of that Act).”

#### Commencement Information

**I405** Sch. 26 para. 79 in force at 30.11.2009 by S.I. 2009/3074, art. 2(s)

#### *Natural Environment and Rural Communities Act 2006 (c. 16)*

80 In paragraph 7 of Schedule 5 to the Natural Environment and Rural Communities Act 2006 (powers of wildlife inspectors extended to certain other Acts) after paragraph (d) insert—

“(da) section 19XB(1) and (4) (offences in connection with enforcement powers);”.

#### Commencement Information

**I406** Sch. 26 para. 80 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(t)



*Status:* This version of this Act contains provisions that are prospective.

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

*Police and Justice Act 2006 (c. 48)*

- 81 (1) The Police and Justice Act 2006 is amended as follows.
- (2) In subsection (1) of section 49 (orders and regulations)—
- (a) at the end of paragraph (a) insert “ or ”;
  - (b) omit paragraph (c) and the “or” preceding it.
- (3) In paragraph 30 of Schedule 1 (National Policing Improvement Agency: inspections) omit sub-paragraph (3).

**Commencement Information**

**I407** Sch. 26 para. 81 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(u)

*Armed Forces Act 2006 (c. 52)*

- 82 (1) The Armed Forces Act 2006 has effect subject to the following amendments.
- (2) In paragraph 12(ah) of Schedule 2 (offences)—
- (a) for “and 18 to 23” substitute “ , 18 to 23 and 29B to 29G ”, and
  - (b) for “racial or religious hatred” substitute “ hatred by reference to race etc ”.
- (3) In paragraph 1(2) of Schedule 5 (service community orders: general)—
- (a) for “12, 13, 15, 16(5), 17(5) and (6)” substitute “ 13, 16(5), 17(6) ”, and
  - (b) after “21” insert “ , 25A ”.
- (4) In paragraph 10(2)(b) of Schedule 5 (overseas community orders: general)—
- (a) for “12, 13, 15, 16(5), 17(5) and (6)” substitute “ 13, 16(5), 17(6) ”, and
  - (b) for “and 23(1)(a)(ii)” substitute “ , 23(1)(a)(ii) and 25A ”.

**Commencement Information**

**I408** Sch. 26 para. 82 in force at 31.10.2009 by S.I. 2009/2606, art. 3(i)

*Offender Management Act 2007 (c. 21)*

- 83 In section 1 of the Offender Management Act 2007 (meaning of “the probation purposes”)—
- (a) in subsection (1)(b) for “authorised persons to be given assistance in” substitute “ the giving of assistance to persons ”, and
  - (b) in subsection (4) for ““authorised person” and “conditional caution” have” substitute “conditional caution” has ”.

**Commencement Information**

**I409** Sch. 26 para. 83 in force at 1.4.2010 by S.I. 2010/712, art. 3(b)

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## SCHEDULE 27

Section 148

## TRANSITORY, TRANSITIONAL AND SAVING PROVISIONS

## PART 1

## YOUTH JUSTICE

*Abolition of certain youth orders and related amendments*

- 1 (1) Section 1, subsections (1) and (2) of section 6, the amendments in Part 1 of Schedule 4 and the repeals and revocations in Part 1 of Schedule 28 do not have effect in relation to—
- (a) any offence committed before they come into force, or
  - (b) any failure to comply with an order made in respect of an offence committed before they come into force.
- (2) So far as an amendment in Part 2 of Schedule 4 relates to any of the following orders, the amendment has effect in relation to orders made before, as well as after, the amendment comes into force—
- (a) a referral order made under the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6);
  - (b) a reparation order made under that Act;
  - (c) a community order made under section 177 of the Criminal Justice Act 2003 (c. 44).

**Commencement Information**

**I410** Sch. 27 para. 1 in force at 30.11.2009 by S.I. 2009/3074, art. 2(t)(i)

*Reparation orders*

- 2 (1) Sub-paragraph (2) applies if the amendments of Schedule 8 to the Powers of Criminal Courts (Sentencing) Act 2000 (action plan orders and reparation orders) made by paragraph 108(1) to (5) of Schedule 4 (reparation orders: court before which offender to appear or be brought) come into force before the amendments of Schedule 8 to that Act made by paragraph 62 of that Schedule.
- (2) After paragraph 108(1) to (5) of Schedule 4 comes into force, and until paragraph 62 of that Schedule comes into force, paragraph 3 of Schedule 8 to the Powers of Criminal Courts (Sentencing) Act 2000 has effect as if—
- (a) in sub-paragraph (5)(a) and (c), for “the appropriate court” there were substituted “a youth court”, and
  - (b) in sub-paragraph (6), for “appropriate” there were substituted “youth”.
- (3) Sub-paragraph (4) applies if the amendments of Schedule 8 to the Powers of Criminal Courts (Sentencing) Act 2000 (action plan orders and reparation orders) made by paragraph 62 of Schedule 4 come into force before the amendments of Schedule 8 to that Act made by paragraph 108(1) to (5) of that Schedule (reparation orders: court before which offender to appear or be brought).

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (4) After paragraph 62 of Schedule 4 comes into force, and until paragraph 108(1) to (5) of that Schedule comes into force, paragraph 1 of Schedule 8 to the Powers of Criminal Courts (Sentencing) Act 2000 has effect as if—
- (a) for “an action plan order or” there were substituted “ a ”, and
  - (b) the words “69(8) or, as the case may be,” were omitted.

**Commencement Information**

I411 Sch. 27 para. 2 in force at 30.11.2009 by S.I. 2009/3074, art. 2(t)(i)

*Making of youth rehabilitation orders: other existing orders*

- 3 In paragraph 29(3)(c) of Schedule 1 (requirements not to conflict with other obligations), the reference to a youth rehabilitation order is to be read as including a reference to any youth community order within the meaning of section 147(2) of the Criminal Justice Act 2003 (c. 44) (as it has effect immediately before the commencement of paragraph 72 of Schedule 4 to this Act).

**Commencement Information**

I412 Sch. 27 para. 3 in force at 30.11.2009 by S.I. 2009/3074, art. 2(t)(i)

*Instructions: other existing orders*

- 4 In section 5(3)(c) (instructions not to conflict with other obligations), the reference to a youth rehabilitation order is to be read as including a reference to any youth community order within the meaning of section 147(2) of the Criminal Justice Act 2003 (as it has effect immediately before the commencement of paragraph 72 of Schedule 4 to this Act).

