



# Criminal Justice Act 1991

## 1991 CHAPTER 53

An Act to make further provision with respect to the treatment of offenders and the position of children and young persons and persons having responsibility for them; to make provision with respect to certain services provided or proposed to be provided for purposes connected with the administration of justice or the treatment of offenders; to make financial and other provision with respect to that administration; and for connected purposes.

[25th July 1991]

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:—

### Extent Information

**E1** Nothing in s. 102(4) shall affect the extent of this Act in so far as it amends or repeals any provision of the Army Act 1955, the Air Force Act 1955, the Naval Discipline Act 1957 or the Armed Forces Act 1991; see s. 102(8).

This Act extends to England and Wales only except as mentioned in s.102(5)-(8)

### Modifications etc. (not altering text)

**C1** By [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), s. 101(1), [Sch. 12 para. 23](#); [S.I. 1991/2208](#), art. 2(1), [Sch.1](#) it is provided (14.10.1991) that in relation to any time before the commencement of s. 70 of that 1991 Act (which came into force on 1.10.1992 by [S.I. 1992/333](#), art. 2(2), [Sch. 2](#)) references in any enactment amended by that 1991 Act, to youth courts shall be construed as references to juvenile courts.

Act: functions restricted from exercise in Scotland (30.6.1999) by [S.I. 1999/1748](#), art. 8(2), [Sch. 4 Pt. I, II](#) paras. 1(1)(2), 6(1)(2)

**C2** Act applied (with modifications) (E.W.S.) by [The Employment Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) Regulations 2010 \(S.I. 2010/875\)](#), [reg. 16](#), [Sch. 2](#) (which amending S.I. was revoked (27.8.2010) by [S.I. 2010/1906](#), [reg. 2](#))

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Act applied (with modifications) (E.W.S.) (1.10.2010) by [The Employment Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) Regulations 2010 \(S.I. 2010/1907\)](#), regs. 1, 16, Sch. 2

**PART I**

**POWERS OF COURTS TO DEAL WITH OFFENDERS**

**Modifications etc. (not altering text)**  
**C3** Pt. I (ss. 1-31) applied (E.W.) (1.10.1997) by [1997 c. 43, ss. 28\(9\), 33\(3\)-\(5\)](#); S.I. 1997/2200, [art.2](#) (subject to savings in [art. 5](#))  
Pt. I (ss. 1-31) modified (E.W.) (1.1.1998) by [1997 c. 43, s. 35\(4\)\(b\)](#); S.I. 1997/2200, [art.3](#) (subject to savings in [art. 5](#))  
Pt. I (ss. 1-31) extended (with modifications) (E.W.) (1.1.1998) by [1997 c. 43, s. 35\(7\)\(b\)](#); S.I. 1997/2200, [art.3](#) (subject to savings in [art. 5](#))  
Pt. I (ss. 1-31) extended (with modifications) (E.W.) (30.9.1998) by [1998 c. 37, s. 61\(4\)](#) (with [Sch. 9 para. 4](#)); S.I. 1998/2327, [art.2\(1\)\(n\)](#).  
Pt. I (ss. 1-31) extended (with modifications) (E.W.) (30.9.1998) by [1998 c. 37, s. 69\(11\)](#); S.I. 1998/2327, [art.2\(1\)\(o\)](#)  
Pt. I (ss. 1-31) applied (E.W.) (30.9.1998) by [1998 c. 37, s. 18\(2\)](#); S.I. 1998/2327, [art.2\(1\)\(f\)](#).  
Pt. I (ss. 1-31) extended (E.W.) (1.4.2000) by [1998 c. 37, ss. 73\(4\)](#); S.I. 1999/3426, [art. 3\(a\)](#)  
Pt. I (ss. 1-31) applied (E.W.) (30.9.1998) by [1997 c. 43, ss. 37\(4\)\(5\)](#) (as substituted (E.W.) (30.9.1998) by [1998 c. 37, s. 106, Sch. 7 para. 51\(2\)](#); S.I. 1998/2327, [art.2\(1\)\(w\)](#)).  
Pt. I (ss. 1-31) extended (E.W.) (30.9.1998) by [1997 c. 43, ss. 37\(4\)\(5\)](#) (as substituted (E.W.) (30.9.1998) by [1998 c. 37, s. 106, Sch.7 para. 51\(2\)](#); S.I. 1998/2327, [art.2\(1\)\(w\)](#)).  
Pt. I (ss. 1-31) restricted (E.W.) (26.6.2000) by [1999 c. 23, s. 4\(4\)\(a\)](#), (with [Sch. 7 paras. 3\(3\), 5\(2\)](#)); S.I. 2000/1587, [art. 2\(a\)](#)

*Custodial sentences*

**F1** .....

**Textual Amendments**  
**F1** [S. 1](#) repealed (25.8.2000) by [2000 c. 6, ss. 165, 168\(1\), Sch. 12 Pt. I](#) (with [Sch. 11 paras. 1, 2](#))

**F2** .....

**Textual Amendments**  
**F2** [S. 2](#) repealed (25.8.2000) by [2000 c. 6, ss. 165, 168\(1\), Sch. 12 Pt. I](#) (with [Sch. 11 paras. 1, 2](#))

**F3** .....

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**Textual Amendments**

**F3** S. 3 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

**F4** .....

**Textual Amendments**

**F4** S. 4 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

**F5** .....

**Textual Amendments**

**F5** S. 5 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

*Community sentences*

**F6** .....

**Textual Amendments**

**F6** S. 6 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

**F7** .....

**Textual Amendments**

**F7** S. 7 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

*Probation and community service orders*

**F8** .....

**Textual Amendments**

**F8** S. 8 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

**F9** .....

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**Textual Amendments**  
F9 S. 9 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

F10 10 .....

**Textual Amendments**  
F10 S. 10 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

F11 11 .....

**Textual Amendments**  
F11 S. 11 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

*Curfew orders*

F12 12 .....

**Textual Amendments**  
F12 S. 12 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

F13 13 .....

**Textual Amendments**  
F13 S. 13 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

*Orders: supplemental*

F14 14 .....

**Textual Amendments**  
F14 S. 14 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

F15 15 .....

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#### Textual Amendments

**F15** S. 15 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

### 16 Reciprocal enforcement of certain orders.

Schedule 3 to this Act shall have effect for making provision for and in connection with—

- <sup>F16</sup>(a) .....
- (b) the making and amendment in Scotland or Northern Ireland of [<sup>F17</sup>certain] orders relating to persons residing in England and Wales.

#### Textual Amendments

**F16** S. 16(a) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

**F17** Word in s. 16(b) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 134**

#### Commencement Information

**I1** S. 16 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

### *Financial penalties*

### 17 Increase of certain maxima.

- (1) In section 37 (standard scale of fines) of the <sup>M1</sup>Criminal Justice Act 1982 (“the 1982 Act”) and section 289G of the <sup>M2</sup>Criminal Procedure (Scotland) Act 1975 (corresponding Scottish provision), for subsection (2) there shall be substituted the following subsection—

“(2) The standard scale is shown below—

<i>Level on the scale</i>	<i>Amount of fine</i>
1	£200
2	£500
3	£1,000
4	£2,500
5	£5,000”.

- (2) Part I of the <sup>M3</sup>Magistrates’ Courts Act 1980 (“the 1980 Act”) shall be amended as follows—

- (a) in section 24(3) and (4) (maximum fine on summary conviction of young person for indictable offence) <sup>F18</sup>. . . , for “£400” there shall be substituted “£1,000”;
- (b) in section 24(4) (maximum fine on summary conviction of child for indictable offence) <sup>F18</sup>. . . , for “£100” there shall be substituted “£250”; and
- (c) in section 32(9) (maximum fine on summary conviction of offence triable either way), for “c£2,000” there shall be substituted “£5,000”;

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and in section 289B(6) of the Criminal Procedure (Scotland) Act 1975 (interpretation), in the definition of “prescribed sum”, for “£2,000” there shall be substituted “£5,000”.

(3) Schedule 4 to this Act shall have effect as follows—

- (a) in each of the provisions mentioned in column 1 of Part I (the general description of which is given in column 2), for the amount specified in column 3 there shall be substituted the amount specified in column 4;
- (b) in each of the provisions mentioned in column 1 of Part II (the general description of which is given in column 2), for the amount specified in column 3 there shall be substituted the level on the standard scale specified in column 4;
- (c) in each of the provisions mentioned in column 1 of Part III (the general description of which is given in column 2), for the amount specified in column 3 there shall be substituted a reference to the statutory maximum;
- (d) the provisions set out in Part IV shall be substituted for Schedule 6A to the 1980 Act (fines that may be altered under section 143); and
- (e) <sup>F19</sup> .....

**Extent Information**  
**E2** S. 17 extends to England and Wales; s. 17(1)(2) also extend to Scotland see s. 102(4)(5)

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**Textual Amendments**  
**F18** S. 17(2)(a)(b) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)  
**F19** S. 17(3)(e) repealed (20.9.1993) by 1993 c. 36, ss. 65(3), 79(14), Sch. 3 para. 1(1), **Sch. 6 Pt. I**; S.I. 1993/1968, art. 2(2), **Sch. 2**, Appendix.

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**Modifications etc. (not altering text)**  
**C4** S. 17(1)(2) restricted (S.) (1.9.1992) by S.I. 1992/333, **art. 4A** (as inserted by S.I. 1992/2118, **art. 4**)

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**Commencement Information**  
**I2** S. 17 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, **art. 2(2)**

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**Marginal Citations**  
**M1** 1982 c. 48.  
**M2** 1975 c. 21.  
**M3** 1980 c. 43.

<sup>F20</sup>**18** .....

**Textual Amendments**  
**F20** S. 18 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

<sup>F21</sup>**19** .....

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#### Textual Amendments

**F21** S. 19 repealed (20.9.1993) by 1993 c. 36, ss. 65(2)(4), 79(14), **Sch. 6 Pt.1**; S.I. 1993/1968, art. 2(2), **Sch.2**, Appendix.

**F22**<sup>20</sup> .....

#### Textual Amendments

**F22** S. 20 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

### [<sup>F23</sup>**20A False statements as to financial circumstances.**

(1) A person who is charged with an offence who, in furnishing a statement of his financial circumstances in response to an official request—

- (a) makes a statement which he knows to be false in a material particular;
- (b) recklessly furnishes a statement which is false in a material particular; or
- (c) knowingly fails to disclose any material fact,

shall be liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding level 4 on the standard scale or both.

[ A person who is charged with an offence who fails to furnish a statement of his  
<sup>F24</sup>(1A) financial circumstances in response to an official request shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.]

(2) For the purposes of this section an official request is a request which—

- (a) is made by the [<sup>F25</sup>justices' chief executive for] the magistrates' court or the appropriate officer of the Crown Court, as the case may be; and
- (b) is expressed to be made for informing the court, in the event of his being convicted, of his financial circumstances for the purpose of determining the amount of any fine the court may impose [<sup>F26</sup>and how it should be paid] .

(3) Proceedings in respect of an offence under this section may, notwithstanding anything in section 127(1) of the 1980 Act (limitation of time), be commenced at any time within two years from the date of the commission of the offence or within six months from its first discovery by the prosecutor, whichever period expires the earlier.

#### Textual Amendments

**F23** S. 20A inserted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 43**; S.I. 1995/127, art. 2(1), **Sch. 1** Appendix A

**F24** S. 20A(1A) inserted (5.4.2004) by Courts Act 2003 (c. 39), **ss. 95(2)**, 110; S.I. 2004/174, **art. 3**

**F25** Words in s. 20A(2) substituted (1.4.2001) by 1999 c. 22, s. 90, **Sch. 13 para. 165** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)**

**F26** Words in s. 20A(2)(b) inserted (5.4.2004) by Courts Act 2003 (c. 39), **ss. 95(3)**, 110; S.I. 2004/174, **art. 3**

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### Financial penalties: supplemental

<sup>F27</sup>21 .....

#### Textual Amendments

**F27** S. 21 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

<sup>F28</sup>22 .....

#### Textual Amendments

**F28** S. 22 repealed (20.9.1993) by 1993 c. 36, ss. 65(3)(4), 79(14), Sch. 3 para. 4, **Sch. 6 Pt.I**; S.I. 1993/1968, art. 2(2), **Sch.2**, Appendix.

### 23 Default in other cases.

- (1) In the [<sup>F29</sup>Table in] paragraph 1 of Schedule 4 to the 1980 Act (maximum periods of imprisonment for default in paying fines etc.), for the entries relating to amounts not exceeding £5,000 there shall be substituted the following entries—

“An amount not exceeding £200	7 days
An amount exceeding £200 but not exceeding £500	14 days
An amount exceeding £500 but not exceeding £1,000	28 days
An amount exceeding £1,000 but not exceeding £2,500	45 days
An amount exceeding £2,500 but not exceeding £5,000	3 months”.

- (2) For the Table in section 407(1A) of the <sup>M4</sup>Criminal Procedure (Scotland) Act 1975 (maximum period of imprisonment for failure to pay fine or find caution) there shall be substituted the following Table—

<i>“Amount of fine or caution</i>	<i>Maximum period of imprisonment</i>
An amount not exceeding £200	7 days
An amount exceeding £200 but not exceeding £500	14 days
An amount exceeding £500 but not exceeding £1,000	28 days
An amount exceeding £1,000 but not exceeding £2,500	45 days



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An amount exceeding £2,500 but not exceeding £5,000	3 months
An amount exceeding £5,000 but not exceeding £10,000	6 months
An amount exceeding £10,000 but not exceeding £20,000	12 months
An amount exceeding £20,000 but not exceeding £50,000	18 months
An amount exceeding £50,000 but not exceeding £100,000	2 years
An amount exceeding £100,000 but not exceeding £250,000	3 years
An amount exceeding £250,000 but not exceeding £1 million	5 years
An amount exceeding £1 million	10 years.”

- (3) In Schedule 16 (repeals) to the 1988 Act, the entry relating to subsection (8) of section 41 of the <sup>M5</sup>Administration of Justice Act 1970 shall cease to have effect; and that subsection (discretion of Crown Court to specify extended period of imprisonment in default of payment of compensation) shall have effect as if that entry had not been enacted.

#### Extent Information

**E3** S. 23 extends to England and Wales only except as mentioned in s. 102(4) - (6).

#### Textual Amendments

**F29** Words in s. 23(1) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 9 para. 135

#### Commencement Information

**I3** S. 23 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

#### Marginal Citations

**M4** 1975 c. 21.

**M5** 1970 c. 31.

## 24 Recovery of fines etc. by deductions from income support.

- (1) The Secretary of State may by regulations provide that where a fine has been imposed on an offender by a magistrates' court, or a sum is required to be paid by a compensation order which has been made against an offender by such a court, and (in either case) the offender is entitled to income support [<sup>F30</sup>, a jobseeker's allowance or state pension credit]
- (a) the court may apply to the Secretary of State asking him to deduct sums from any amounts payable to the offender by way of [<sup>F31</sup>that benefit], in order to secure the payment of any sum which is or forms part of the fine or compensation; and

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- (b) the Secretary of State may deduct sums from any such amounts and pay them to the court towards satisfaction of any such sum.
- (2) The regulations may include—
- (a) provision that, before making an application, the court shall make an enquiry as to the offender’s means;
  - [<sup>F32</sup>(aa) provision that the court may require the offender to provide prescribed information in connection with an application;]
  - (b) provision allowing or requiring adjudication as regards an application, and provision as to [<sup>F33</sup>appeals to appeal tribunals constituted under Chapter I of Part I of the Social Security Act 1998 and decisions under section 9 or 10 of that Act];
  - (c) provision as to the circumstances and manner in which and the times at which sums are to be deducted and paid;
  - (d) provision as to the calculation of such sums (which may include provision to secure that amounts payable to the offender by way of income support [<sup>F34</sup>, a jobseeker’s allowance or state pension credit] do not fall below prescribed figures);
  - (e) provision as to the circumstances in which the Secretary of State is to cease making deductions;
  - (f) provision requiring the Secretary of State to notify the offender, in a prescribed manner and at any prescribed time, of the total amount of sums deducted up to the time of notification; and
  - (g) provision that, where the whole amount to which the application relates has been paid, the court shall give notice of that fact to the Secretary of State.
- [<sup>F35</sup>(2A) An offender who fails to provide information required by the court by virtue of subsection (2)(aa) commits an offence.
- (2B) An offender commits an offence if, in providing information required by the court by virtue of that subsection, he—
- (a) makes a statement which he knows to be false in a material particular,
  - (b) recklessly provides a statement which is false in a material particular, or
  - (c) knowingly fails to disclose any material fact.
- (2C) A person guilty of an offence under subsection (2A) or (2B) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.]
- (3) In subsection (1) above—
- (a) the reference to a fine having been imposed by a magistrates’ court includes a reference to a fine being treated, by virtue of [<sup>F36</sup>section 140 of the Powers of Criminal Courts (Sentencing) Act 2000], as having been so imposed; and
  - (b) the reference to a sum being required to be paid by a compensation order which has been made by a magistrates’ court includes a reference to a sum which is required to be paid by such an order being treated, by virtue of section 41 of the <sup>M6</sup>Administration of Justice Act 1970, as having been adjudged to be paid on conviction by such a court.
  - [<sup>F37</sup>(c) the reference in paragraph (a) to “the court” includes a reference to a court to which the function in that paragraph has been transferred by virtue of a transfer of fine order under section 89(1) or (3) or 90(1)(a) of the 1980 Act (power of magistrates’ court to make transfer of fine order) or under section [<sup>F38</sup>section 222(1)(a) or (b) of the Criminal Procedure (Scotland) Act 1995]

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(analogous provision as respects Scotland) and a reference to a court to which that function has been remitted by virtue of section 196(2) of the said Act of 1975 (enforcement of fine imposed by High Court of Justiciary).]

(4) In this section—

“fine” includes—

- (a) a penalty imposed under [<sup>F39</sup>section 29 or 37 of the Vehicle Excise and Registration Act 1994] or section 102(3)(aa) of the <sup>M7</sup>Customs and Excise Management Act 1979 (penalties imposed for certain offences in relation to vehicle excise licences);
- (b) an amount ordered to be paid, in addition to any penalty so imposed, under [<sup>F39</sup>section 30, 36 or 38 of the Vehicle Excise and Registration Act 1994] (liability to additional duty);
- (c) an amount ordered to be paid by way of costs which is, by virtue of section 41 of the <sup>M8</sup>Administration of Justice Act 1970, treated as having been adjudged to be paid on a conviction by a magistrates’ court;

“income support” means income support within the meaning of the <sup>M9</sup>Social Security Act 1986, either alone or together with any <sup>F40</sup>. . . [<sup>F41</sup>incapacity] benefit, [<sup>F42</sup>or retirement pension] which is paid by means of the same instrument of payment;

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

(5) In the application of this section to Scotland—

- (a) references in subsections (1) and (2) above to a magistrates’ court shall be construed as references to a court; and
- (b) in subsection (3) above, for paragraphs (a) and (b) there shall be substituted the following paragraphs—

“(a) the reference to a fine having been imposed by a court includes a reference to a fine being treated, by virtue of [<sup>F43</sup>section 211(4) of the Criminal Procedure (Scotland) Act 1995], as having been so imposed; and

(b) the reference to a compensation order having been made by a court includes a reference to such an order being treated, by virtue of [<sup>F44</sup>section 252 of the Criminal Procedure (Scotland) Act 1995], as having been so made.”

#### Textual Amendments

- F30** Words in s. 24(1) substituted (2.7.2002 for specified purposes and otherwise 6.10.2003) by [State Pension Credit Act 2002 \(c. 16\)](#), ss. 14, 22(2)(3), [Sch. 2 para. 31\(a\)](#); S.I. 2002/1691, [art. 2](#); S.I. 2003/1766, [art. 2](#)
- F31** Words in s. 24(1)(a) substituted (11.6.1996) by [1995 c. 18](#), s. 41(4), [Sch. 2 para. 21](#); S.I. 1996/1509, [art. 2](#), [Sch. 2](#)
- F32** S. 24(2)(aa) inserted (E.W.) (5.4.2004) by [Courts Act 2003 \(c. 39\)](#), [ss. 96\(1\)\(2\)](#), 110; S.I. 2004/174, [art. 3](#)
- F33** Words in s. 24(2)(b) substituted (18.10.1998 for specified provisions, 29.11.1999 for further specified provisions, otherwise prosp.) by [1998 c. 14](#), s. 86(1), [Sch. 7 para. 55](#); S.I. 1999/2860, [art. 2](#), [Sch. 1](#) (with [art. 5](#) and subject to transitional provisions in [Schs. 16-18](#)); S.I. 1999/3178, [art. 2](#), [Sch. 1](#) (subject to transitional provisions in [Schs. 21-23](#))

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- F34** Words in s. 24(2)(d) substituted (2.7.2002 for specified purposes and otherwise 6.10.2003) by [State Pension Credit Act 2002 \(c. 16\), ss. 14, 22\(2\)\(3\), Sch. 2 para. 31\(b\)](#) ; S.I. 2002/1691, [art. 2](#) ; S.I. 2003/1766, [art. 2](#)
- F35** S. 24(2A)-(2C) inserted (E.W.) (5.4.2004) by [Courts Act 2003 \(c. 39\), ss. 96\(3\)](#) , 110; S.I. 2004/174, [art. 3](#)
- F36** Words in s. 24(3) substituted (25.8.2000) by [2000 c. 6, ss. 165, 168\(1\), Sch. 9 para. 136](#)
- F37** S. 24(3)(c) inserted (3.2.1995) by [1994 c. 33, s. 47\(3\)](#); S.I. 1995/127, [art. 2\(1\), Sch. 1](#)
- F38** Words in s. 24(3)(c) substituted (1.4.1996) by [1995 c. 40, ss. 5, 7\(2\), Sch. 4 para. 80\(2\)\(c\)](#)
- F39** Words in s. 24(4) substituted (1.9.1994) by [1994 c. 22, ss. 63, 66\(1\), Sch. 3 para. 30](#) (with s. 57(4))
- F40** Words in s. 24(4) repealed (7.10.1996) by [1995 c. 18, s. 41\(5\), Sch. 3](#); S.I. 1996/2208, [art. 2](#)
- F41** Word in s. 24(4) substituted (13.4.1995) by [1994 c. 18, s. 11\(1\), Sch. 1 Pt. II para. 55](#); S.I. 1994/2926, [art. 2, Sch. Pt. IV](#)
- F42** Words in definition of “income support” in s. 24(4) substituted (6.4.2001) by [1999 c. 30, s. 70, Sch. 8 Pt. III para. 27](#); S.I. 2000/2958, [art. 2\(6\)\(b\)](#) (subject to [arts. 3, 4](#))
- F43** S. 24(5)(a): words in subsection (3)(a) as it applies to Scotland substituted (1.4.1996) by [1995 c. 40, ss. 5, 7\(2\), Sch. 4 para. 80\(2\)\(a\)](#)
- F44** S. 24(5)(b): words in subsection (3)(b) as it applies to Scotland substituted (1.4.1996) by [1995 c. 40, ss. 5, 7\(2\), Sch. 4 para. 80\(2\)\(b\)](#)

#### Commencement Information

- I4** S. 24 wholly in force at 1.10.1992 see s. 102(2)(3) and [S.I. 1992/333, art. 2\(2\), Sch. 2](#).

#### Marginal Citations

- M6** [1970 c. 31](#).
- M7** [1979 c. 2](#).
- M8** [1970 c. 31](#).
- M9** [1986 c. 50](#).

#### Miscellaneous

**F45**<sup>25</sup> .....

#### Textual Amendments

- F45** [S. 25](#) repealed (25.8.2000) by [2000 c. 6, ss. 165, 168\(1\), Sch. 12 Pt. I](#) (with [Sch. 11 paras. 1, 2](#))

#### 26 Alteration of certain penalties.

- (1) In section 7 of the <sup>M10</sup>Theft Act 1968 (theft), for the words “ten years” there shall be substituted the words “seven years”.
- (2) For subsections (3) and (4) of section 9 of that Act (burglary) there shall be substituted the following subsections—
  - “(3) A person guilty of burglary shall on conviction on indictment be liable to imprisonment for a term not exceeding—
    - (a) where the offence was committed in respect of a building or part of a building which is a dwelling, fourteen years;
    - (b) in any other case, ten years.

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(4) References in subsections (1) and (2) above to a building, and the reference in subsection (3) above to a building which is a dwelling, shall apply also to an inhabited vehicle or vessel, and shall apply to any such vehicle or vessel at times when the person having a habitation in it is not there as well as at times when he is.”

<sup>F46</sup>(3) . . . . .

(4) In section 51(4) of the <sup>M11</sup>Criminal Law Act 1977 (penalties for bomb hoaxes)—  
(a) in paragraph (a), for the words “three months” there shall be substituted the words “six months”; and  
(b) in paragraph (b), for the words “five years” there shall be substituted the words “seven years”.

(5) The power saved by subsection (1) of section 70 of the 1982 Act (vagrancy offences) shall not include, in the case of an offence mentioned in paragraph (b)(i) of that subsection (sleeping rough), power to impose a fine which exceeds level 1 on the standard scale.

**Extent Information**

**E4** S. 26 extends to England and Wales; s. 26(3)(4) also extend to Scotland see s. 102(4)(5)

**Textual Amendments**

**F46** S. 26(3) repealed (16.10.1992) by Protection of Badgers Act 1992 (c. 51), s. 15(2)(3), Sch.

**Commencement Information**

**I5** S. 26 wholly in force; s. 26(3) in force (E.W.) at 25.10.1991, s. 26(4)(5) in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(2)(3)(4), Schs. 2, 3; s. 26(3) in force (S.) at 9.12.1991 see s. 102(2)(3) and S.I. 1991/2706, art. 2(1)(2); s. 26 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2

**Marginal Citations**

**M10** 1968 c. 60.  
**M11** 1977 c. 45.

**27 Treatment of offenders under 1983 Act.**

(1) After section 39 of the 1983 Act there shall be inserted the following section—

**“39A Information to facilitate guardianship orders.**

Where a court is minded to make a guardianship order in respect of any offender, it may request the local social services authority for the area in which the offender resides or last resided, or any other local social services authority that appears to the court to be appropriate—

- (a) to inform the court whether it or any other person approved by it is willing to receive the offender into guardianship; and
- (b) if so, to give such information as it reasonably can about how it or the other person could be expected to exercise in relation to the offender the powers conferred by section 40(2) below;

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and that authority shall comply with any such request.”

(2) After section 54 of that Act there shall be inserted the following section—

**“54A Reduction of period for making hospital orders.**

(1) The Secretary of State may by order reduce the length of the periods mentioned in sections 37(4) and (5) and 38(4) above.

(2) An order under subsection (1) above may make such consequential amendments of sections 40(1) and 44(3) above as appear to the Secretary of State to be necessary or expedient.”

(3) In section 143(2) of that Act (general provisions as to regulations, orders and rules), after the words “this Act” there shall be inserted the words “or any order made under section 54A above”.

**Commencement Information**

**I6** S. 27 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

*Supplemental*

<sup>F47</sup>**28** .....

**Textual Amendments**

**F47** S. 28 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

<sup>F48</sup>**29** .....

**Textual Amendments**

**F48** S. 29 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

**30 Rules, regulations and orders.**

(1) Any power of the Secretary of State <sup>F49</sup> . . . to make rules, regulations or orders under this Part—

- (a) shall be exercisable by statutory instrument; and
- (b) shall include power to make different provision for different cases or classes of case.

(2) A statutory instrument containing any rules, regulations or order under this Part <sup>F50</sup> . . . shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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#### Textual Amendments

- F49** Words in s. 30(1) repealed (20.9.1993) by 1993 c. 36, s. 79(14), **Sch. 6 Pt. I**; S.I. 1993/1968, art. 2(2), **Sch. 2**, Appendix.
- F50** Words in s. 30(2) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

#### Commencement Information

- I7** S. 30 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

<sup>F51</sup>**31** .....

#### Textual Amendments

- F51** S. 31 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

## PART II

### EARLY RELEASE OF PRISONERS

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

- C5** Pt. II (ss. 32-51) applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II paras. 8(4), 9(4), **9(5)**, Sch. 5 paras. 9(1)(c)(2)(c), 10(1)(d)(2)(c); S.I. 1997/2200, **art. 2(1)**.
- Pt. II (ss. 32-51) modified (*prosp.*) by 1997 c. 43, ss. 56(1), 57(2), **Sch. 5 para.2(3)** (by 1998 c. 37, s. 120(2), **Sch.10** in the said Sch. 5, paras. 1-4 are repealed (30.9.1998); S.I. 1998/2327, **art.2(1)(aa)(3)(x)**).
- Pt. II (ss. 32-51) applied (*prosp.*) by 1997 c. 43, ss. 56(1), 57(2), **Sch. 5 para. 2(6)** (by 1998 c. 37, s. 120(2), **Sch.10** in the said Sch. 5, paras. 1-4 are repealed (30.9.1998); S.I. 1998/2327, **art.2(1)(aa)(3)(x)**).
- Pt. II (ss. 32-51) excluded (*prosp.*) by 1997 c. 43, ss. 56(1), 57(2), Sch. 5 paras. 2(7), **3(6)** (by 1998 c. 37, s. 120(2), **Sch.10** in the said Sch. 5, paras. 1-4 are repealed (30.9.1998); S.I. 1998/2327, **art.2(1)(aa)(3)(x)**).
- Pt. II (ss. 32-51) modified (1.4.2000) by 1998 c. 37, **s.79(3)(4)**; S.I. 1999/3426, **art. 3** (subject to art. 4 of the said S.I.)
- Pt. II (ss. 32-51) applied (30.9.1998) by 1998 c. 37, **s.102**; S.I. 1998/2327, **art.2(1)(v)**.
- Pt. II (ss. 32-51) modified (25.8.2000) by 2000 c. 6, **ss. 116(6)(a)**, 168
- Pt. II (ss. 32-51) excluded (1.9.2001) by 2001 c. 17, s. 42, **Sch. 7 para. 3(1)** (with s. 78); S.I. 2001/2161, **art. 2**

#### Commencement Information

- I8** Pt. II (ss. 32 - 51) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2** (as repealed (30.9.1998) by 1998 c. 37, s. 120(2), **Sch. 10**; S.I. 1998/2327, **art. 2(1)(aa)(3)(x)**).