**Commencement Information**

I413 Sch. 27 para. 4 in force at 30.11.2009 by S.I. 2009/3074, art. 2(t)(i)

*Fine default: section 35 of the Crime (Sentences) Act 1997*

- 5 The amendments, repeals and revocations in section 6, Schedule 4 and Part 1 of Schedule 28 of provisions which are necessary to give effect to section 35 of the Crime (Sentences) Act 1997 (c. 43) (fine defaulters) do not have effect in relation to a sum ordered to be paid where—
- (a) the sum is treated as adjudged to be paid on conviction, and
  - (b) the act or omission to which the sum relates occurred, or the order was made, before the commencement of those repeals and amendments.

**Commencement Information**

I414 Sch. 27 para. 5 in force at 30.11.2009 by S.I. 2009/3074, art. 2(t)(i)

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

### *Restrictions on imposing community sentences*

- 6 In subsection (5) of section 148 of the Criminal Justice Act 2003 (restrictions on imposing community sentences), as inserted by section 10 of this Act, the reference to a youth rehabilitation order is to be read as including a reference to any youth community order within the meaning of section 147(2) of the Criminal Justice Act 2003 (as it has effect immediately before the commencement of paragraph 72 of Schedule 4 to this Act).

#### **Commencement Information**

- I415** Sch. 27 para. 6 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 49**  
**I416** Sch. 27 para. 6 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(t)(i)**

### *Attendance centre rules*

- 7 The reference in paragraph 1(2)(a)(ii) of Schedule 2 to rules made under subsection (1)(d) or (e) of section 222 of the Criminal Justice Act 2003 includes a reference to rules made, or having effect as if made, before the coming into force of that section under section 62(3) of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (provision, regulation and management of attendance centres).

#### **Commencement Information**

- I417** Sch. 27 para. 7 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(t)(i)**

## **PART 2**

### **SENTENCING**

#### *Release and recall of prisoners*

F1718 .....

#### **Textual Amendments**

- F171** Sch. 27 para. 8 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 16 para. 20(c)**; S.I. 2012/2906, art. 2(n)

F1729 .....

#### **Textual Amendments**

- F172** Sch. 27 para. 9 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 16 para. 20(c)**; S.I. 2012/2906, art. 2(n)

- 10 The amendments made by subsections (3) and (5) of section 28 do not apply in relation to any person who is released on licence under section 36(1) of the Criminal Justice Act 1991 before the commencement of section 28.

*Status: This version of this Act contains provisions that are prospective.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

**Commencement Information**

**I418** Sch. 27 para. 10 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 49

- 11 In section 255A and 255C of the Criminal Justice Act 2003 (which are inserted by section 29) “specified offence prisoner” is to be read as including a prisoner serving a determinate sentence by virtue of having been transferred to the United Kingdom in pursuance of a warrant under section 1 of the Repatriation of Prisoners Act 1984 if—
- (a) the warrant was issued before the commencement of section 29; and
  - (b) the offence or one of the offences for which the prisoner is serving that sentence corresponds to murder or to any offence specified in Schedule 15 to the Criminal Justice Act 2003.

**Commencement Information**

**I419** Sch. 27 para. 11 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 49

- 12 The amendment made by subsection (1) of section 32 applies in relation to any person who is recalled under section 254(1) of the Criminal Justice Act 2003 on or after the commencement of section 32 but it is immaterial when the person was released on licence under Part 2 of the Criminal Justice Act 1991.

**Commencement Information**

**I420** Sch. 27 para. 12 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 49

*Fine defaulters*

- 13 (1) Section 39 and Schedule 7 do not apply—
- (a) in relation to a sum adjudged to be paid by a conviction if the offence was committed before the commencement of that section, or
  - (b) where a sum ordered to be paid is treated as adjudged to be paid by a conviction, if the act or omission to which the sum relates occurred, or the order was made, before the commencement of that section.
- (2) Section 40 and paragraph 2(4) and (6) of Schedule 26 do not apply—
- (a) in relation to a sum adjudged to be paid by a conviction if the offence was committed before the commencement of that section, or
  - (b) where a sum ordered to be paid is treated as adjudged to be paid by a conviction, if the act or omission to which the sum relates occurred, or the order was made, before the commencement of that section.

**Commencement Information**

**I421** Sch. 27 para. 13(2) in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 49

*Status: This version of this Act contains provisions that are prospective.*

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### PART 3

#### APPEALS

##### *Appeals against conviction etc.*

- 14 The amendment made by section 42 applies in relation to an appeal under Part 1 of the Criminal Appeal Act 1968 (c. 19) if the reference by the Criminal Cases Review Commission is made on or after the date on which that section comes into force.

##### Commencement Information

I422 Sch. 27 para. 14 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 49

- 15 The amendment made by section 43 applies in relation to an appeal under Part 1 of the Criminal Appeal (Northern Ireland) Act 1980 (c. 47) if the reference by the Criminal Cases Review Commission is made on or after the date on which that section comes into force.

##### Commencement Information

I423 Sch. 27 para. 15 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 49

##### *Prosecution appeals*

- 16 (1) The amendment made by section 44 applies in relation to an appeal under Part 9 of the Criminal Justice Act 2003 (c. 44) if the proceedings on appeal begin on or after the date on which that section comes into force.
- (2) For the purposes of this paragraph, the proceedings on appeal begin—
- (a) if the prosecution appeals with leave of the Crown Court judge, on the date the application for leave is served on the Crown Court officer or, in the case of an oral application, on the date the application is made, or
  - (b) if the prosecution appeals with leave of the Court of Appeal, on the date the application for leave is served on the Crown Court officer.
- (3) In this paragraph, references to service on the Crown Court officer are to be read in accordance with the Criminal Procedure Rules 2005 (S.I.2005/384).

##### Commencement Information

I424 Sch. 27 para. 16 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 49

- 17 (1) The amendment made by section 45 applies in relation to an appeal under Part IV of the Criminal Justice (Northern Ireland) Order 2004 (S.I. 2004/1500 (N.I.9)) if the proceedings on appeal begin on after the date on which that section comes into force.
- (2) For the purposes of this paragraph, the proceedings on appeal begin—
- (a) if the prosecution appeals with leave of the Crown Court judge, on the date the application for leave is made,
  - (b) if the prosecution appeals with leave of the Court of Appeal, on the date the application for leave is served on the proper officer, or

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(c) if leave to appeal is not required, on the date the prosecution informs the Crown Court judge that it intends to appeal.

(3) In this paragraph, “the proper officer” has the same meaning as in the Criminal Appeal (Prosecution Appeals) Rules (Northern Ireland) 2005 (S.R (N.I.) 2005/159).

**Commencement Information**

**I425** Sch. 27 para. 17 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 49

**PART 4**

OTHER CRIMINAL JUSTICE PROVISIONS

*Alternatives to prosecution for offenders under 18*

18 The amendments made by Schedule 9 do not apply in relation to offences committed before the commencement of section 48.

**Commencement Information**

**I426** Sch. 27 para. 18 in force at 16.11.2009 for specified purposes by S.I. 2009/2780, art. 2(1)(e)(2)

*Protection for spent cautions under Rehabilitation of Offenders Act 1974*

- 19 (1) Subject to the following provisions of this paragraph, the Rehabilitation of Offenders Act 1974 (c. 53) (as amended by Schedule 10 to this Act) applies to cautions given before the commencement date as it applies to cautions given on or after that date.
- (2) A caution given before the commencement date shall be regarded as a spent caution at a time determined in accordance with sub-paragraphs (3) to (8).
- (3) A caution other than a conditional caution (as defined in section 8A(2)(a) of the 1974 Act) shall be regarded as a spent caution on the commencement date.
- (4) If the period of three months from the date on which a conditional caution was given ends on or before the commencement date, the caution shall be regarded as a spent caution on the commencement date unless sub-paragraph (7) applies.
- (5) If the period of three months from the date on which a conditional caution was given ends after the commencement date, the caution shall be regarded as a spent caution at the end of that period of three months unless sub-paragraph (7) applies.
- (6) Sub-paragraph (7) applies if—
- (a) before the date on which the caution would be regarded as a spent caution in accordance with sub-paragraph (4) or (5) (“the relevant date”), the person concerned is convicted of the offence in respect of which the caution was given, and
- (b) the rehabilitation period for the offence ends after the relevant date.
- (7) The caution shall be regarded as a spent caution at the end of the rehabilitation period for the offence.

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- (8) If, on or after the date on which the caution becomes regarded as a spent caution in accordance with sub-paragraph (4) or (5), the person concerned is convicted of the offence in respect of which the caution was given—
- (a) the caution shall be treated for the purposes of Schedule 2 to the 1974 Act as not having become spent in relation to any period before the end of the rehabilitation period for the offence, and
  - (b) the caution shall be regarded as a spent caution at the end of that rehabilitation period.
- (9) In this paragraph, “the commencement date” means the date on which section 49 comes into force.

#### Commencement Information

**I427** Sch. 27 para. 19 in force at 19.12.2008 by S.I. 2008/3260, art. 2(1)(e)

- 20 In the application of subsection (7) of section 9A of the Rehabilitation of Offenders Act 1974 (as inserted by paragraph 4 of Schedule 10) to offences committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44), the reference to 51 weeks is to be read as a reference to 6 months.

#### Commencement Information

**I428** Sch. 27 para. 20 in force at 19.12.2008 by S.I. 2008/3260, art. 2(1)(e)

#### *Extension of powers of non-legal staff*

- 21 A designation made under section 7A of the Prosecution of Offences Act 1985 (c. 23) (powers of non-legal staff) which has effect immediately before the date on which section 55 comes into force continues to have effect on and after that date as if made under section 7A as amended by that section.

#### Commencement Information

**I429** Sch. 27 para. 21 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 49

#### *Compensation for miscarriages of justice*

- 22 (1) Section 61(3) has effect in relation to any application for compensation made in relation to—
- (a) a conviction which is reversed, and
  - (b) a pardon which is given,
- on or after the commencement date.
- (2) Section 61(4), (6) and (7) have effect in relation to—
- (a) any application for compensation made on or after the commencement date, and
  - (b) any application for compensation made before that date in relation to which the question whether there is a right to compensation has not been



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determined before that date by the Secretary of State under section 133(3) of the 1988 Act.

- (3) Section 61(5) has effect in relation to any conviction quashed on an appeal out of time in respect of which an application for compensation has not been made before the commencement date.
- (4) Section 61(5) so has effect whether a conviction was quashed before, on or after the commencement date.
- (5) In the case of—
- (a) a conviction which is reversed, or
  - (b) a pardon which is given,
- before the commencement date but in relation to which an application for compensation has not been made before that date, any such application must be made before the end of the period of 2 years beginning with that date.
- (6) But the Secretary of State may direct that an application for compensation in relation to a case falling within sub-paragraph (5) which is made after the end of that period is to be treated as if it had been made before the end of that period if the Secretary of State considers that there are exceptional circumstances which justify doing so.
- (7) In this paragraph—
- “the 1988 Act” means the Criminal Justice Act 1988 (c. 33);
  - “application for compensation” means an application for compensation made under section 133(2) of the 1988 Act;
  - “the commencement date” means the date on which section 61 comes into force;
  - “reversed” has the same meaning as in section 133 of the 1988 Act (as amended by section 61(5)).

#### Commencement Information

**I430** Sch. 27 para. 22 in force at 1.12.2008 by S.I. 2008/2993, art. 2(1)(j)

## PART 5

### CRIMINAL LAW

#### *Penalties for possession of extreme pornographic images*

- 23 In section 67(4)(a) the reference to <sup>[F173]</sup>the general limit in a magistrates’ court] is to be read as a reference to 6 months in relation to an offence committed before <sup>[F174]</sup>2 May 2022].

#### Textual Amendments

**F173** Words in Sch. 27 para. 23 substituted (7.2.2023 at 12.00 p.m.) by The Judicial Review and Courts Act 2022 (Magistrates’ Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), 2(1), Sch. Pt. 1 table

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**F174** Words in Sch. 27 para. 23 substituted (28.4.2022) by The Criminal Justice Act 2003 (Commencement No. 33) and Sentencing Act 2020 (Commencement No. 2) Regulations 2022 (S.I. 2022/500), regs. 1(2), 5(1), Sch. Pt. 1

#### Commencement Information

**I431** Sch. 27 para. 23 in force at 26.1.2009 by S.I. 2008/2993, art. 2(2)(k)

#### *Indecent photographs of children*

- 24 (1) Section 69(3) applies in relation to things done as mentioned in—
- (a) section 1(1) of the Protection of Children Act 1978 (c. 37) (offences relating to indecent photographs of children), or
  - (b) section 160(1) of the Criminal Justice Act 1988 (c. 33) (offence of possession of indecent photographs of children),
- after the commencement of section 69.
- (2) Section 70(3) applies in relation to things done as mentioned in—
- (a) Article 3(1) of the Protection of Children (Northern Ireland) Order 1978 (S.I. 1978/1047 (N.I. 17)) (offences relating to indecent photographs of children), or
  - (b) Article 15(1) of the Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988 (S.I. 1988/1847 (N.I. 17)) (offence of possession of indecent photographs of children),
- after the commencement of section 70.