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## Preliminary

### 32 The Parole Board.

- [<sup>F52</sup>(1) The Parole Board shall be, by that name, a body corporate and as such shall .
- [<sup>F53</sup>(a) be constituted in accordance with this Part; and
- (b) have [<sup>F54</sup>the functions conferred by this Part in respect of long-term and short-term prisoners and by Chapter II of Part II of the Crime (Sentences) Act 1997 (“Chapter II”) in respect of life prisoners within the meaning of that Chapter]].]
- (2) It shall be the duty of the Board to advise the Secretary of State with respect to any matter referred to it by him which is connected with the early release or recall of prisoners.
- (3) The Board shall deal with cases as respects which it makes recommendations under [<sup>F54</sup>this Part or Chapter II] on consideration of—
- (a) any documents given to it by the Secretary of State; and
- (b) any other oral or written information obtained by it,
- and if in any particular case the Board thinks it necessary to interview the person to whom the case relates before reaching a decision, the Board may authorise one of its members to interview him and shall consider the report of the interview made by that member.
- (4) The Board shall deal with cases as respects which it gives directions under [<sup>F54</sup>this Part or Chapter II] on consideration of all such evidence as may be adduced before it.
- (5) Without prejudice to subsections (3) and (4) above, the Secretary of State may make rules with respect to the proceedings of the Board, including provision authorising cases to be dealt with by a prescribed number of its members or requiring cases to be dealt with at prescribed times.
- (6) The Secretary of State may also give to the Board directions as to the matters to be taken into account by it in discharging any functions under [<sup>F54</sup>this Part or Chapter II]; and in giving any such directions the Secretary of State shall in particular have regard to—
- (a) the need to protect the public from serious harm from offenders; and
- (b) the desirability of preventing the commission by them of further offences and of securing their rehabilitation.
- (7) Schedule 5 to this Act shall have effect with respect to the Board.

#### Textual Amendments

- F52** S. 32(1) substituted (1.7.1996) by 1994 c. 33, s. 149; S.I. 1996/1608, art. 2( S.I. 1996/1530 having been revoked by S.I. 1996/1608, art. 3).
- F53** S. 32(1)(a)(b) substituted for words (1.10.1997 so far as relating to offences the sentences for which fall to be imposed under section 2(2) or 3(2) and otherwise 1.12.1999) by 1997 c. 43, s. 55(2), Sch. 4 para. 15(1)(a); S.I. 1997/2200, art. 2(1)(2)(h); S.I. 1999/3096, art. 2(e).
- F54** Words in s. 32(1)(b)(3)(4)(6) substituted (30.9.1998) by 1998 c. 37, s. 119, Sch. 8 paras. 79(1), 79(2); S.I. 1998/2327, art.2(1)(y)(2)(y).



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

**C6** S. 32 modified (8.9.1997) by S.I. 1997/2200, **art. 5(3)(c)**.

**Commencement Information**

**I9** Pt. II (ss. 32-51) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, **art. 2(2)**, **Sch. 2**.

*New arrangements for early release*

**33 Duty to release short-term and long-term prisoners.**

- (1) As soon as a short-term prisoner has served one-half of his sentence, it shall be the duty of the Secretary of State—
  - (a) to release him unconditionally if that sentence is for a term of less than twelve months; and
  - (b) to release him on licence if that sentence is for a term of twelve months or more.
- (2) As soon as a long-term prisoner has served two-thirds of his sentence, it shall be the duty of the Secretary of State to release him on licence.
- (3) As soon as a short-term or long-term prisoner who—
  - (a) has been released on licence under [<sup>F55</sup>this Part]; and
  - (b) has been recalled to prison under section [<sup>F55</sup>39(1) or (2)] below, would (but for his release) have served three-quarters of his sentence, it shall be the duty of the Secretary of State to release him [<sup>F56</sup>on licence].
- [<sup>F57</sup>(3A) In the case of a prisoner to whom section 44A below applies, it shall be the duty of the Secretary of State to release him on licence at the end of the extension period (within the meaning of [<sup>F58</sup>section 85 of the Powers of Criminal Courts (Sentencing) Act 2000].)]
- <sup>F59</sup>(4) .....
- (5) In this Part—
  - “long-term prisoner” means a person serving a sentence of imprisonment for a term of four years or more;
  - “short-term prisoner” means a person serving a sentence of imprisonment for a term of less than four years.

**Textual Amendments**

- F55** Words in s. 33(3)(a)(b) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 80(1)(a)(b)**; S.I. 1998/2327, **art. 2(1)(y)(2)(y)**.
- F56** Words in s. 33(3) substituted (30.9.1998) by 1998 c. 37, s. 104(1) (with Sch. 9 para. 13); S.I. 1998/2327, **art. 2(1)(w)**.
- F57** S. 33(3A) inserted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 80(2)**; S.I. 1998/2327, **art. 2(1)(y)(2)(y)**.
- F58** Words in s. 33(3A) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 137**
- F59** S. 33(4) repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 80(3), **Sch. 10**; S.I. 1998/2327, **art. 2(1)(aa)(y)(2)(y)(3)(t)**.

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

- C7** S. 33 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II paras. 8(2), 9(2), Sch. 5 paras. 9(1)(a), **10(1)(b)**; S.I. 1997/2200, **art. 2(1)**.  
S. 33 modified (30.9.1998) by 1998 c. 37, s. 120(1), **Sch. 9 para. 12(3)(9)**; S.I. 1998/2327, **art. 2(1)(z)**
- C8** S. 33(1)(b) amended (*retrospectively*) by 1984 c. 47, **Sch. para. 2** as modified (*retrospectively*) by 1997 c. 43, s. 42, **Sch. 2 para. 2(1)(2)**; S.I. 1997/2200, **art. 2(1)**.  
S. 33(1)(b) amended (1.10.1997) by 1984 c. 47, **Sch. para. 2** as modified (1.10.1997) by 1997 c. 43, s. 42, **Sch. 2 para. 3(1)(2)**; S.I. 1997/2200, **art. 2(1)**.
- C9** S. 33(2) amended (*retrospectively*) by 1984 c. 47, **Sch. para. 2** as modified (*retrospectively*) by 1997 c. 43, s. 42, **Sch. 2 para. 2(1)(2)**; S.I. 1997/2200, **art. 2(1)**.  
S. 33(2) amended (1.10.1997) by 1984 c. 47, **Sch. para. 2** as modified (1.10.1997) by 1997 c. 43, s. 42, **Sch. 2 para. 3(1)(2)**; S.I. 1997/2200, **art. 2(1)**.
- C10** S. 33(3) modified (25.8.2000) by 2000 c. 6, **ss. 86(1)**, 186(1)

#### Commencement Information

- I10** Pt. II (ss. 32-51) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, **art. 2(2)**, **Sch. 2**.

### <sup>F60</sup>**33A Duty to release prisoners: special cases.**

- (1) As soon as a prisoner—
- (a) whose sentence is for a term of less than twelve months; and
  - (b) who has been released on licence under section 34A(3) or 36(1) below and recalled to prison under section 38A(1) or 39(1) or (2) below,
- would (but for his release) have served one-half of his sentence, it shall be the duty of the Secretary of State to release him unconditionally.
- (2) As soon as a prisoner—
- (a) whose sentence is for a term of twelve months or more; and
  - (b) who has been released on licence under section 34A(3) below and recalled to prison under section 38A(1) below,
- would (but for his release) have served one-half of his sentence, it shall be the duty of the Secretary of State to release him on licence.
- (3) In the case of a prisoner who—
- (a) has been released on licence under this Part and recalled to prison under section 39(1) or (2) below; and
  - (b) has been subsequently released on licence under section 33(3) or (3A) above and recalled to prison under section 39(1) or (2) below,
- section 33(3) above shall have effect as if for the words “three-quarters” there were substituted the words “the whole” and the words “on licence” were omitted.]

#### Textual Amendments

- F60** S. 33A inserted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 81**; S.I. 1998/2327, **art. 2(1)(y)(2)(y)**.

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

- C11** S. 33A modified (30.9.1998) by 1998 c. 37, s. 120(1), **Sch. 9 para. 12(4)(9)**; S.I. 1998/2327, **art. 2(1)(z)**.  
S. 33A modified by S.I. 1998/2327, **art. 5(3)(c)**.

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**F61**34 .....

**Textual Amendments**

**F61** S. 34 repealed (1.10.1997) by 1997 c. 43, s. 56(2), Sch.6; S.I. 1997/2200, art. 2(1)(p)(3)(a).

**[F62]34A Power to release short-term prisoners on licence.**

- (1) Subject to subsection (2) below, subsection (3) below applies where a short-term prisoner <sup>F63</sup> . . . is serving a sentence of imprisonment for a term of three months or more.
- (2) Subsection (3) below does not apply where—
  - (a) the sentence is an extended sentence within the meaning of [<sup>F64</sup>section 85 of the Powers of Criminal Courts (Sentencing) Act 2000];
  - (b) the sentence is for an offence under section 1 of the <sup>M12</sup>Prisoners (Return to Custody) Act 1995;
  - (c) the sentence was imposed under [<sup>F64</sup>paragraph 4(1)(d) or 5(1)(d) of Schedule 3 to the Powers of Criminal Courts (Sentencing) Act 2000] in a case where the prisoner had failed to comply with a requirement of a curfew order;
  - (d) the prisoner is subject to a hospital order, hospital direction or transfer direction under section 37, 45A or 47 of the <sup>M13</sup>Mental Health Act 1983;
  - [<sup>F65</sup>(da) the prisoner is subject to the notification requirements of [<sup>F66</sup>Part 2 of the Sexual Offences Act 2003] ;]
  - (e) the prisoner is liable to removal from the United Kingdom for the purposes of section 46 below;
  - (f) the prisoner has been released on licence under this section at any time and has been recalled to prison under section 38A(1)(a) below;
  - (g) the prisoner has been released on licence under this section or section 36 below during the currency of the sentence, and has been recalled to prison under section 39(1) or (2) below;
  - (h) the prisoner has been returned to prison under [<sup>F64</sup>section 116 of the Powers of Criminal Courts (Sentencing) Act 2000]at any time; or
  - (j) the interval between—
    - (i) the date on which the prisoner will have served the requisite period for the term of the sentence; and
    - (ii) the date on which he will have served one-half of the sentence, is less than 14 days.
- (3) After the prisoner has served the requisite period for the term of his sentence, the Secretary of State may, subject to section 37A below, release him on licence.
- (4) In this section “the requisite period” means—
  - (a) for a term of three months or more but less than four months, a period of 30 days;
  - (b) for a term of four months or more but less than [<sup>F67</sup>eighteen months] , a period equal to one-quarter of the term;
  - (c) for a term of [<sup>F68</sup>eighteen months] or more, a period that is [<sup>F69</sup>135 days] less than one-half of the term.

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- (5) The Secretary of State may by order made by statutory instrument—
- (a) repeal the words “aged 18 or over” in subsection (1) above;
  - (b) amend the definition of “the requisite period” in subsection (4) above; and
  - (c) make such transitional provision as appears to him necessary or expedient in connection with the repeal or amendment.
- (6) No order shall be made under subsection (5) above unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.

#### Textual Amendments

- F62** S. 34A inserted (28.01.1999) by 1998 c. 37, s. 99 (with Sch. 9 para. 10); S.I. 1998/3263, art. 3.
- F63** Words in s. 34A(1) repealed (14.7.2003) by The Release of Short-Term Prisoners on Licence (Repeal of Age Restriction) Order 2003 (S.I. 2003/1691), art. 2
- F64** Words in s. 34A(2)(a)(c)(h) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 9
- F65** S. 34A(2)(da) inserted (1.3.2001) by 2000 c. 43, s. 65; S.I. 2001/340, art. 2
- F66** Words in s. 34A(2)(da) substituted (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 139, 141; Sch. 6 para. 30; S.I. 2004/874, art. 2
- F67** Words in s. 34A(4)(b) substituted (14.7.2003) by The Release of Short-Term Prisoners on Licence (Amendment of Requisite Period) Order 2003 (S.I. 2003/1602), art. 3(1)
- F68** Words in s. 34A(4)(c) substituted (14.7.2003) by The Release of Short-Term Prisoners on Licence (Amendment of Requisite Period) Order 2003 (S.I. 2003/1602), art. 3(2)
- F69** Words in s. 34A(4)(c) substituted (14.7.2003) by The Release of Short-Term Prisoners on Licence (Amendment of Requisite Period) Order 2003 (S.I. 2003/1602), art. 3(2)

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

- C12** S. 34A modified (30.9.1998) by 1998 c. 37, s. 120(1), Sch. 9 para. 12(5)(9); S.I. 1998/2327, art. 2(1)(z).
- C13** S. 34A modified (temp. from 24.3.2005) by The Criminal Justice Act 2003 (Commencement No. 8 and Transitional and Saving Provisions) Order 2005 (S.I. 2005/950), arts. 2, 4, Sch. 2 para. 22

#### Marginal Citations

- M12** 1995 c.16.
- M13** 1983 c.20.

### [<sup>F70</sup>35 Power to release long-term and life prisoners.

- (1) After a long-term prisoner has served one-half of his sentence, the Secretary of State may, if recommended to do so by the Board, release him on licence.

<sup>F70</sup>(2) .....

<sup>F70</sup>(3) .....]

#### Textual Amendments

- F70** S. 35 repealed (1.10.1997 as regards s. 35(2)(3) otherwise *prosp.*) by 1997 c. 43, ss. 56(2), 57(2), Sch. 6 (subject to transitional provisions and savings in s. 56(1), Sch. 5 para. 1); S.I. 1997/2200, art. 2(1)(p) (3)(b) (subject to transitional provisions and savings in art. 5) (but by 1998 c. 37, s. 120(2), Sch. 10 the entries in the said Sch. 6 of 1997 c. 43 relating to ss. 33-51 and 65 of this Act are repealed (30.9.1998); S. I. 1998/2327, art.2(1)(aa)(3)(x)).

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

- C14** S. 35 modified (1.10.1992) by S.I. 1992/1829, **art. 3**.  
Ss. 34-37 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), 57(2), Sch. 1 Pt. II paras. 8, 9(2)(a), Sch. 5 paras. 9(2)(a), **10(2)(a)**; S.I. 1997/2200, **art. 2(1)**.  
S. 35 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), 57(2), Sch. 1 Pt. II paras. 8, 9(2), Sch. 5 paras. 9(1)(a), **10(1)(b)**; S.I. 1997/2200, **art. 2(1)**.
- C15** S. 35(1) amended (*retrospectively*) by 1984 c. 47, **Sch. para. 2** as modified (*retrospectively*) by 1997 c. 43, s. 42, **Sch. 2 para. 2(1)(2)**; S.I. 1997/2200, **art. 2(1)**.  
S. 35(1) amended (1.10.1997) by 1984 c. 47, **Sch. para. 2** as modified (1.10.1997) by 1997 c. 43, s. 42, **Sch. 2 para. 3(1)(2)**; S.I. 1997/2200, **art. 2(1)**.  
S. 35(1) excluded (*prosp.*) by 1997 c. 43, ss. 56(1), 57(2), **Sch. 5 para. 2(4)** (by 1998 c. 37, s. 210(2), **Sch. 10** the said Sch. 5 para. 2 was repealed (30.9.1998); S.I. 1998/2327, **art. 2(1)(aa)(3)(x)**).

#### Commencement Information

- I11** Pt. II (ss. 32-51) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, **art. 2(2)**, **Sch. 2**.