#### *Maximum penalty for publication etc. of obscene articles*

- 25 Section 71 does not apply to offences committed before the commencement of that section.

#### Commencement Information

**I432** Sch. 27 para. 25 in force at 26.1.2009 by S.I. 2008/2993, art. 2(2)(k)

#### *Offences relating to nuclear material and nuclear facilities*

- 26 The new section 2 inserted into the Nuclear Material (Offences) Act 1983 (c. 18) by paragraph 4 of Schedule 17 and the repeal in Part 5 of Schedule 28 of section 14 of the Terrorism Act 2006 (c. 11) do not apply in relation to anything done before the date on which Schedule 17 comes into force.

#### Commencement Information

**I433** Sch. 27 para. 26 in force at 30.11.2009 by S.I. 2009/3074, art. 2(t)(ii)

#### *Reasonable force for purposes of self-defence etc.*

- 27 (1) Section 76 applies whether the alleged offence took place before, or on or after, the date on which that section comes into force.

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- (2) But that section does not apply in relation to—
- (a) any trial on indictment where the arraignment took place before that date, or
  - (b) any summary trial which began before that date,
- or in relation to any proceedings in respect of any trial within paragraph (a) or (b).
- (3) Where the alleged offence is a service offence, that section similarly does not apply in relation to—
- (a) any proceedings before a court where the arraignment took place before that date, or
  - (b) any summary proceedings which began before that date,
- or in relation to any proceedings in respect of any proceedings within paragraph (a) or (b).
- (4) For the purposes of sub-paragraph (3) summary proceedings are to be regarded as beginning when the hearing of the charge, or (as the case may be) the summary trial of the charge, begins.
- (5) In this paragraph—
- “service offence” means—
    - (a) any offence against any provision of Part 2 of the Army Act 1955 (3 & 4 Eliz. 2 c. 18), Part 2 of the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19) or Part 1 of the Naval Discipline Act 1957 (c. 53); or
    - (b) any offence under Part 1 of the Armed Forces Act 2006 (c. 52);
  - “summary proceedings” means summary proceedings conducted by a commanding officer or appropriate superior authority.

**Commencement Information**

**I434** Sch. 27 para. 27 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 49

PROSPECTIVE

*Unlawfully obtaining etc. personal data: defences*

28 The amendment made by section 78 does not apply in relation to an offence committed before the commencement of that section.

**PART 6**

INTERNATIONAL CO-OPERATION IN RELATION TO CRIMINAL JUSTICE MATTERS

*Mutual recognition of financial penalties*

*Status: This version of this Act contains provisions that are prospective.*

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#### Textual Amendments

**F175** Sch. 27 para. 29 omitted (31.12.2020) by virtue of [The Criminal Justice \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/780), regs. 1(1), **19(1)(e)** (with regs. 19(2), 20) (as amended by S.I. 2020/1408, regs. 1, 49, 50); 2020 c. 1, Sch. 5 para. 1(1)

#### *Repatriation of prisoners*

- 30 The amendment made by section 93 does not apply to warrants under section 1 of the Repatriation of Prisoners Act 1984 issued before the commencement of that section.

#### Commencement Information

**I435** Sch. 27 para. 30 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 49**

## PART 7

### VIOLENT OFFENDER ORDERS

#### *Penalties for offences*

- 31 <sup>[F176]</sup>In section 113(7)(c) the reference to the general limit in a magistrates' court is to be read as a reference to 6 months in relation to an offence committed before 2 May 2022].

#### Textual Amendments

**F176** Sch. 27 para. 31 substituted (7.2.2023 at 12.00 p.m.) by [The Judicial Review and Courts Act 2022](#) (Magistrates' Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), **16(4)**

#### Commencement Information

**I436** Sch. 27 para. 31 in force at 3.8.2009 by S.I. 2009/1842, art. 2(v)

#### *Service custody and detention*

- 32 (1) In relation to any time before the commencement of section 105(2) of the Armed Forces Act 2006 (c. 52)—
- (a) the definition of “kept in service custody” in section 117(1) of this Act does not apply; and
  - (b) any reference in Part 7 to being kept in service custody is to be read as a reference to being kept in military, air-force or naval custody by virtue of an order made under section 75A(2) of the Army Act 1955 (3 & 4 Eliz. 2 c. 18) or of the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19) or section 47G(2) of the Naval Discipline Act 1957 (c. 53) (as the case may be).
- (2) In relation to any time before the commencement of the definition of “service detention” in section 374 of the Armed Forces Act 2006—

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- (a) the definition of “service detention” in section 117(1) of this Act does not apply; and
- (b) any reference in Part 7 to service detention is to be read as a reference to detention under section 71(1)(e) of the Army Act 1955 or of the Air Force Act 1955 or section 43(1)(e) of the Naval Discipline Act 1957.

**Commencement Information**

I437 Sch. 27 para. 32 in force at 3.8.2009 by S.I. 2009/1842, art. 2(v)

**PART 8**

ANTI-SOCIAL BEHAVIOUR

*Review of anti-social behaviour orders etc.*

- 33 (1) The amendments made by section 123 do not apply in relation to an anti-social behaviour order, or a section 1B or 1C order, made more than 9 months before the day on which that section comes into force, unless the order has been varied by a further order made no more than 9 months before that day.
- (2) In sub-paragraph (1) “section 1B or 1C order” means an order under section 1B or section 1C of the Crime and Disorder Act 1998 (c. 37).

**Commencement Information**

I438 Sch. 27 para. 33 in force at 1.2.2009 by S.I. 2009/140, art. 2(f)

*Individual support orders*

- 34 (1) The amendments made by section 124 do not apply in relation to an anti-social behaviour order, or a section 1B or 1C order, made more than 9 months before the day on which that section comes into force, unless the order has been varied by a further order made no more than 9 months before that day.
- (2) In sub-paragraph (1) “section 1B or 1C order” means an order under section 1B or section 1C of the Crime and Disorder Act 1998 (c. 37).