### <sup>F71</sup>36 Power to release prisoners on compassionate grounds.

[<sup>F71</sup>(1) The Secretary of State may at any time release a [<sup>F72</sup>short-term or long-term prisoner] on licence if he is satisfied that exceptional circumstances exist which justify the prisoner's release on compassionate grounds.]

- (2) Before releasing a long-term <sup>F71</sup>. . . prisoner under subsection (1) above, the Secretary of State shall consult the Board, unless the circumstances are such as to render such consultation impracticable.

#### Textual Amendments

- F71** S. 36(1) so far as relating to life prisoners, and words in s. 36(2) repealed (1.10.1997) by 1997 c. 43, ss. 56(2), 57(2), **Sch. 6** (subject to transitional provisions and savings in s. 56(1), **Sch. 5 para. 1**); S.I. 1997/2200, **art. 2(1)(p)(3)(c)** (subject to transitional provisions and savings in **art. 5**).
- F72** Words in s. 36(1) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para.82**; S.I. 1998/2327, **art.2(1)(y)(2)(y)**.

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

- C16** Ss. 34-37 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II paras. 8, 9(2)(a), Sch. 5 paras. 9(2)(a), **10(2)(a)**; S.I. 1997/2200, **art. 2(1)**.  
S. 36 applied (1.10.1997) by 1997 c. 43, ss. 44, 56(1), Sch. 1 Pt. II paras. 8(2), 9(2), Sch. 5 paras. 9(1)(a), **10(1)(b)**; S.I. 1997/2200, **art. 2(1)**.

#### Commencement Information

- I12** Pt. II (ss. 32-51) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, **art. 2(2)**, **Sch. 2**.

### 37 Duration and conditions of licences.

- (1) Subject to [<sup>F73</sup>subsections (1A), (1B) and (2)] below, where a short-term or long-term prisoner is released on licence, the licence shall, subject to <sup>F74</sup>. . . any revocation under section 39(1) or (2) below, remain in force until the date on which he would (but for his release) have served three-quarters of his sentence.

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[<sup>F75</sup>(1A) Where a prisoner is released on licence under section 33(3) or (3A) above, subsection (1) above shall have effect as if for the reference to three-quarters of his sentence there were substituted a reference to the whole of that sentence.]

[<sup>F76</sup>(1B) Where a prisoner whose sentence is for a term of twelve months or more is released on licence under section 33A(2) or 34A(3) above, subsection (1) above shall have effect as if for the reference to three-quarters of his sentence there were substituted a reference to the difference between—

- (a) that proportion of his sentence; and
- (b) the duration of the curfew condition to which he is or was subject.]

(2) Where a prisoner whose sentence is for a term of less than twelve months is released on licence under [<sup>F77</sup>section 34A(3) or 36(1) above], subsection (1) above shall have effect as if for the reference to three-quarters of his sentence there were substituted a reference to one-half of that sentence.

<sup>F78</sup>(3) . . . . .

[<sup>F78</sup>(4) A person subject to a licence [<sup>F79</sup>under this Part]] shall comply with such conditions <sup>F80</sup>. . . as may for the time being be specified in the licence; and the Secretary of State may make rules for regulating the supervision of any description of such persons.

[<sup>F81</sup>(4A) The conditions so specified may in the case of a person released on licence under section 34A above whose sentence is for a term of less than twelve months, and shall in any other case, include on the person's release conditions as to his supervision by—

- (a) [<sup>F82</sup>an officer of a local probation board] appointed for or assigned to the petty sessions area within which the person resides for the time being; or
- (b) where the person is under the age of 18 years, a member of a youth offending team established by the local authority within whose area the person resides for the time being.]

[<sup>F83</sup>(5) The Secretary of State shall not include on release, or subsequently insert, a condition in the licence of a long-term prisoner, or vary or cancel any such condition, except after consultation with the Board.]

(6) For the purposes of subsection (5) above, the Secretary of State shall be treated as having consulted the Board about a proposal to include, insert, vary or cancel a condition in any case if he has consulted the Board about the implementation of proposals of that description generally or in that class of case.

(7) The power to make rules under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

**F73** Words in s. 37(1) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 83(1)(a)**; S.I. 1998/2327, **art. 2(1)(y)(2)(z)**.

**F74** Words in s. 37(1) repealed (1.1.1999) by 1998 c. 37, ss. 119, 120(2), **Sch. 8 para. 83(1)(b)**, **Sch. 10** (with **Sch. 9 para. 12**); S.I. 1998/3263, **art. 2(b)(d)**.

**F75** S. 37(1A) inserted (30.9.1998) by 1998 c. 37, **s. 104(2)** (with **Sch. 9 para. 13**); S.I. 1998/2327, **art. 2(1)(w)**.

**F76** S. 37(1B) inserted (1.1.1999) by 1998 c. 37, ss. 119, 120(2), **Sch. 8 para. 83(2)**; S.I. 1998/3263, **art. 2(b)**.



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- F77** Words in s. 37(2) substituted (1.1.1999) by 1998 c. 37, s. 119, **Sch. 8 para. 83(3)**; S.I. 1998/3263, **art. 2(b)**.
- F78** S. 37(3), and s. 37(4) so far as relating to life prisoners repealed (1.10.1997) by 1997 c. 43, ss. 56(2), 57(2), **Sch. 6** (subject to transitional provisions and savings in s. 56(1), **Sch. 5 para. 1**); S.I. 1997/2200, **art. 2(1)(p)(3)(d)** (subject to transitional provisions and savings in art. 5).
- F79** Words in s. 37(4) inserted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 83(4)(a)**; S.I. 1998/2327, **art. 2(1)(y)(2)(z)**.
- F80** Words in s. 37(4) repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), **Sch. 8 para. 83(4)(b)**, **Sch. 10**; S.I. 1998/2327, **art. 2(1)(y)(aa)(2)(z)(3)(t)**.
- F81** S. 37(4A) inserted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 83(5)**; S.I. 1998/2327, **art. 2(1)(2)(y)(2)(z)**.
- F82** Words in s. 37(4A)(a) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 4(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**
- F83** S. 37(5) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 83(6)**; S.I. 1998/2327, **art. 2(1)(y)(2)(Z)**.

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

- C17** S. 37 modified (1.10.1992) by S.I. 1992/1829, **art. 3**.  
S. 37 applied (1.10.1997) by 1997 c. 43, ss. 44, 56(1), **Sch. 1 Pt. II paras. 8(2)(4), 9(2)(b)(4)**, **Sch. 5 paras. 9(1)(a)(b)(2)(b), 10(1)(b)(c)(2)(b)**; S.I. 1997/2200, **art. 2(1)**.  
Ss. 34-37 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), **Sch. 1 Pt. II paras. 8, 9(2)(a)**, **Sch. 5 paras. 9(2)(a), 10(2)(a)**; S.I. 1997/2200, **art. 2(1)**.  
S. 37 modified (19.9.1998) by S.I. 1998/2327, **art. 5(3)(d)**.
- C18** S. 37(1)(2) amended (retrospectively) by 1984 c. 47, **Sch. para. 2** as modified (retrospectively) by 1997 c. 43, s. 42, **Sch. 2 para. 2(1)(2)**; S.I. 1997/2200, **art. 2(1)**.  
S. 37(1)(2) amended (1.10.1997) by 1984 c. 47, **Sch. para. 2** as modified (1.10.1997) by 1997 c. 43, s. 42, **Sch. 2 para. 2(1)(2)**; S.I. 1997/2200, **art. 2(1)**.
- C19** S. 37(1) modified (25.8.2000) by 2000 c. 6, **ss. 86(1), 168(1)**
- C20** S. 37(1) modified (4.4.2005) by The Criminal Justice Act 2003 (Commencement No.8 and Transitional and Saving Provisions) Order 2005 (S.I. 2005/950), arts. 2, 4, **Sch. 2 para. 23** (as amended by S.I. 2005/2122, art. 2)
- C21** S. 37(4A) modified by S.I. 1998/2327, **art. 5(1)(a)**.

#### Commencement Information

- I13** Pt. II (ss. 32-51) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, **art. 2(2)**, **Sch. 2**.

### <sup>F84</sup>37A Curfew condition to be included in licence under section 34A.

- (1) A person shall not be released under section 34A(3) above unless the licence includes a condition (“the curfew condition”) which—
- requires the released person to remain, for periods for the time being specified in the condition, at a place for the time being so specified (which may be an approved probation hostel); and
  - includes requirements for securing the electronic monitoring of his whereabouts during the periods for the time being so specified.
- (2) The curfew condition may specify different places or different periods for different days, but shall not specify periods which amount to less than 9 hours in any one day (excluding for this purpose the first and last days of the period for which the condition is in force).

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- (3) The curfew condition shall remain in force until the date when the released person would (but for his release) have served one-half of his sentence.
- (4) The curfew condition shall include provision for making a person responsible for monitoring the released person's whereabouts during the periods for the time being specified in the condition; and a person who is made so responsible shall be of a description specified in an order made by the Secretary of State.
- (5) The power conferred by subsection (4) above—
  - (a) shall be exercisable by statutory instrument; and
  - (b) shall include power to make different provision for different cases or classes of case or for different areas.
- (6) Nothing in this section shall be taken to require the Secretary of State to ensure that arrangements are made for the electronic monitoring of released persons' whereabouts in any particular part of England and Wales;

[ In this section “approved probation hostel” has the same meaning as in the Probation <sup>F85</sup>(7) Service Act 1993.]]

#### Textual Amendments

- F84** S. 37A inserted (30.9.1998 for certain purposes by [S.I. 1998/2327](#) and 28.1.1999 to the extent that it is not already in force by [S.I. 1998/3263](#)) by [1998 c. 37, s. 100\(1\)](#); [S.I. 1998/2327, art. 2\(1\)\(u\)](#); [S.I. 1998/3263, art. 3](#).
- F85** S. 37A(7) omitted (2.7.2001) by [2000 c. 43, s. 74, Sch. 7 Pt. II para. 105](#); [S.I. 2001/2232, art. 2\(k\)\(m\)\(ii\)](#) and repealed (*prosp.*) by [2000 c. 43, ss. 75, 80\(1\), Sch. 8](#)

#### Misbehaviour after release

<sup>F86</sup>**38** .....

#### Textual Amendments

- F86** S. 38 repealed (1.1.1999) by [1998 c. 37 ss. 103\(1\)\(2\), 120\(2\), Sch.10 \(with Sch. 9 para. 12\)](#); [S.I. 1998/3263, art. 2\(a\)\(d\)](#).

[<sup>F87F87</sup>**38**~~A~~**Breach of curfew condition.**

- (1) If it appears to the Secretary of State, as regards a person released on licence under section 34A(3) above—
  - (a) that he has failed to comply with the curfew condition;
  - (b) that his whereabouts can no longer be electronically monitored at the place for the time being specified in that condition; or
  - (c) that it is necessary to do so in order to protect the public from serious harm from him,

the Secretary of State may, if the curfew condition is still in force, revoke the licence and recall the person to prison.



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- (2) A person whose licence under section 34A(3) above is revoked under this section—
  - (a) may make representations in writing with respect to the revocation;
  - (b) on his return to prison, shall be informed of the reasons for the revocation and of his right to make representations.
- (3) The Secretary of State, after considering any representations made under subsection (2)(b) above or any other matters, may cancel a revocation under this section.
- (4) Where the revocation of a person’s licence is cancelled under subsection (3) above, the person shall be treated for the purposes of sections 34A(2)(f) and 37(1B) above as if he had not been recalled to prison under this section.
- (5) On the revocation under this section of a person’s licence under section 34A(3) above, he shall be liable to be detained in pursuance of his sentence and, if at large, shall be deemed to be unlawfully at large.
- (6) In this section “the curfew condition” has the same meaning as in section 37A above.]

**Textual Amendments**

**F87** S. 38A inserted (28.1.1999) by 1998 c. 37, s. 100(2); S.I. 1998/3263, art.3.

**<sup>F88</sup>39 Recall of long-term and life prisoners while on licence.**

- (1) If recommended to do so by the Board in the case of a [<sup>F89</sup>short-term or] long-term <sup>F88</sup> . . . prisoner who has been released on licence under this Part, the Secretary of State may revoke his licence and recall him to prison.
- (2) The Secretary of State may revoke the licence of any such person and recall him to prison without a recommendation by the Board, where it appears to him that it is expedient in the public interest to recall that person before such a recommendation is practicable.
- (3) A person recalled to prison under subsection (1) or (2) above—
  - (a) may make representations in writing with respect to his recall; and
  - (b) on his return to prison, shall be informed of the reasons for his recall and of his right to make representations.
- (4) The Secretary of State shall refer to the Board—
  - (a) the case of a person recalled under subsection (1) above who makes representations under subsection (3) above; and
  - (b) the case of a person recalled under subsection (2) above.
- (5) Where on a reference under subsection (4) above the Board—
  - <sup>F88</sup>(a) . . . . .
  - (b) recommends in the case of any <sup>F88</sup> . . . person,  
his immediate release on licence under this section, the Secretary of State shall give effect to the <sup>F88</sup> . . . recommendation.

[<sup>F90</sup>(5A) In the case of a prisoner to whom section 44A below applies, subsections (4)(b) and (5) of that section apply in place of subsection (5) above.]

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- (6) On the revocation of the licence of any person under this section, he shall be liable to be detained in pursuance of his sentence and, if at large, shall be deemed to be unlawfully at large.

#### Textual Amendments

- F88** S. 39(5)(a) and words in s. 39(1)(5)(b) repealed (1.10.1997) by 1997 c. 43, ss. 56(2), 57(2), **Sch. 6** (subject to transitional provisions and savings in s. 56(1), **Sch. 5** para. 1); S.I. 1997/2200, **art. 2(1)(3)(e)** (subject to transitional provisions and savings in **art. 5**)
- F89** Words in s. 39(1) inserted (1.1.1999) by 1998 c. 37, **s. 103(3)** (with **Sch. 9** para. 12); S.I. 1998/3263, **art.2(a)**.
- F90** S. 39(5A) inserted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 84**; S.I. 1998/2327, **art. 2(1)(y)(2)(aa)**.

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

- C22** S. 39 modified (1.10.1992) by S.I. 1992/1829, **art. 3**.  
Ss. 35-39 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), **Sch. 1 Pt. II** para. 8(2), **Sch. 5 para. 9(1)(a)**; S.I. 1997/2200, **art. 2(1)**.  
Ss. 35-46 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), **Sch. 1 Pt. II** para. 9(2), **Sch. 5 para. 10(1)(b)**; S.I. 1997/2200, **art. 2(1)**.  
Ss. 37-39 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), **Sch. 1 Pt. II** para. 8(4), **Sch. 5 para. 9(1)(b)**; S.I. 1997/2200, **art. 2(1)**.  
Ss. 37-40 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), **Sch. 1 Pt. II** para.9(4), **Sch. 5 para. 10(1)(c)**; S.I. 1997/2200, **art. 2(1)**.  
S. 39 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), **Sch. 1 Pt. II** paras. 8, 9(2)(a)(4), **Sch. 5** paras. 9(2)(a)(b), **10(2)(a)(b)**; S.I. 1997/2200, **art. 2(1)**.

#### Commencement Information

- I14** Pt. II (ss. 32-51) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, **art. 2(2)**, **Sch. 2**.

**F91** 40 .....

#### Textual Amendments

- F91** S. 40 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with **Sch. 11** paras. 1, 2)

#### **[F92** 40A **F92** Release on licence following return to prison.

- (1) This section applies (in place of sections 33, 33A, 37(1) and 39 above) where a court passes on a person a sentence of imprisonment which—
- includes, or consists of, an order under **[F93**section 116 of the Powers of Criminal Courts (Sentencing) Act 2000]; and
  - is for a term of twelve months or less.
- (2) As soon as the person has served one-half of the sentence, it shall be the duty of the Secretary of State to release him on licence.
- (3) Where the person is so released, the licence shall remain in force for a period of three months.

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- (4) If the person fails to comply with such conditions as may for the time being be specified in the licence, he shall be liable on summary conviction—
  - (a) to a fine not exceeding level 3 on the standard scale; or
  - (b) to a sentence of imprisonment for a term not exceeding the relevant period, but not liable to be dealt with in any other way.
- (5) In subsection (4) above “the relevant period” means a period which is equal in length to the period between the date on which the failure occurred or began and the date of the expiry of the licence.
- (6) As soon as a person has served one-half of a sentence passed under subsection (4) above, it shall be the duty of the Secretary of State to release him, subject to the licence if it is still subsisting.

#### Textual Amendments

**F92** S. 40A inserted (30.9.1998) by 1998 c. 37, s. 105 (with Sch. 9 para. 14(1)); S.I. 1998/2327, art. 2(1) (w).

**F93** Words in s. 40A(1)(a) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), para. 139

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

**C23** S. 40A modified (30.9.1998) by 1998 c. 37, s. 120(1), Sch. 9 para. 12(6)(9); S.I. 1998/2327, art. 2(1) (z)

### *Remand time and additional days*

#### **41 Remand time to count towards time served.**

- (1) This section applies to any person whose sentence falls to be reduced under section 67 of the <sup>M14</sup>Criminal Justice Act 1967 (“the 1967 Act”) by any relevant period within the meaning of that section (“the relevant period”).
- (2) For the purpose of determining for the purposes of this Part—
  - (a) whether a person to whom this section applies has served one-half or two-thirds of his sentence; or
  - (b) whether such a person would (but for his release) have served three-quarters of that sentence,the relevant period shall, subject to subsection (3) below, be treated as having been served by him as part of that sentence.
- (3) Nothing in subsection (2) above shall have the effect of reducing the period for which a licence granted under this Part to a short-term or long-term prisoner remains in force to a period which is less than—
  - (a) one-quarter of his sentence in the case of a short-term prisoner; or
  - (b) one-twelfth of his sentence in the case of a long-term prisoner.

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

**C24** Ss. 41-46 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II para. 8(2), Sch. 5 para. 9(1) (a); S.I. 1997/2200, art. 2(1).

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Ss. 35-46 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II para. 9(2), **Sch. 5 para. 10(1)(b)**; S.I. 1997/2200, **art. 2(1)**.

S. 41 modified (*prosp.*) by 1997 c. 43, ss. 56(1), 57(2), **Sch. 5 para.4** (by 1998 c. 37, s. 120(2), **Sch. 10** and S.I. 1998/2327, **art. 2(1)(aa)(3)(x)** the said Sch. 5 paras. 1-4 were repealed (30.9.1998).

#### Commencement Information

**I15** Pt. II (ss. 32-51) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

#### Marginal Citations

**M14** 1967 c. 80.

## 42 Additional days for disciplinary offences.

- (1) Prison rules, that is to say, rules made under section 47 of the 1952 Act, may include provision for the award of additional days—
- (a) to short-term or long-term prisoners; or
  - (b) conditionally on their subsequently becoming such prisoners, to persons on remand,
- who (in either case) are guilty of disciplinary offences.
- (2) Where additional days are awarded to a short-term or long-term prisoner, or to a person on remand who subsequently becomes such a prisoner, and are not remitted in accordance with prison rules—
- (a) any period which he must serve before becoming entitled to or eligible for release under this Part; and
  - (b) any period for which a licence granted to him under this Part remains in force, shall be extended by the aggregate of those additional days.

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

**C25** Ss. 41-46 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II para. 8(2), **Sch. 5 para. 9(1)(a)**; S.I. 1997/2200, **art. 2(1)**.

Ss. 35-46 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II para. 9(2), **Sch. 5 para. 10(1)(b)**; S.I. 1997/2200, **art. 2(1)**.

#### Commencement Information

**I16** Pt. II (ss. 32-51) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

### *Special cases*

## 43 Young offenders.

- (1) Subject to subsections (4) and (5) below, this Part applies to persons serving sentences of detention in a young offender institution, or determinate sentences of detention under [<sup>F94</sup>section 91 of the Powers of Criminal Courts (Sentencing) Act 2000], as it applies to persons serving equivalent sentences of imprisonment.

<sup>F95</sup>(2) . . . . .

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- (3) References in this Part to prisoners <sup>F95</sup>. . . , or to prison or imprisonment, shall be construed in accordance with <sup>F96</sup>subsection (1)]. . . above.
- (4) In relation to a short-term prisoner under the age of 18 years to whom subsection (1) of section 33 above applies, that subsection shall have effect as if it required the Secretary of State—
- (a) to release him unconditionally if his sentence is for a term of twelve months or less; and
  - (b) to release him on licence if that sentence is for a term of more than twelve months.
- (5) In relation to a person under the age of 22 years who is released on licence under this Part, <sup>F96</sup>section 37(4A)] above shall have effect as if the reference to supervision by <sup>F97</sup>an officer of a local probation board] included a reference to supervision by a social worker of a local authority social services department.

#### Textual Amendments

- F94** Words in s. 43(1) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 140**
- F95** S. 43(2) and words in s. 43(3) repealed (1.10.1997) and the repeal of the words "and 2" in s. 43(3) is expressed to be brought into force (1.10.1997) as regards the words "or 2" by 1997 c. 43, s. 56(2), **Sch. 6** (subject to transitional provisions and savings in s. 56(1), **Sch. 5 para. 1**); S.I. 1997/2200, **art. 2(1)(p)(3)(f)**.
- F96** Words in s. 43(3)(5) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 87(1)(2)**; S.I. 1998/2327, **art. 2(1)(y)(2)(bb)**.
- F97** Words in s. 43(5) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 4(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

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

- C26** S. 43 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), **Sch. 1 Pt. II paras. 8, 9(4)**, **Sch. 5 paras. 9(2)(a)(b), 10(2)(b)**; S.I. 1997/2200, **art. 2(1)**.  
Ss. 43-46 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), **Sch. 1 Pt. II paras. 8(4), 9(2)(a)(4)**, **Sch. 5 paras. 9(1)(b), 10(1)(c)(2)(a)**; S.I. 1997/2200, **art. 2(1)**.  
Ss. 35-46 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), **Sch. 1 Pt. II para. 9(2)**, **Sch. 5 para. 10(1)(b)**; S.I. 1997/2200, **art. 2(1)**.  
Ss. 41-46 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), **Sch. 1 Pt. II para. 8(2)**, **Sch. 5 para. 9(1)(a)**; S.I. 1997/2200, **art. 2(1)**

#### Commencement Information

- I17** Pt. II (ss. 32-51) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, **art. 2(2)**, **Sch. 2**.

<sup>F98</sup>  
<sup>F99</sup>44

#### Extended sentences for sexual or violent offenders.

- (1) This section applies to a prisoner serving an extended sentence within the meaning of <sup>F100</sup>section 85 of the Powers of Criminal (Sentencing) Act 2000].
- (2) Subject to the provisions of this section and section 51(2D) below, this Part, except <sup>F100</sup>section] 40A, shall have effect as if the term of the extended sentence did not include the extension period.

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- (3) Where the prisoner is released on licence under this Part, the licence shall, subject to any revocation under section 39(1) or (2) above, remain in force until the end of the extension period.
- (4) Where, apart from this subsection, the prisoner would be released unconditionally—
  - (a) he shall be released on licence; and
  - (b) the licence shall, subject to any revocation under section 39(1) or (2) above, remain in force until the end of the extension period.
- (5) The extension period shall be taken to begin as follows—
  - (a) for the purposes of subsection (3) above, on the date given by section 37(1) above;
  - (b) for the purposes of subsection (4) above, on the date on which, apart from that subsection, the prisoner would have been released unconditionally.
- (6) Sections 33(3) and 33A(1) above and section 46 below shall not apply in relation to the prisoner.
- (7) For the purposes of sections 37(5) and 39(1) and (2) above the question whether the prisoner is a long-term or short-term prisoner shall be determined by reference to the term of the extended sentence.
- (8) In this section “extension period” has the same meaning as in <sup>F100</sup>section 85 of the Powers of Criminal Courts (Sentencing) Act 2000.]]

#### Textual Amendments

**F98** S. 44 substituted (30.9.1998) by 1998 c. 37, s. 59; S.I. 1998/2327, art. 2(1)(n).

**F99** S. 44 repealed (as it applies to persons sentenced for sexual offences committed before 30th September 1998) (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

**F100** Words in s. 44(1)(2)(8) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 9 para. 141(1)(2)(3)

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

**C27** S. 44 modified (30.9.1998) by 1998 c. 37, s. 120(1), Sch. 9 para. 12(7)(9); S.I. 1998/2327, art. 2(1)(z).

**C28** S. 44(3) modified (4.4.2005) by The Criminal Justice Act 2003 (Commencement No.8 and Transitional and Saving Provisions) Order 2005 (S.I. 2005/950), arts. 2, 4, Sch. 2 para. 23 (as amended by S.I. 2005/ 2122, art. 2)

**C29** S. 44(4) modified (4.4.2005) by The Criminal Justice Act 2003 (Commencement No.8 and Transitional and Saving Provisions) Order 2005 (S.I. 2005/950), arts. 2, 4, Sch. 2 para. 23 (as amended by S.I. 2005/ 2122, art. 2)

#### <sup>F101</sup>44A Re-release of prisoners serving extended sentences.

- (1) This section applies to a prisoner serving an extended sentence within the meaning of <sup>F102</sup>section 85 of the Powers of the Criminal Courts (Sentencing) Act 2000]] who is recalled to prison under section 39(1) or (2) above.
- (2) Subject to subsection (3) below, the prisoner may require the Secretary of State to refer his case to the Board at any time.
- (3) Where there has been a previous reference of the prisoner’s case to the Board (whether under this section or section 39(4) above), the Secretary of State shall not be required

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to refer the case until after the end of the period of one year beginning with the disposal of that reference.

(4) On a reference—

- (a) under this section; or
- (b) under section 39(4) above,

the Board shall direct the prisoner's release if satisfied that it is no longer necessary for the protection of the public that he should be confined (but not otherwise).

(5) If the Board gives a direction under subsection (4) above it shall be the duty of the Secretary of State to release the prisoner on licence.

#### Textual Amendments

**F101** S. 44A inserted (30.9.1998) by 1998 c. 37, s. 60; S.I. 1998/2327, art. 2(1)(n).

**F102** Words s. 44A(1) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 9 para. 142

#### <sup>F103</sup> 45 Fine defaulters and contemnors.

(1) Subject to subsection (2) below, this Part ([<sup>F104</sup>except sections 33A, 34A [<sup>F105</sup> and 35]] above) applies to persons committed to prison or to be detained under [<sup>F105</sup>section 108 of the Powers of Criminal Courts (Sentencing) Act 2000]—

- (a) in default of payment of a sum adjudged to be paid by a conviction; or
- (b) for contempt of court or any kindred offence,

as it applies to persons serving equivalent sentences of imprisonment; and references in this Part to short-term or long-term prisoners, or to prison or imprisonment, shall be construed accordingly.

(2) In relation to persons committed as mentioned in subsection (1) above, the provisions specified in subsections (3) and (4) below shall have effect subject to the modifications so specified.

(3) In section 33 above, for [<sup>F106</sup>subsections (1) to (3)] there shall be substituted the following subsections—

“(1) As soon as a person committed as mentioned in section 45(1) below has served the appropriate proportion of his term, that is to say—

- (a) one-half, in the case of a person committed for a term of less than twelve months;
- (b) two-thirds, in the case of a person committed for a term of twelve months or more,

it shall be the duty of the Secretary of State to release him unconditionally.

(2) As soon as a person so committed who—

- (a) has been released on licence under section 36(1) below; and
- (b) has been recalled under section [<sup>F106</sup>section 39(1) or (2)] below,

would (but for his release) have served the appropriate proportion of his term, it shall be the duty of the Secretary of State to release him unconditionally.”

(4) In section 37 above, for subsections (1) to (3) there shall be substituted the following subsection—



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- “(1) Where a person committed as mentioned in section 45(1) below is released on licence under section 36(1) above, the licence shall, subject to—
- (a) <sup>F107</sup> . . .
  - (b) any revocation under section [<sup>F108</sup>section 39(1) or (2)]below, continue in force until the date on which he would (but for his release) have served the appropriate proportion of his term; and in this subsection “appropriate proportion” has the meaning given by section 33(1) above.”

#### Textual Amendments

**F103** Ss. 43-46 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II paras. 8(4), 9(2)(a)(4), **Sch. 5 paras. 9(1)(b)**, 10(1)(c)(2)(a); S.I. 1997/2200, **art. 2(1)**.

Ss. 41-46 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II para. 8(2), **Sch. 5 para. 9(1)(a)**; S.I. 1997/2200, **art. 2(1)**.

Ss. 35-46 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II para. 9(2), **Sch. 5 para. 10(1)(b)**; S.I. 1997/2200, **art. 2(1)**.

**F104** Words in s. 45(1) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 88(1)**; S.I. 1998/2327, **art. 2(1)(y)(2)(cc)**.

**F105** Words in s. 45(1) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 143**

**F106** Words in s. 45(3) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 88(2)(a)(b)**; S.I. 1998/2327, **art. 2(1)(y)(2)(cc)**.

**F107** Words in s. 45(4) repealed (1.1.1999) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 88(3)(a), **Sch. 10** (with **Sch. 9 para. 12**); S.I. 1998/3263, **art. 2(b)(d)**.

**F108** Words in s. 45(4) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 88(3)(b)**; S.I. 1998/2327, **art. 2(1)(y)(2)(cc)**.

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

**C30** S. 45 modified (19.9.1998) by 1998 S.I. 1998/2327, **art. 5(3)(e)**.

**C31** S. 45(1) amended (30.9.1998) by 1998 c. 37, s. 120(1), **Sch. 9 para. 12(8)(9)**; S.I. 1998/2327, **art. 2(1)(z)**.

#### Commencement Information

**I18** Pt. II (ss. 32-51) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, **art. 2(2)**, **Sch. 2**.

## 46 Persons liable to removal from the United Kingdom.

- (1) In relation to a long-term prisoner who is liable to removal from the United Kingdom, section 35 above shall have effect as if the words “if recommended to do so by the Board” were omitted.
- (2) In relation to a person who is liable to removal from the United Kingdom, [<sup>F109</sup>section 37 above shall have effect as if subsection (4A) were omitted] .
- (3) A person is liable to removal from the United Kingdom for the purposes of this section if—
  - (a) he is liable to deportation under section 3(5) of the <sup>M15</sup>Immigration Act 1971 and has been notified of a decision to make a deportation order against him;
  - (b) he is liable to deportation under section 3(6) of that Act;
  - (c) he has been notified of a decision to refuse him leave to enter the United Kingdom; or



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(d) he is an illegal entrant within the meaning of section 33(1) of that Act.

#### Textual Amendments

**F109** Words in s. 46(2) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para.89**; S.I. 1998/2327, **art.2(1)(y)(2)(dd)**.