**Commencement Information**

I439 Sch. 27 para. 34 in force at 1.2.2009 by S.I. 2009/140, art. 2(f)

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## PART 9

### POLICE

#### *Police misconduct and performance procedures*

- 35 (1) This paragraph applies if paragraphs 7, 8(3), 15 and 16 of Schedule 22 come into force before the relevant provisions of the Legal Services Act 2007 (c. 29) come into force.
- (2) Until the relevant provisions of the Legal Services Act 2007 come into force—
- (a) section 84 of the Police Act 1996 (c. 16) (as substituted by paragraph 7 of that Schedule and as referred to in the subsection (4) of section 85 of that Act substituted by paragraph 8(3) of that Schedule) has effect as if, in subsection (4), for the definition of “relevant lawyer” there were substituted—
- ““relevant lawyer” means counsel or a solicitor;” and
- (b) section 4 of the Ministry of Defence Police Act 1987 (c. 4) (as substituted by paragraph 15 of that Schedule and as referred to in subsection (7) of the section 4A of that Act substituted by paragraph 16 of that Schedule) has effect as if, in subsection (4), for the definition of “relevant lawyer” there were substituted—
- ““relevant lawyer” means counsel or a solicitor;”.
- (3) In this paragraph “the relevant provisions of the Legal Services Act 2007” means the provisions of that Act which provide, for the purposes of that Act, for a person to be an authorised person in relation to an activity which constitutes the exercise of a right of audience (within the meaning of that Act).

#### Commencement Information

**I440** Sch. 27 para. 35(1)(2)(a)(3) in force at 1.12.2008 by S.I. 2008/2993, art. 2(1)(j)

**I441** Sch. 27 para. 35(2)(b) in force at 30.11.2009 by S.I. 2009/3074, art. 2(t)(iii)

PROSPECTIVE

## PART 10

### SPECIAL IMMIGRATION STATUS

#### *Conditions on designated persons*

- 36 In the application of section 133 to England and Wales in relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44) (51 week maximum term of sentences) the reference in section 133(6) (b) to 51 weeks is to be read as a reference to six months.

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## PART 11

### MISCELLANEOUS

#### *Persistent sales of tobacco to persons under 18*

- 37 The new sections 12A and 12B inserted into the Children and Young Persons Act 1933 (c. 12) by section 143 do not apply where any of the offences mentioned in those new sections were committed before the commencement of that section.

#### **Commencement Information**

**I442** Sch. 27 para. 37 in force at 1.4.2009 by S.I. 2009/860, art. 2(1)(i)

#### *Sexual offences*

- 38 The amendment made by sub-paragraph (1) of paragraph 57 of Schedule 26 is not to be read as affecting the validity of any supplementary, incidental, consequential, transitional, transitory or saving provisions included in orders or regulations made by the Secretary of State under the Sexual Offences Act 2003 (c. 42) before the commencement of that sub-paragraph.

#### **Commencement Information**

**I443** Sch. 27 para. 38 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 49

## SCHEDULE 28

Section 149

### REPEALS AND REVOCATIONS

## PART 1

### YOUTH REHABILITATION ORDERS

#### **Commencement Information**

**I444** Sch. 28 Pt. 1 in force at 30.11.2009 for specified purposes by S.I. 2009/3074, art. 2(u)

<i>Title</i>	<i>Extent of repeal or revocation</i>
Children and Young Persons Act 1933 (c. 12)	In section 34(7), the words “section 163 of the Powers of Criminal Courts (Sentencing) Act 2000 or”. In section 49— (a) in subsection (4A), paragraph (d) (but not the word “and” immediately following it);

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	(b) in subsection (13)(c), sub-paragraph (i) together with the word “and” immediately following it.
Social Work (Scotland) Act 1968 (c. 49)	In section 94(1), in the definition of “supervision order”, the words “the Powers of Criminal Courts (Sentencing) Act 2000 or”.
Children and Young Persons Act 1969 (c. 54)	Section 25. In section 70(1), the definition of “supervision order”.
Northern Ireland (Modification of Enactments — No. 1) Order 1973 (S.I. 1973/2163)	In Schedule 1, the entry relating to section 25(2) of the Children and Young Persons Act 1969.
Transfer of Functions (Local Government, etc.) (Northern Ireland) Order 1973 (S.R. & O. 1973 No. 256)	In Schedule 2, the entry relating to section 25 of the Children and Young Persons Act 1969.
Bail Act 1976 (c. 63)	In section 4(3), the words “to be dealt with”.
Magistrates' Courts Act 1980 (c. 43)	In Schedule 6A, the entries relating to Schedules 3, 5 and 7 to the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6).
Contempt of Court Act 1981 (c. 49)	In section 14, the subsection (2A) inserted by the Criminal Justice Act 1982 (c. 48).
Criminal Justice Act 1982 (c. 48)	In Schedule 13— (a) in paragraph 7(2)(b), the words “(within the meaning of Part 12 of the Criminal Justice Act 2003)”; (b) in paragraph 7(3)(b), the words “within the meaning of Part 12 of the Criminal Justice Act 2003”; (c) in paragraph 9(3)(a), the words “under section 177 of the Criminal Justice Act 2003”; (d) in paragraph 9(4)(a), the words “(within the meaning of Part 12 of the Criminal Justice Act 2003)”; (e) in paragraph 9(5), the words “(within the meaning of the Part 12 of the Criminal Justice Act 2003)”; (f) in paragraph 9(6), the words “(within the meaning of Part 12 of the Criminal Justice Act 2003)”.
	In Schedule 14, paragraph 60.
Mental Health Act 1983 (c. 20)	In section 37(8)(c), the words “a supervision order (within the meaning of that Act) or”.
Health and Social Services and Social Security Adjudications Act 1983 (c. 41)	In Schedule 2, paragraphs 15(b) and 16.



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Children Act 1989 (c. 41)	<p>In section 21(2)(c), in sub-paragraph (i), the words “paragraph 7(5) of Schedule 7 to the Powers of Criminal Courts (Sentencing) Act 2000 or” and the word “or” at the end of that sub-paragraph.</p> <p>In section 105(6), in paragraph (b), the words from “or an” to the end of that paragraph.</p> <p>In Schedule 13, paragraph 35(3).</p>
Criminal Justice Act 1991 (c. 53)	<p>In paragraph 11 of Schedule 3—</p> <ul style="list-style-type: none"><li>(a) in sub-paragraph (2)(a), the words “under section 177 of the Criminal Justice Act 2003”;</li><li>(b) in sub-paragraph (4), the words “under section 177 of the Criminal Justice Act 2003”.</li></ul> <p>In Schedule 11, paragraph 3.</p>
Children (Prescribed Orders — Northern Ireland, Guernsey and Isle of Man) Regulations 1991 (S.I. 1991/ 2032)	<p>In regulation 8(1)—</p> <ul style="list-style-type: none"><li>(a) sub-paragraph (a)(ii);</li><li>(b) sub-paragraph (b)(i), (ii), (iv) and (v);</li><li>(c) sub-paragraph (c)(ii) and (iii).</li></ul>
Prisoners (Return to Custody) Act 1995 (c. 16)	<p>Section 2(2).</p>
Children (Northern Ireland Consequential Amendments) Order 1995 (S.I. 1995/ 756)	<p>Article 7(2) and (3).</p>
Crime and Disorder Act 1998 (c. 37)	<p>In section 38(4)—</p> <ul style="list-style-type: none"><li>(a) paragraph (g);</li><li>(b) in paragraph (h), the words “or a supervision order”.</li></ul> <p>In Schedule 8, paragraph 13(1).</p>
Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)	<p>Chapters 1, 2, 4 and 5 of Part 4.</p> <p>In section 74(3)(a), the words “or with the requirements of any community order or any youth community order to which he may be subject”.</p> <p>In section 75, the words “action plan orders and” and “so far as relating to reparation orders”.</p> <p>In section 137(2)—</p> <ul style="list-style-type: none"><li>(a) paragraphs (a) to (c);</li><li>(b) in paragraph (d), the words “action plan order or”.</li></ul> <p>In section 159, the words “paragraph 3(1), 10(6) or 18(1) of Schedule 3 to this Act,” “paragraph 1(1) of Schedule 5 to this Act,” and “paragraph 7(2) of Schedule 7 to this Act, or”.</p> <p>In section 160—</p> <ul style="list-style-type: none"><li>(a) <sup>F177</sup> ...</li><li>(b) in subsection (3)(a), “40(2)(a)”;</li></ul>

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(c) F177 ...

In section 163, the definitions of—

- (a) “action plan order”;
- (b) “affected person”;
- (c) “attendance centre”;
- (d) “attendance centre order”;
- (e) “community sentence”;
- (f) “curfew order”;
- (g) “exclusion order”;
- (h) “supervision order”;
- (i) “supervisor”;
- (j) “youth community order”;

and paragraphs (a), (aa) and (f) of the definition of “responsible officer”.

Schedules 3 and 5 to 7.

In Schedule 8—

- (a) in the heading, the words “action plan orders and”;
- (b) paragraph 1 and the heading preceding that paragraph;
- (c) in the cross-heading before paragraph 2, the words “action plan order or”;
- (d) in paragraph 2—
  - (i) in sub-paragraph (2), in paragraph (a), sub-paragraphs (ii) and (iii) and in paragraphs (b) and (c) the words “action plan order or”;
  - (ii) in sub-paragraphs (5) and (7), the words “action plan order or”;
  - (iii) in sub-paragraph (8), the words “or action plan order” in both places;
- (d) paragraphs 3 and 4;
- (e) in the cross-heading before paragraph 5, the words “action plan order or”;
- (f) in paragraph 5(1)(a), the words “action plan order or”;
- (g) in paragraph 6(9)(a), (b) and (c), the words “action plan order or”.

In Schedule 9, paragraphs 1, 2(2), (3)(a) and (4), 28(2), 33, 34(b), 39, 41, 42, 49, 80, 93(a), 126(b), 127, 129, 131 and 132.

In Schedule 10, paragraphs 4 to 6 and 12 to 15.

In Schedule 11, paragraphs 4(1)(a), (2) and (3) and 5.

Care Standards Act 2000 (c. 14)

In Schedule 4, paragraph 28(3).

Criminal Justice and Court Services Act 2000 (c. 43)

Section 46.  
Section 52.  
Section 70(5).

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	<p>In Schedule 7—</p> <ul style="list-style-type: none"><li>(a) in paragraph 4(2), in the entry relating to the Powers of Criminal Courts (Sentencing) Act 2000, the entries beginning “sections 63(1)(b)” and “in section 69”;</li><li>(b) paragraphs 37(b), 69, 163, 164, 174, 175 and 192;</li><li>(c) in paragraph 196, paragraphs (a), (b), (c)(i) and (iii) and (d);</li><li>(d) in paragraph 197—<ul style="list-style-type: none"><li>(i) paragraph (a);</li><li>(ii) paragraph (d);</li><li>(iii) in paragraph (f), the definitions of “affected person” and “exclusion order”;</li><li>(iv) paragraph (g)(i);</li></ul></li><li>(e) paragraphs 201, 202(2) and 204.</li></ul>
Anti-social Behaviour Act 2003 (c. 38)	<p>Section 88. Schedule 2.</p>
Criminal Justice Act 2003 (c. 44)	<p>In section 147, subsections (1)(b) and (2). In section 148—</p> <ul style="list-style-type: none"><li>(a) in subsection (2), the words “which consists of or includes a community order”;</li><li>(b) subsection (3).</li></ul> <p>In section 156(2), “or (3)(a)”.</p> <p>In section 161—</p> <ul style="list-style-type: none"><li>(a) in subsection (1), the words “aged 14 or over”;</li><li>(b) subsection (7).</li></ul> <p>In section 176, the definition of “youth community order”.</p> <p>In section 197(1)(b), the words “the offender is aged 18 or over and”.</p> <p>Section 199(4). Section 211(5). In section 221(2), paragraph (b) together with the word “or” immediately preceding it. Section 279. In section 330(5)(a), the entry relating to section 161(7). In Schedule 8, paragraphs 12, 15 and 17(5). Schedule 24. In Schedule 32, paragraphs 2(2), 8(2)(a), 14, 64(3)(a)(ii), 70(5)(a) and (7), 73, 89(2), 95 to 105, 106(2), 107, 122, 123(3), (5) and (8), 125, 127, 128, 129, 131(3) and 138.</p>

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### Textual Amendments

**F177** Sch. 28 Pt. 1 entries repealed (12.11.2009) by [Coroners and Justice Act 2009 \(c. 25\)](#), s. 182(1)(j)(ii), [Sch. 23 Pt. 4](#) (with s. 180)

## PART 2

### SENTENCING

#### Commencement Information

- I445** Sch. 28 Pt. 2 in force at 14.7.2008 for specified purposes by [S.I. 2008/1586](#), art. 2(1), [Sch. 1 para. 50](#) (with [Sch. 2 para. 2](#))
- I446** Sch. 28 Pt. 2 in force at 3.11.2008 for specified purposes by [S.I. 2008/2712](#), art. 2, [Sch. para. 19\(2\)](#)
- I447** Sch. 28 Pt. 2 in force at 27.4.2009 for specified purposes by [S.I. 2009/860](#), [art. 2\(2\)\(g\)](#)
- I448** Sch. 28 Pt. 2 in force at 31.10.2009 for specified purposes by [S.I. 2009/2606](#), [art. 3\(j\)](#)
- I449** Sch. 28 Pt. 2 in force at 23.3.2010 for specified purposes by [S.I. 2010/712](#), [art. 2\(f\)](#)