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

**C32** Ss. 43-46 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II paras. 8(4), 9(2)(a)(4), **Sch. 5 paras. 9(1)(b)**, 10(1)(c)(2)(a); S.I. 1997/2200, **art. 2(1)**.

Ss. 41-46 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II para. 8(2), **Sch. 5 para. 9(1)(a)**; S.I. 1997/2200, **art. 2(1)**.

Ss. 35-46 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II para. 9(2), **Sch. 5 para. 10(1)(b)**; S.I. 1997/2200, **art. 2(1)**.

S. 46 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II paras. 8, 9(4), Sch. 5 paras. 9(2)(a)(b), **10(2)(b)**; S.I. 1997/2200, **art. 2(1)**.

**C33** S. 46(3)(a) extended (2.10.2000) by S.I. 2000/2444, **art. 5**

#### Commencement Information

**I19** Pt. II (ss. 32-51) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

#### Marginal Citations

**M15** 1971 c. 77.

VALID FROM 14/06/2004

#### **46A Early removal of persons liable to removal from United Kingdom**

(1) Subject to subsection (2) below, where a short-term or long-term prisoner is liable to removal from the United Kingdom, the Secretary of State may under this section remove him from prison at any time after he has served the requisite period.

(2) Subsection (1) above does not apply where—

- (a) the sentence is an extended sentence within the meaning of section 85 of the Powers of Criminal Courts (Sentencing) Act 2000,
- (b) the sentence is for an offence under section 1 of the Prisoners (Return to Custody) Act 1995,
- (c) the prisoner is subject to a hospital order, hospital direction or transfer direction under section 37, 45A or 47 of the Mental Health Act 1983,
- (d) the prisoner is subject to the notification requirements of Part 2 of the Sexual Offences Act 2003, or
- (e) the interval between—
  - (i) the date on which the prisoner will have served the requisite period for the term of the sentence, and
  - (ii) the date on which he will have served one-half of the sentence, is less than 14 days.

(3) A prisoner removed from prison under this section—

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- (a) is so removed only for the purpose of enabling the Secretary of State to remove him from the United Kingdom under powers conferred by—
    - (i) Schedule 2 or 3 to the Immigration Act 1971, or
    - (ii) section 10 of the Immigration and Asylum Act 1999, and
  - (b) so long as remaining in the United Kingdom, remains liable to be detained in pursuance of his sentence until he falls to be released under section 33 or 35 above.
- (4) So long as a prisoner removed from prison under this section remains in the United Kingdom but has not been returned to prison, any duty or power of the Secretary of State under section 33, 35 or 36 is exercisable in relation to him as if he were in prison.
- (5) In this section “the requisite period” means—
- (a) for a term of three months or more but less than four months, a period of 30 days;
  - (b) for a term of four months or more but less than 18 months, a period equal to one-quarter of the term;
  - (c) for a term of 18 months or more, a period that is 135 days less than one-half of the term.
- (6) The Secretary of State may by order made by statutory instrument—
- (a) amend the definition of “the requisite period” in subsection (5) above,
  - (b) make such transitional provision as appears to him necessary or expedient in connection with the amendment.
- (7) No order shall be made under subsection (6) above unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.
- (8) In relation to any time before the commencement of sections 80 and 81 of the Sexual Offences Act 2003, the reference in subsection (2)(d) above to Part 2 of that Act is to be read as a reference to Part 1 of the Sex Offenders Act 1997.

VALID FROM 14/06/2004

#### **46B Re-entry into United Kingdom of offender removed early from prison**

- (1) This section applies in relation to a person who, after being removed from prison under section 46A above, has been removed from the United Kingdom before he has served one-half of his sentence.
- (2) If a person to whom this section applies enters the United Kingdom at any time before his sentence expiry date, he is liable to be detained in pursuance of his sentence from the time of his entry into the United Kingdom until whichever is the earlier of the following—
  - (a) the end of a period (“the further custodial period”) beginning with that time and equal in length to the outstanding custodial period, and
  - (b) his sentence expiry date.

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- (3) A person who is liable to be detained by virtue of subsection (2) above is, if at large, to be taken for the purposes of section 49 of the Prison Act 1952 (persons unlawfully at large) to be unlawfully at large.
- (4) Subsection (2) above does not prevent the further removal from the United Kingdom of a person falling within that subsection.
- (5) Where, in the case of a person returned to prison by virtue of subsection (2) above, the further custodial period ends before the sentence expiry date, subsections (1) and (2) of section 33 above apply in relation to him as if any reference to one-half or two-thirds of the prisoner's sentence were a reference to the further custodial period.
- (6) If a person returned to prison by virtue of subsection (2) above falls by virtue of subsection (5) above to be released on licence under section 33(1) or (2) above after the date on which (but for his removal from the United Kingdom) he would have served three-quarters of his sentence, section 37(1) above has effect in relation to him as if for the reference to three-quarters of his sentence there were substituted a reference to the whole of his sentence.
- (7) If a person who is released on licence under section 33(1) or (2) above at the end of the further custodial period is recalled to prison under section 39(1) or (2) above, section 33A(3) above shall not apply, but it shall be the duty of the Secretary of State—
  - (a) if the person is recalled before the date on which (but for his removal from the United Kingdom) he would have served three-quarters of his sentence, to release him on licence on that date, and
  - (b) if he is recalled after that date, to release him on the sentence expiry date.
- (8) A licence granted by virtue of subsection (7)(a) above shall remain in force until the sentence expiry date.
- (9) In this section—
  - “further custodial period” has the meaning given by subsection (2)(a) above;
  - “outstanding custodial period”, in relation to a person to whom this section applies, means the period beginning with the date on which he was removed from the United Kingdom and ending with the date on which (but for his removal) he would have served one-half of his sentence;
  - “sentence expiry date”, in relation to a person to whom this section applies, means the date on which (but for his removal from the United Kingdom) he would have served the whole of this sentence.

#### **47 Persons extradited to the United Kingdom.**

- (1) A short-term or long-term prisoner is an extradited prisoner for the purposes of this section if—
  - (a) he was tried for the offence in respect of which his sentence was imposed—
    - (i) after having been extradited to the United Kingdom; and
    - (ii) without having first been restored or had an opportunity of leaving the United Kingdom; and
  - (b) he was for any period kept in custody while awaiting his extradition to the United Kingdom as mentioned in paragraph (a) above.

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- (2) If, in the case of an extradited prisoner, the court by which he was sentenced so ordered, section 67 of the 1967 Act (computation of sentences of imprisonment) shall have effect in relation to him as if a period specified in the order were a relevant period for the purposes of that section.
- (3) The period that may be so specified is such period as in the opinion of the court is just in all the circumstances and does not exceed the period of custody mentioned in subsection (1)(b) above.
- (4) <sup>F110</sup> .....

#### Textual Amendments

**F110** S. 47(4) repealed (1.1.2004) by Extradition Act 2003 (c. 41), ss. 219, 220, 221, Sch. 3 para. 9, Sch. 4; S.I. 2003/3103, art. 2 (subject to savings in arts. 3-5 (of which art. 5 was substituted (11.12.2003) by S.I. 2003/3258 art. 2(2) and art. 3 was substituted (18.12.2003) by S.I. 2003/3312, art. 2(2)))

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

**C34** S. 47 modified (*prosp.*) by 1997 c. 43, ss. 56(1), 57(2), Sch. 5 para.4 (by 1998 c. 37, s. 120(2), Sch. 10 and S.I. 1998/2327, art. 2(1)(aa)(3)(x)) the said Sch. 5 paras. 1-4 were repealed (30.9.1998).

#### Commencement Information

**I20** Pt. II (ss. 32-51) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

## 47 Persons extradited to the United Kingdom. **E+W**

- (1) A short-term or long-term prisoner is an extradited prisoner for the purposes of this section if—
- (a) he was tried for the offence in respect of which his sentence was imposed—
    - (i) after having been extradited to the United Kingdom; and
    - (ii) without having first been restored or had an opportunity of leaving the United Kingdom; and
  - (b) he was for any period kept in custody while awaiting his extradition to the United Kingdom as mentioned in paragraph (a) above.
- (2) If, in the case of an extradited prisoner, the court by which he was sentenced so ordered, section 67 of the 1967 Act (computation of sentences of imprisonment) shall have effect in relation to him as if a period specified in the order were a relevant period for the purposes of that section.
- (3) The period that may be so specified is such period as in the opinion of the court is just in all the circumstances and does not exceed the period of custody mentioned in subsection (1)(b) above.
- (4) In this section—
- “extradited to the United Kingdom” means returned to the United Kingdom—
- (i) in pursuance of extradition arrangements;
  - (ii) under any law of a designated Commonwealth country corresponding to the <sup>M89</sup>Extradition Act 1989;

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- (iii) under that Act as extended to a colony or under any corresponding law of a colony; or
- (iv) in pursuance of a warrant of arrest endorsed in the Republic of Ireland under the law of that country corresponding to the <sup>M90</sup>Backing of Warrants (Republic of Ireland) Act 1965;
- (v) [<sup>F403</sup>in pursuance of arrangements with a foreign state in respect of which an Order in Council under section 2 of the Extradition Act 1870 is in force;]

“extradition arrangements” has the meaning given by section 3 of the <sup>M91</sup>Extradition Act 1989;

“designated Commonwealth country” has the meaning given by section 5(1) of that Act.

#### Textual Amendments

**F403** Para. (v) inserted (3.2.1995) in the definition of "extradited to the United Kingdom" in s. 47(4) by 1994 c. 33, s. 168(1), **Sch. 9 para. 48(1)**; S.I. 1995/127, art. 2(1), **Sch. 1**, Appendix 1.

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

**C34** S. 47 modified (*prosp.*) by 1997 c. 43, ss. 56(1), 57(2), **Sch. 5 para.4** (by 1998 c. 37, s. 120(2), **Sch. 10** and S.I. 1998/2327, art. 2(1)(aa)(3)(x)) the said Sch. 5 paras. 1-4 were repealed (30.9.1998).

#### Commencement Information

**I20** Pt. II (ss. 32-51) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

#### Marginal Citations

**M89** 1989 c. 33.

**M90** 1965 c. 45.

**M91** 1989 c. 33.

### [<sup>F111</sup>48 Life prisoners transferred to England and Wales.

- (1) This section applies where, in the case of a transferred life prisoner, the Secretary of State, after consultation with the Lord Chief Justice, certifies his opinion that, if—
  - (a) he had been sentenced for his offence in England and Wales after the commencement of section 34 above; and
  - (b) the reference in subsection (1)(a) of that section to a violent or sexual offence the sentence for which is not fixed by law were a reference to any offence the sentence for which is not so fixed,the court by which he was so sentenced would have ordered that that section should apply to him as soon as he had served a part of his sentence specified in the certificate.
- (2) In a case to which this section applies, this Part except section 35(2) above shall apply as if—
  - (a) the transferred life prisoner were a discretionary life prisoner for the purposes of this Part; and
  - (b) the relevant part of his sentence within the meaning of section 34 of this Act were the part specified in the certificate.
- (3) In this section “transferred life prisoner” means a person—

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- (a) on whom a court in a country or territory outside England and Wales has imposed one or more sentences of imprisonment or detention for an indeterminate period; and
  - (b) who has been transferred to England and Wales, in pursuance of—
    - (i) an order made by the Secretary of State under section 26 of the <sup>M16</sup>Criminal Justice Act 1961 or section 2 of the <sup>M17</sup>Colonial Prisoners Removal Act 1884; or
    - (ii) a warrant issued by the Secretary of State under the <sup>M18</sup>Repatriation of Prisoners Act 1984,
 there to serve his sentence or sentences or the remainder of his sentence or sentences.
- (4) A person who is required so to serve the whole or part of two or more such sentences shall not be treated as a discretionary life prisoner for the purposes of this Part unless the requirements of subsection (1) above are satisfied as respects each of those sentences; and subsections (3) and (5) of section 34 above shall not apply in relation to such a person until after he has served the relevant part of each of those sentences.]

#### Textual Amendments

**F111** S. 48 repealed (1.10.1997) by 1997 c. 43, s. 56(2), 57 (2), Sch.6 (subject to transitional provisions and savings in s. 56(1), Sch. 5 para. 1); S.I. 1997/2200, art. 2(1)(p)(3)(g) (by 1998 c. 37, s. 120(2), Sch.10 in the said Sch. 6 the entries relating to ss. 33-51 and 65 of this Act are repealed (30.9.1998); S.I. 1998/2327, art.2(1)(aa)(3)(x)).

#### Commencement Information

**I21** Pt. II (ss. 32-51) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

#### Marginal Citations

**M16** 1961 c. 39.

**M17** 1884 c. 31.

**M18** 1984 c. 47.

### *Supplemental*

#### **49 Alteration by order of relevant proportions of sentences.**

- (1) The Secretary of State may by order made by statutory instrument provide—
  - (a) that the references in section 33(5) above to four years shall be construed as references to such other period as may be specified in the order;
  - (b) that any reference in this Part to a particular proportion of a prisoner’s sentence shall be construed as a reference to such other proportion of a prisoner’s sentence as may be so specified.
- (2) An order under this section may make such transitional provisions as appear to the Secretary of State necessary or expedient in connection with any provision made by the order.
- (3) No order shall be made under this section unless a draft of the order has been laid before and approved by resolution of each House of Parliament.

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**Commencement Information**

**I22** Pt. II (ss. 32-51) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

**50 Transfer by order of certain functions to Board.**

- (1) The Secretary of State, after consultation with the Board, may by order made by statutory instrument provide that, in relation to such class of case as may be specified in the order, the provisions of this Part specified in subsections [<sup>F112</sup>(2) or (3)] below shall have effect subject to the modifications so specified.
- (2) In section 35 above, in subsection (1) for the word “may” there shall be substituted the word “shall”; but nothing in this subsection shall affect the operation of that subsection as it has effect in relation to a long-term prisoner who is liable to removal from the United Kingdom (within the meaning of section 46 above).
- [<sup>F113</sup>(3) In section 37 above, in subsection (5) for the words “after consultation with the Board” there shall be substituted the words “in accordance with recommendations of the Board”, and subsection (6) shall be omitted.]
- <sup>F114</sup>(4) . . . . .
- (5) No order shall be made under this section unless a draft of the order has been laid before and approved by resolution of each House of Parliament.

**Textual Amendments**

- F112** Words in s. 50(1) substituted (3.11.1994) by 1994 c. 33, s. 150.  
**F113** S. 50(3) substituted (30.9.1998) by 1998 c. 37, s. 119, Sch. 8 para.91; S.I. 1998/2327, art.2(1)(y)(2) (ee).  
**F114** S. 50(4) repealed (3.11.1994) by 1994 c. 33, s. 150, 168(3), Sch. 11.

**Commencement Information**

**I23** Pt. II (ss. 32-51) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

**51 Interpretation of Part II.**

- (1) In this Part—
  - “the Board” means the Parole Board;  
<sup>F115</sup> . . . .  
<sup>F115</sup> . . . .
  - “long-term prisoner” and “short-term prisoner” have the meanings given by section 33(5) above (as extended by sections 43(1) and 45(1) above);
  - “sentence of imprisonment” does not include a committal in default of payment of any sum of money, or for want of sufficient distress to satisfy any sum of money, or for failure to do or abstain from doing anything required to be done or left undone.
  - “sexual offence” and “violent offence” have the same meanings as in [<sup>F116</sup>the Powers of Criminal Courts (Sentencing) Act 2000].