<i>Title</i>	<i>Extent of repeal or revocation</i>
Criminal Justice Act 1991 (c. 53)	In section 45— (a) in subsection (3), subsection (2) of the substituted text, and (b) subsection (4). Section 46(1). In section 46A— (a) in subsection (1), the words “Subject to subsection (2) below,”; (b) subsection (2); (c) subsection (8). In section 50(2), the words from “but nothing” to the end.
Crime (Sentences) Act 1997 (c. 43)	In section 31(1), “(1) or (2)”. In Schedule 5, in paragraph 7, the words “the corresponding subsection of”.
Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)	In section 17— (a) in subsection (1), paragraph (c) together with the word “and” immediately preceding it; (b) subsection (5). Section 92(3).
Criminal Justice Act 2003 (c. 44)	In section 142(2)(a), the words “at the time of conviction”. In section 153(1), the words “falling to be”. In section 224(3), the definition of “relevant offence”. In section 227(1)(a), the words “, other than a serious offence.”. In section 228—

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- (a) in subsection (1)(b)(ii), the words from “or by section 226(3)” to the end, and
  - (b) subsection (3)(a) and the word “and” immediately following it.
- In section 229—
- (a) in subsection (2) the words from the beginning to “18”, and
  - (b) subsections (3) and (4).
- Sections 233 and 234.
- In section 247—
- (a) in subsection (2), the word “and” (at the end of paragraph (a)) and paragraph (b), and
  - (b) subsections (3), (4), (5) and (6).
- Section 254(3) to (5).
- In section 256—
- (a) in subsection (2), the words “or (b)”;
  - (b) subsections (3) and (5).
- In section 260—
- (a) subsections (3) and (3A);
  - (b) in subsection (6), in paragraph (a), the words “or (3)(e)” and paragraph (b).
- In section 264A(3), the words from “and none” to the end.
- In section 300—
- (a) in subsection (1), paragraph (b) together with the word “or” immediately preceding it;
  - (b) in subsection (2)—
    - (a) the words from “or, as the case may be” to “young offender”;
    - (b) the word “or” at the end of paragraph (a).
- Section 305(4)(e).
- Schedules 16 and 17.
- In Schedule 31, in paragraph 4(5)(a), “, (5)”.
- Referral Orders (Amendment of Referral Conditions) Regulations 2003 (S.I. 2003/1605) Regulation 2(2) and (3).
- Criminal Justice Act 2003 (Commencement No. 8 and Transitional and Saving Provisions) Order 2005 (S.I. 2005/950) Paragraph 30 of Schedule 2.
- Armed Forces Act 2006 (c. 52)
- In section 221—
- (a) in subsection (3)(a) and (b) the words “in section 226(2)”, and
  - (b) subsection (4).
- In section 223(3), the words “to (4)”.
- In section 270—
- (a) subsection (7), and
  - (b) in subsection (8), the word “Accordingly”.

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In Schedule 16, paragraphs 218 and 225.

### PART 3

#### APPEALS

#### Commencement Information

**1450** Sch. 28 Pt. 3 in force at 14.7.2008 for specified purposes by S.I. 2008/1586, art. 2(1), Sch. 1 para. 50 (with Sch. 2 paras. 4-6, 9)

<i>Title</i>	<i>Extent of repeal</i>
Criminal Appeal Act 1968 (c. 19)	In section 4(2), the words “for the offence of which he remains convicted on that count”. In section 6— (a) subsection (5); (b) in subsection (7), the definition of interim hospital order. Section 11(6). In section 14— (a) subsection (5); (b) in subsection (7), the definition of interim hospital order. Section 16B(3). In section 31, in the heading, the words “under Part 1”. Section 31C(1) and (2).
Courts-Martial (Appeals) Act 1968 (c. 20)	Section 16(5). Section 25B(3). Section 36C(1) and (2). In section 43(1A), the word “or” at the end of paragraph (a).
Judicature (Northern Ireland) Act 1978 (c. 23)	In section 49— (a) in subsection (2), the words from “or, where subsection (3) applies” to the end; (b) subsection (3).
Criminal Appeal (Northern Ireland) Act 1980 (c. 47)	Section 10(6).
Mental Health Act 1983 (c. 20)	In Schedule 4, paragraph 23(d)(ii).
Criminal Justice Act 1988 (c. 33)	In section 36(9), the word “and” at the end of paragraph (ab).
Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)	In section 155— (a) in subsection (1), the words from “or, where subsection (2) below applies” to the end; (b) subsections (2) and (3).

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Criminal Justice Act 2003 (c. 44)

Section 272(1).

## PART 4

### OTHER CRIMINAL JUSTICE PROVISIONS

#### Commencement Information

- I451** Sch. 28 Pt. 4 in force at 14.7.2008 for specified purposes by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 50**  
**I452** Sch. 28 Pt. 4 in force at 3.11.2008 for specified purposes by S.I. 2008/2712, art. 2, **Sch. para. 19(3)**  
**I453** Sch. 28 Pt. 4 in force at 8.7.2009 for specified purposes by S.I. 2009/1678, **art. 3(c)**  
**I454** Sch. 28 Pt. 4 in force at 8.4.2013 for specified purposes by S.I. 2013/616, **art. 2(d)**  
**I455** Sch. 28 Pt. 4 partly in force; Sch. 28 Pt. 4 partly in force at Royal Assent, see s. 153(1)(a) and further in force for certain purposes at 8.7.2008, see s. 153(2)(a)

<i>Title</i>	<i>Extent of repeal</i>
Children and Young Persons Act 1969 (c. 54)	Section 23AA(4)(a).
Bail Act 1976 (c. 63)	Section 3AA(6) to (10) and (12).
Magistrates' Courts Act 1980 (c. 43)	Section 13(5). Section 24(1B).
Prosecution of Offences Act 1985 (c. 23)	Section 7A(6).
Criminal Justice (Terrorism and Conspiracy) Act 1998 (c. 40)	Section 8.
Access to Justice Act 1999 (c. 22)	Section 17A(5).
Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)	In section 3— (a) in subsection (2), paragraph (b) and the word “or” immediately preceding it; (b) in subsection (5), in paragraph (b), the words “paragraph (b) and”.
Sexual Offences Act 2003 (c. 42)	Section 86(4). Section 87(6).
Criminal Justice Act 2003 (c. 44)	Section 23A(7) to (9). In Schedule 3, paragraphs 13, 22 and 57(2). In Schedule 36, paragraph 50. In Part 4 of Schedule 37, in the entry relating to the Magistrates' Courts Act 1980, in the second column, the words “In section 33(1), paragraph (b) and the word “and” immediately preceding it”.

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## PART 5

### CRIMINAL LAW

#### Commencement Information

**I456** Sch. 28 Pt. 5 in force at 14.7.2008 for specified purposes by S.I. 2008/1586, art. 2(1), Sch. 1 para. 50

**I457** Sch. 28 Pt. 5 in force at 30.11.2009 for specified purposes by S.I. 2009/3074, art. 2(v)

**I458** Sch. 28 Pt. 5 partly in force at Royal Assent, see s. 153(1)(j) and further in force for certain purposes at 8.7.2008, see s. 153(2)(d)

<i>Title</i>	<i>Extent of repeal</i>
Criminal Libel Act 1819 (60 Geo. 3 & 1 Geo. 4 c. 8)	In section 1, the words “any blasphemous libel, or”.
Law of Libel Amendment Act 1888 (c. 64)	In section 3, the words “blasphemous or”. In section 4, the words “blasphemous or”.
Nuclear Material (Offences) Act 1983 (c. 18)	Section 1(2). In section 6(1), the words “in this Act”.
Public Order Act 1986 (c. 64)	Section 29B(3). In section 29H— (a) in subsection (1), the words “in England and Wales”; (b) subsection (2). In section 29I— (a) in subsection (2)(a), the words “in the case of an order made in proceedings in England and Wales.”; (b) subsections (2)(b) and (4). In section 29L(1) and (2), the words “in England and Wales”.
Sexual Offences Act 2003 (c. 42)	In Schedule 2, in paragraph 1(d), the words “in relation to a photograph or pseudo-photograph showing a child under 16”.
Terrorism Act 2006 (c. 11)	Section 14.

## PART 6

### INTERNATIONAL CO-OPERATION IN RELATION TO CRIMINAL JUSTICE MATTERS

#### Commencement Information

**I459** Sch. 28 Pt. 6 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 50

<i>Title</i>	<i>Extent of repeal</i>
Commissioners for Revenue and Customs Act 2005 (c. 11)	In Schedule 2, paragraph 14.



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Repatriation of Prisoners Act 1984 (c. 47)	In section 1(4)(b) the words “under this Act”. Section 3(10). In section 8(1) the word “and” after the definition of “order”.
Police and Justice Act 2006 (c. 48)	Section 44(4).

## PART 7

### ANTI-SOCIAL BEHAVIOUR

#### Commencement Information

**I460** Sch. 28 Pt. 7 in force at 1.4.2009 by S.I. 2009/860, art. 2(1)(j)

<i>Title</i>	<i>Extent of repeal</i>
Police and Justice Act 2006 (c. 48)	In Schedule 14, paragraph 55(5).

## PART 8

### POLICING

#### Commencement Information

**I461** Sch. 28 Pt. 8 in force at 14.7.2008 for specified purposes by S.I. 2008/1586, art. 2(1), Sch. 1 para. 50  
**I462** Sch. 28 Pt. 8 in force at 1.12.2008 for specified purposes by S.I. 2008/2993, art. 2(1)(k)

<i>Title</i>	<i>Extent of repeal</i>
Police Act 1996 (c. 16)	In section 50(4), the words “, subject to subsection (3)(b),”. In section 54(2), the words “and the Central Police Training and Development Authority”. In section 97— (a) in subsection (6), in each of paragraphs (b) and (c), the words “or is required to resign as an alternative to dismissal”; (b) in subsection (7), the words “, or required to resign as an alternative to dismissal,”. In Schedule 6, paragraph 6.
Greater London Authority Act 1999 (c. 29)	In Schedule 27, paragraphs 95 and 107.
Criminal Justice and Police Act 2001 (c. 16)	In section 125— (a) subsections (3) and (4); (b) in subsection (5), paragraph (b), together with the word “and” immediately preceding it.

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Police Reform Act 2002 (c. 30)	In Schedule 3— (a) paragraphs 20A(8), 20B(5) and 20E(5); (b) paragraph 20G together with the cross heading immediately preceding it; (c) in paragraphs 21A(5) and 24B(2), the words from “(and the other provisions” to the end; (d) paragraph 22(1)(c) (together with the word “or” immediately preceding it); (e) in paragraph 25, the word “and” immediately after each of sub-paragraphs (2)(b), (3)(b) and (5)(b).
Railways and Transport Safety Act 2003 (c. 20)	Section 43.
Police and Justice Act 2006 (c. 48)	In section 49(1), paragraph (c) together with the word “or” immediately preceding it. In Schedule 1, paragraph 30(3). In Schedule 2, paragraph 19.
Legal Services Act 2007 (c. 29)	In Schedule 21, paragraphs 73 and 119.

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**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- s. 119(4) words omitted by [2012 c. 7 Sch. 14 para. 107\(a\)](#)
- s. 119(4) words substituted by [2012 c. 7 Sch. 14 para. 107\(b\)](#)
- s. 130(5)(b) words substituted by [S.I. 2019/745 reg. 18\(2\)](#) (This amendment not applied to legislation.gov.uk. Reg. 18 omitted immediately before IP completion day by virtue of S.I. 2020/1309, regs. 1(2)(a), 48)
- s. 134(5) omitted by [2016 c. 19 Sch. 11 para. 2\(k\)](#)
- s. 135(5) words substituted by [2016 c. 19 Sch. 11 para. 4\(e\)](#)
- s. 136(1)(b) words substituted by [S.I. 2019/745 reg. 18\(3\)](#) (This amendment not applied to legislation.gov.uk. Reg. 18 omitted immediately before IP completion day by virtue of S.I. 2020/1309, regs. 1(2)(a), 48)
- Sch. 7 para. 5(1) words added by [2008 c. 25 Sch. 1 para. 90\(2\)](#)
- Sch. 26 para. 60-62 omitted by [2022 c. 32 Sch. 11 para. 38\(1\)\(c\)](#)
- Sch. 27 para. 31 words substituted by [S.I. 2023/149 reg. 2\(1\)Sch. Pt. 1 table](#) (This amendment not applied to legislation.gov.uk. The words to be substituted do not occur in Sch. 27 para. 31 following the substitution of words in that para. by S.I. 2023/149, reg. 16(4); the application of this amendment to Sch. 27 para. 31 is removed from Sch. Pt. 1 (18.10.2023) by S.I. 2023/1108, regs. 1(2), 4(7))

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 7 para. 5A and cross-heading inserted by [2008 c. 25 Sch. 1 para. 90\(3\)](#)