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[<sup>F117</sup>(2) For the purposes of any reference in this Part, however expressed, to the term of imprisonment to which a person has been sentenced or which, or part of which, he has served, consecutive terms and terms which are wholly or partly concurrent shall be treated as a single term if—

- (a) the sentences were passed on the same occasion; or
- (b) where they were passed on different occasions, the person has not been released under this Part at any time during the period beginning with the first and ending with the last of those occasions.

(2A) Where a suspended sentence of imprisonment is ordered to take effect, with or without any variation of the original term, the occasion on which that order is made shall be treated for the purposes of subsection (2) above as the occasion on which the sentence is passed.

(2B) Where a person has been sentenced to two or more terms of imprisonment which are wholly or partly concurrent and do not fall to be treated as a single term—

- (a) nothing in this Part shall require the Secretary of State to release him in respect of any of the terms unless and until the Secretary of State is required to release him in respect of each of the others;
- (b) nothing in this Part shall require the Secretary of State or the Board to consider his release in respect of any of the terms unless and until the Secretary of State or the Board is required to consider his release, or the Secretary of State is required to release him, in respect of each of the others;
- (c) on and after his release under this Part he shall be on licence for so long, and subject to such conditions, as is required by this Part in respect of any of the sentences; <sup>F118</sup> . . .

<sup>F118</sup>(d) . . . . .

(2C) Where a person has been sentenced to one or more terms of imprisonment and to one or more life sentences (within the meaning of section 34 of the <sup>M19</sup>Crime (Sentences) Act 1997), nothing in this Part shall—

- (a) require the Secretary of State to release the person in respect of any of the terms unless and until the Secretary of State is required to release him in respect of each of the life sentences; or
- (b) require the Secretary of State or the Board to consider the person’s release in respect of any of the terms unless and until the Secretary of State or the Board is required to consider his release in respect of each of the life sentences.

(2D) Subsections (2B) and (2C) above shall have effect as if the term of an extended sentence (within the meaning of [<sup>F119</sup>section 85 of the Powers of Criminal Courts (Sentencing) Act 2000]) included the extension period (within the meaning of that section).]

<sup>F120</sup>(3) . . . . .

[<sup>F121</sup>(4) Section 161(4) of the Powers of Criminal Courts (Sentencing) Act 2000 (meaning of “protecting the public from serious harm”) shall apply for the purposes of this Part as it applies for the purposes of that Act.]



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#### Textual Amendments

- F115** Definitions in s. 51(1) repealed (1.10.1997) by 1997 c. 43, ss. 56(2), 57(2), **Sch. 6** (subject to transitional provisions and savings in s. 56(1), **Sch. 5 para. 1**); S.I. 1997/2200, **art. 2(1)(p)(3)(f)** (subject to transitional provisions and savings in **art. 5**)
- F116** S. 51(1): words in definition of  
“sexual offence”  
and  
“violent offence”  
substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 144(1)(2)**
- F117** S. 51(2)(2A)(2B)(2C)(2D) substituted for s. 51(2) (30.9.1998) by 1998 c. 37, s. 101(1) (with **Sch. 9 para. 11**); S.I. 1998/2327, **art. 2(1)(v)(z)**.
- F118** S. 51(2B)(d) and word “and” immediately preceding it repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with **Sch. 11 paras. 1, 2**)
- F119** Words in s. 51(2D) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 144(1)(3)**
- F120** S. 51(3) repealed (1.10.1997) by 1997 c. 43, ss. 56(2), 57(2), **Sch. 6** (subject to transitional provisions and savings in s. 56(1), **Sch. 5 para. 1**); S.I. 1997/2200, **art. 2(1)(p)(3)(f)** (subject to transitional provisions and savings in **art. 5**)
- F121** S. 51(4) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 144(1)(4)**

#### Commencement Information

- I24** Pt. II (ss. 32-51) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, **art. 2(2)**, **Sch. 2**.

#### Marginal Citations

- M19** 1997 c.43.

## PART III

### CHILDREN AND YOUNG PERSONS

#### *Children’s evidence*

#### 52 Competence of children as witnesses.

F122 .....

#### Textual Amendments

- F122** S. 52 repealed (24.7.2002) by 1999 c. 23, s. 67(3), **Sch. 6** (with **Sch. 7 paras. 3(3), 5(2)**); S.I. 2002/1739, **art. 2(iv)(aa)**

#### 53 Notices of transfer in certain cases involving children.

- (1) If a person has been charged with an offence to which section 32(2) of the 1988 Act applies (sexual offences and offences involving violence or cruelty) and the Director of Public Prosecutions is of the opinion—
- (a) that the evidence of the offence would be sufficient for the person charged to be committed for trial;

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- (b) that a child who is alleged—
- (i) to be a person against whom the offence was committed; or
  - (ii) to have witnessed the commission of the offence,
- will be called as a witness at the trial; and
- (c) that, for the purpose of avoiding any prejudice to the welfare of the child, the case should be taken over and proceeded with without delay by the Crown Court,
- a notice (“notice of transfer”) certifying that opinion may be [<sup>F123</sup>given] by or [<sup>F123</sup>to] behalf of the Director on the magistrates’ court in whose jurisdiction the offence has been charged.
- (2) A notice of transfer shall be [<sup>F124</sup>given] before the magistrates’ court begins to inquire into the case as examining justices.
- (3) On the [<sup>F125</sup>giving] of a notice of transfer the functions of the magistrates’ court shall cease in relation to the case except as provided by paragraphs 2 and 3 of Schedule 6 to this Act or by [<sup>F126</sup>paragraph 2 of Schedule 3 to the Access to Justice Act 1999].
- (4) The decision to [<sup>F127</sup>give] a notice of transfer shall not be subject to appeal or liable to be questioned in any court.
- (5) Schedule 6 to this Act (which makes further provision in relation to notices of transfer) shall have effect.
- (6) In this section “child” means a person who—
- (a) in the case of an offence falling within section 32(2)(a) or (b) of the 1988 Act, is under fourteen years of age or, if he was under that age when any such video recording as is mentioned in section 32A(2) of that Act was made in respect of him, is under fifteen years of age; or
  - (b) in the case of an offence falling within section 32(2)(c) of that Act, is under seventeen years of age or, if he was under that age when any such video recording was made in respect of him, is under eighteen years of age.
- (7) Any reference in subsection (6) above to an offence falling within paragraph (a), (b) or (c) of section 32(2) of that Act includes a reference to an offence which consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling within that paragraph.
- [<sup>F128</sup>(8) This section shall not apply in any case in which section 51 of the Crime and Disorder Act 1998 (no committal proceedings for indictable-only offences) applies.]

#### Textual Amendments

- F123** Words in s. 53(1) substituted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 49(a)**; S.I. 1995/127, art. 2(1), **Sch. 1**, Appendix A.
- F124** Words in s. 53(2) substituted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 49(b)**; S.I. 1995/127, art. 2(1), **Sch. 1**, Appendix A.
- F125** Words in s. 53(3) substituted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 49(c)**; S.I. 1995/127, art. 2(1), **Sch. 1**, Appendix A.
- F126** Words in s. 53(3) substituted (2.4.2001) by 1999 c. 22, s. 24, **Sch. 4 para. 47** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 3(a)(ii)** (with transitional provisions and savings in Sch. 2 para. 2)
- F127** Words in s. 53(4) substituted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 49(d)**; S.I. 1995/127, art. 2(1), **Sch. 1**, Appendix A.

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**F128** S. 53(8) inserted (4.1.1998 for certain purposes, otherwise 15.1.2001) by 1998 c. 37, s. 119, **Sch. 8 para. 93**; S.I. 1998/2327, **art. 4(2)(c)** (subject to art. 3); S.I. 2000/3283, **art. 2(c)**.

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

**C35** S. 53(7) modified (1.10.2008) by **Serious Crime Act 2007 (c. 27)**, ss. 63(1)(2), 94, **Sch. 6 para. 19(a)**; S.I. 2008/2504, **art. 2(a)**

**Commencement Information**

**I25** S. 53 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, **art. 2(2)**, **Sch. 2**.

[<sup>F129</sup>54] **Video recordings of testimony from child witnesses.**

After section 32 of the 1988 Act (evidence through television links) there shall be inserted the following section—

**“ Video recordings of testimony from child witnesses.**

- (1) This section applies in relation to the following proceedings, namely—
  - (a) trials on indictment for any offence to which section 32(2) above applies;
  - (b) appeals to the criminal division of the Court of Appeal and hearings of references under section 17 of the Criminal Appeal Act 1968 in respect of any such offence; and
  - (c) proceedings in youth courts for any such offence and appeals to the Crown Court arising out of such proceedings.
- (2) In any such proceedings a video recording of an interview which—
  - (a) is conducted between an adult and a child who is not the accused or one of the accused (“the child witness”); and
  - (b) relates to any matter in issue in the proceedings,may, with the leave of the court, be given in evidence in so far as it is not excluded by the court under subsection (3) below.
- (3) Where a video recording is tendered in evidence under this section, the court shall (subject to the exercise of any power of the court to exclude evidence which is otherwise admissible) give leave under subsection (2) above unless—
  - (a) it appears that the child witness will not be available for cross-examination;
  - (b) any rules of court requiring disclosure of the circumstances in which the recording was made have not been complied with to the satisfaction of the court; or
  - (c) the court is of the opinion, having regard to all the circumstances of the case, that in the interests of justice the recording ought not to be admitted;and where the court gives such leave it may, if it is of the opinion that in the interests of justice any part of the recording ought not to be admitted, direct that that part shall be excluded.
- (4) In considering whether any part of a recording ought to be excluded under subsection (3) above, the court shall consider whether any prejudice to the accused, or one of the accused, which might result from the admission of that

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part is outweighed by the desirability of showing the whole, or substantially the whole, of the recorded interview.

- (5) Where a video recording is admitted under this section—
- (a) the child witness shall be called by the party who tendered it in evidence;
  - (b) that witness shall not be examined in chief on any matter which, in the opinion of the court, has been dealt with in his recorded testimony.
- (6) Where a video recording is given in evidence under this section, any statement made by the child witness which is disclosed by the recording shall be treated as if given by that witness in direct oral testimony; and accordingly—
- (a) any such statement shall be admissible evidence of any fact of which such testimony from him would be admissible;
  - (b) no such statement shall be capable of corroborating any other evidence given by him;
- and in estimating the weight, if any, to be attached to such a statement, regard shall be had to all the circumstances from which any inference can reasonably be drawn (as to its accuracy or otherwise).
- (7) In this section “child” means a person who—
- (a) in the case of an offence falling within section 32(2)(a) or (b) above, is under fourteen years of age or, if he was under that age when the video recording was made, is under fifteen years of age; or
  - (b) in the case of an offence falling within section 32(2)(c) above, is under seventeen years of age or, if he was under that age when the video recording was made, is under eighteen years of age.
- (8) Any reference in subsection (7) above to an offence falling within paragraph (a), (b) or (c) of section 32(2) above includes a reference to an offence which consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling within that paragraph.
- (9) In this section—
- “statement” includes any representation of fact, whether made in words or otherwise;
- “video recording” means any recording, on any medium, from which a moving image may by any means be produced and includes the accompanying sound-track.
- (10) A magistrates’ court inquiring into an offence as examining justices under section 6 of the Magistrates’ Courts Act 1980 may consider any video recording as respects which leave under subsection (2) above is to be sought at the trial, notwithstanding that the child witness is not called at the committal proceedings.
- (11) Without prejudice to the generality of any enactment conferring power to make rules of court, such rules may make such provision as appears to the authority making them to be necessary or expedient for the purposes of this section.
- (12) Nothing in this section shall prejudice the admissibility of any video recording which would be admissible apart from this section.”]

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### Textual Amendments

**F129** S. 54 repealed (24.7.2002 except insofar as required for proceedings before Service courts) by 1999 c. 23, ss. 67(3), 68(3), Sch. 6 (with Sch. 7 paras. 3(3), 5(2)); S.I. 2002/1739, art. 2(iv)(bb)

### Commencement Information

**I26** S. 54 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

## 55 Further amendments of enactments relating to children’s evidence.

- (1) In section 103 of the 1980 Act (evidence of children in committal proceedings) subsection (3)(a) shall cease to have effect and for subsection (5) there shall be substituted the following subsection—

“(5) In this section “child” has the same meaning as in section 53 of the Criminal Justice Act 1991.”

- (2) In subsection (1) of section 32 of the 1988 Act (evidence through television links)—

- (a) for the words from “on a trial” to “1968” there shall be substituted the words “in proceedings to which subsection (1A) below applies”; and  
(b) <sup>F130</sup> for paragraph (b) there shall be substituted the following paragraph—

“(b) the witness is a child, or is to be cross-examined following the admission under section 32A below of a video recording of testimony from him, and the offence is one to which subsection (2) below applies.”.]

- (3) After that subsection there shall be inserted the following subsection—

“(1A) This subsection applies—

- (a) to trials on indictment, appeals to the criminal division of the Court of Appeal and hearings of references under section 17 of the Criminal Appeal Act 1968; and  
(b) to proceedings in youth courts and appeals to the Crown Court arising out of such proceedings.”

- (4) <sup>F131</sup>After subsection (3) of that section there shall be inserted the following subsections—

“(3A) Where, in the case of any proceedings before a youth court—

- (a) leave is given by virtue of subsection (1)(b) above for evidence to be given through a television link; and  
(b) suitable facilities for receiving such evidence are not available at any petty-sessional court-house in which the court can (apart from this subsection) lawfully sit,

the court may sit for the purposes of the whole or any part of those proceedings at any place at which such facilities are available and which has been appointed for the purposes of this subsection by the justices acting for the petty sessions area for which the court acts.

- (3B) A place appointed under subsection (3) above may be outside the petty sessions area for which it is appointed; but it shall be deemed to be in that area for the purpose of the jurisdiction of the justices acting for that area.”]

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**Changes to legislation:** Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 25 January 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)

- (5) In subsection (5) of that section, for paragraphs (a) and (b) there shall be substituted the words “Magistrates’ Courts Rules, Crown Court Rules and Criminal Appeal Rules”.
- (6) <sup>F132</sup>After subsection (5) of that section there shall be inserted the following subsection—
- “(6) Subsection (7) of section 32A below shall apply for the purposes of this section as it applies for the purposes of that section, but with the omission of the references to a person being, in the cases there mentioned, under the age of fifteen years or under the age of eighteen years.”]
- (7) After section 34 of the 1988 Act there shall be inserted the following section—

**“34A Cross-examination of alleged child victims.**

- (1) No person who is charged with an offence to which section 32(2) above applies shall cross-examine in person any witness who—
- (a) is alleged—
- (i) to be a person against whom the offence was committed; or
- (ii) to have witnessed the commission of the offence; and
- (b) is a child, or is to be cross-examined following the admission under section 32A above of a video recording of testimony from him.
- (2) Subsection (7) of section 32A above shall apply for the purposes of this section as it applies for the purposes of that section, but with the omission of the references to a person being, in the cases there mentioned, under the age of fifteen years or under the age of eighteen years.”

**Textual Amendments**

- F130** S. 55(2)(b) repealed (24.7.2002 except in so far as required for proceedings before Service courts) by 1999 c. 23, ss. 67(3), 68(3), Sch. 6 (with Sch. 7 paras. 3(3), 5(2)); S.I. 2002/1739, art. 2(g)(iv)(cc)
- F131** S. 55(4) repealed (24.7.2002 except in so far as required for proceedings before Service courts) by 1999 c. 23, ss. 67(3), 68(3), Sch. 6 (with Sch. 7 paras. 3(3), 5(2)); S.I. 2002/1739, art. 2(g)(iv)(cc)
- F132** S. 55(6) repealed (24.7.2002 except in so far as required for proceedings before Service courts) by 1999 c. 23, ss. 67(3), 68(3), Sch. 6 (with Sch. 7 paras. 3(3), 5(2)); S.I. 2002/1739, art. 2(g)(iv)(cc)

**Commencement Information**

- I27** S. 55 wholly in force at 1.10.1992, see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

*Responsibilities of parent or guardian*

**56 Attendance at court of parent or guardian.**

Subsection (1) of section 34 (attendance at court of parent or guardian) of the 1933 Act shall cease to have effect and after that section there shall be inserted the following section—

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**“34A Attendance at court of parent or guardian.**

- (1) Where a child or young person is charged with an offence or is for any other reason brought before a court, the court—
  - (a) may in any case; and
  - (b) shall in the case of a child or a young person who is under the age of sixteen years,

require a person who is a parent or guardian of his to attend at the court during all the stages of the proceedings, unless and to the extent that the court is satisfied that it would be unreasonable to require such attendance, having regard to the circumstances of the case.

- (2) In relation to a child or young person for whom a local authority have parental responsibility and who—
  - (a) is in their care; or
  - (b) is provided with accommodation by them in the exercise of any functions (in particular those under the Children Act 1989) which stand referred to their social services committee under the Local Authority Social Services Act 1970,

the reference in subsection (1) above to a person who is a parent or guardian of his shall be construed as a reference to that authority or, where he is allowed to live with such a person, as including such a reference.

In this subsection “local authority” and “parental responsibility” have the same meanings as in the Children Act 1989.”

**Commencement Information**

**I28** S. 56 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

F133 **57** .....

**Textual Amendments**

**F133** S. 57 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

F134 **58** .....

**Textual Amendments**

**F134** S. 58 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)



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### *Detention etc. pending trial*

## 59 Detention at a police station.

In section 38 of the <sup>M20</sup>Police and Criminal Evidence Act 1984 (duties of custody officer after charge), for subsections (6) and (6A) there shall be substituted the following subsections—

“(6) Where a custody officer authorises an arrested juvenile to be kept in police detention under subsection (1) above, the custody officer shall, unless he certifies—

- (a) that, by reason of such circumstances as are specified in the certificate, it is impracticable for him to do so; or
- (b) in the case of an arrested juvenile who has attained the age of 15 years, that no secure accommodation is available and that keeping him in other local authority accommodation would not be adequate to protect the public from serious harm from him,

secure that the arrested juvenile is moved to local authority accommodation.

(6A) In this section—

“local authority accommodation” means accommodation provided by or on behalf of a local authority (within the meaning of the Children Act 1989);

“secure accommodation” means accommodation provided for the purpose of restricting liberty;

“sexual offence” and “violent offence” have the same meanings as in Part I of the Criminal Justice Act 1991;

and any reference, in relation to an arrested juvenile charged with a violent or sexual offence, to protecting the public from serious harm from him shall be construed as a reference to protecting members of the public from death or serious personal injury, whether physical or psychological, occasioned by further such offences committed by him.”

#### Commencement Information

**I29** S. 59 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

#### Marginal Citations

**M20** 1984 c. 60.

## 60 Remands and committals to local authority accommodation.

(1) For section 23 of the 1969 Act there shall be substituted the following section—

### **“23 Remands and committals to local authority accommodation.**

(1) Where—

- (a) a court remands a child or young person charged with or convicted of one or more offences or commits him for trial or sentence; and
- (b) he is not released on bail,

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the remand or committal shall be to local authority accommodation; and in the following provisions of this section, any reference (however expressed) to a remand shall be construed as including a reference to a committal.

- (2) A court remanding a person to local authority accommodation shall designate the local authority who are to receive him; and that authority shall be—
  - (a) in the case of a person who is being looked after by a local authority, that authority; and
  - (b) in any other case, the local authority in whose area it appears to the court that he resides or the offence or one of the offences was committed.
- (3) Where a person is remanded to local authority accommodation, it shall be lawful for any person acting on behalf of the designated authority to detain him.
- (4) Subject to subsection (5) below, a court remanding a person to local authority accommodation may, after consultation with the designated authority, require that authority to comply with a security requirement, that is to say, a requirement that the person in question be placed and kept in secure accommodation.
- (5) A court shall not impose a security requirement except in respect of a young person who has attained the age of fifteen, and then only if—
  - (a) he is charged with or has been convicted of a violent or sexual offence, or an offence punishable in the case of an adult with imprisonment for a term of fourteen years or more; or
  - (b) he has a recent history of absconding while remanded to local authority accommodation, and is charged with or has been convicted of an imprisonable offence alleged or found to have been committed while he was so remanded,and (in either case) the court is of opinion that only such a requirement would be adequate to protect the public from serious harm from him.
- (6) Where a court imposes a security requirement in respect of a person, it shall be its duty—
  - (a) to state in open court that it is of such opinion as is mentioned in subsection (5) above; and
  - (b) to explain to him in open court and in ordinary language why it is of that opinion;and a magistrates' court shall cause a reason stated by it under paragraph (b) above to be specified in the warrant of commitment and to be entered in the register.
- (7) A court remanding a person to local authority accommodation without imposing a security requirement may, after consultation with the designated authority, require that person to comply with any such conditions as could be imposed under section 3(6) of the Bail Act 1976 if he were then being granted bail.
- (8) Where a court imposes on a person any such conditions as are mentioned in subsection (7) above, it shall be its duty to explain to him in open court and in ordinary language why it is imposing those conditions; and a magistrates'

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court shall cause a reason stated by it under this subsection to be specified in the warrant of commitment and to be entered in the register.

- (9) A court remanding a person to local authority accommodation without imposing a security requirement may, after consultation with the designated authority, impose on that authority requirements—
- (a) for securing compliance with any conditions imposed on that person under subsection (7) above; or
  - (b) stipulating that he shall not be placed with a named person.
- (10) Where a person is remanded to local authority accommodation, a relevant court—
- (a) may, on the application of the designated authority, impose on that person any such conditions as could be imposed under subsection (7) above if the court were then remanding him to such accommodation; and
  - (b) where it does so, may impose on that authority any requirements for securing compliance with the conditions so imposed.
- (11) Where a person is remanded to local authority accommodation, a relevant court may, on the application of the designated authority or that person, vary or revoke any conditions or requirements imposed under subsection (7), (9) or (10) above.
- (12) In this section—
- “court” and “magistrates’ court” include a justice;
  - “imprisonable offence” means an offence punishable in the case of an adult with imprisonment;
  - “relevant court”, in relation to a person remanded to local authority accommodation, means the court by which he was so remanded, or any magistrates’ court having jurisdiction in the place where he is for the time being;
  - “secure accommodation” means accommodation which is provided in a community home for the purpose of restricting liberty, and is approved for that purpose by the Secretary of State;
  - “sexual offence” and “violent offence” have the same meanings as in Part I of the Criminal Justice Act 1991;
  - “young person” means a person who has attained the age of fourteen years and is under the age of seventeen years.
- (13) In this section—
- (a) any reference to a person who is being looked after by a local authority shall be construed in accordance with section 22 of the Children Act 1989;
  - (b) any reference to consultation shall be construed as a reference to such consultation (if any) as is reasonably practicable in all the circumstances of the case; and
  - (c) any reference, in relation to a person charged with or convicted of a violent or sexual offence, to protecting the public from serious harm from him shall be construed as a reference to protecting members of the public from death or serious personal injury, whether physical

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or psychological, occasioned by further such offences committed by him.

(14) This section has effect subject to—

- (a) section 37 of the Magistrates' Courts Act 1980 (committal to the Crown Court with a view to a sentence of detention in a young offender institution); and
- (b) section 128(7) of that Act (remands to the custody of a constable for periods of not more than three days),

but section 128(7) shall have effect in relation to a child or young person as if for the reference to three clear days there were substituted a reference to twenty-four hours.”

(2) In section 37 of the 1980 Act (committal of young person to Crown Court for sentence)

- (a) in subsection (1), for the words “17 years old” there shall be substituted the words “18 years old”;
- (b) in subsection (2), for the words “A person committed in custody under subsection (1) above” there shall be substituted the words “Where a person committed in custody under subsection (1) above is not less than 17 years old, he”;
- (c) after that subsection there shall be inserted the following subsection—

“(3) Where a person committed in custody under subsection (1) above is less than 17 years old—

- (a) he shall be committed to accommodation provided by or on behalf of a local authority (within the meaning of the Children Act 1989) and
- (b) the court by which he is so committed shall impose a security requirement within the meaning of section 23 of the Children and Young Persons Act 1969.”

(3) In the case of a child or young person who has been remanded or committed to local authority accommodation by a youth court or a magistrates' court other than a youth court, any application under section 25 of the <sup>M21</sup>Children Act 1989 (use of accommodation for restricting liberty) shall, notwithstanding anything in section 92(2) of that Act or section 65 of the 1980 Act, be made to that court.

#### Commencement Information

**I30** S. 60 wholly in force at 1.6.1999; s. 60(3) in force at 14.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(1), **Sch. 1**; s. 60(1)(2)(a) in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**; s. 60(2)(b)(c) in force at 1.6.1999 by S.I. 1999/1280, art. 3, **Sch. 2**.  
S. 60(2)(b)(c) shall come into force on the day appointed by the Secretary of State by order under s. 62(1) see S.I. 1992/333, art. 2(5), Sch. 3(which art. 2(5), Sch. 3 was revoked (16.1999) by S.I. 1999/1280, art. 2)

#### Marginal Citations

**M21** 1989 c. 41.

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## 61 Provision by local authorities of secure accommodation.

- (1) It shall be the duty of every local authority to secure that they are in a position to comply with any security requirement which may be imposed on them under—
  - (a) section 23(4) of the 1969 Act (remands and committals to local authority accommodation);<sup>F135</sup> . . .
  - <sup>F135</sup>(b) . . . . .
- (2) A local authority may discharge their duty under subsection (1) above either by providing secure accommodation themselves or by making arrangements with other local authorities for the provision by them of such accommodation [<sup>F136</sup>or by making arrangements with [<sup>F137</sup>persons carrying on an appropriate children’s home for the provision or use by them of such accommodation].]
- (3) The Secretary of State may by regulations make provision as to the co-operation required of local authorities in the provision of secure accommodation.
- (4) The power to make regulations under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) In this section expressions used in section 23 of the 1969 Act have the same meanings as in that section [<sup>F138</sup>and expressions, other than “local authority”, used in the <sup>M22</sup>Children Act 1989 have the same meanings as in that Act.].

### Textual Amendments

- F135** S. 61(b) and the word “or” immediately preceding it repealed (1.4.2000) by 1998 c. 37, s. 120(1), 121(2), **Sch. 10**; S.I. 1999/3426, **art. 3(c)(v)**
- F136** Words in s. 61(2) inserted (30.5.1995) by 1994 c. 33, s. 19(3)(a); S.I. 1995/1378, **art. 2**.
- F137** Words in s. 61(2) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4** para. 17; S.I. 2001/4150, **art. 3(3)** (a) (subject to transitional provisions in **art. 4** and S.I. 2002/1493, **art. 4**); S.I. 2002/920, **arts. 2, 3** (with **arts. 3(4)-(10)** and subject to transitional provisions in **Schs. 1-3**)
- F138** Words in s. 61(5) inserted (30.5.1995) by 1994 c. 33, s. 19(3)(b); S.I. 1995/1378, **art. 2**.

### Commencement Information

- I31** S. 61 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, **art. 2(2)**, **Sch. 2**.

### Marginal Citations

- M22** 1989 c. 41.

## [<sup>F139</sup>61A Cost of secure accommodation.

- (1) The Secretary of State may, in relation to any costs incurred by a local authority in discharging their duty under section 61(1) above—
  - (a) defray such costs to such extent as he considers appropriate in any particular case;
  - (b) defray a proportion to be determined by him from time to time of such costs; and
  - (c) defray or contribute to such costs in accordance with a tariff to be determined by him from time to time.

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- (2) The Secretary of State may require any person providing secure accommodation to transmit to him, at such times and in such form as he may direct, such particulars as he may require with respect to any costs to which this section applies.
- (3) Payments under this section shall be made out of money provided by Parliament.]

#### Textual Amendments

**F139** S. 61A inserted (3.2.1995) by 1994 c. 33, ss.21, 172(2); S.I. 1995/127, art. 2(1), Sch. 1.

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

**C36** S. 61A: transfer of functions (20.4.2000) by S.I. 2000/1160, art. 4(1)(2)(f)

## 62 <sup>F140</sup> **Transitory provisions pending provision of secure accommodation.**

- (1) In relation to any time before such day as the Secretary of State may by order made by statutory instrument appoint, section 23 of the 1969 Act as substituted by section 60(1) above shall have effect with the following modifications.
- (2) In subsection (1), immediately before the words “the remand” there shall be inserted the words “then, unless he is declared by the court, after consultation with a probation officer or a social worker of a local authority social services department, to be a person to whom subsection (5) below applies”.
- (3) For subsections (4) and (5) there shall be substituted the following subsections—
  - “(4) Where a court declares a person to be one to whom subsection (5) below applies, it shall remand him—
    - (a) to a remand centre, if it has been notified that such a centre is available for the reception from the court of such persons; and
    - (b) to a prison, if it has not been so notified.
  - (4A) A court shall not declare a person who is not legally represented in the court to be a person to whom subsection (5) below applies unless—
    - (a) he applied for legal aid and the application was refused on the ground that it did not appear his means were such that he required assistance; or
    - (b) having been informed of his right to apply for legal aid and had the opportunity to do so, he refused or failed to apply.
  - (5) This subsection applies to a young person who is male and has attained the age of fifteen, but only if—
    - (a) he is charged with or has been convicted of a violent or sexual offence, or an offence punishable in the case of an adult with imprisonment for a term of fourteen years or more; or
    - (b) he has a recent history of absconding while remanded to local authority accommodation, and is charged with or has been convicted of an imprisonable offence alleged or found to have been committed while he was so remanded,and (in either case) the court is of opinion that only remanding him to a remand centre or prison would be adequate to protect the public from serious harm from him.”

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- (4) In subsection (6)—
  - (a) for the words “imposes a security requirement in respect of a young person” there shall be substituted the words “declares a person to be one to whom subsection (5) above applies”; and
  - (b) for the words “subsection (5) above” there shall be substituted the words “that subsection”.
- (5) In subsections (7) and (9), the words “without imposing a security requirement” shall be omitted.
- (6) After subsection (9) there shall be inserted the following subsection—
 

“(9A) Where a person is remanded to local authority accommodation, a relevant court may, on the application of the designated authority, declare him to be a person to whom subsection (5) above applies; and on its doing so, he shall cease to be remanded to local authority accommodation and subsection (4) above shall apply.”
- (7) In subsection (12), the definition of “secure accommodation” shall be omitted.

**Textual Amendments**  
**F140** S. 62 repealed and superseded (1.6.1999) by 1998 c. 37, ss. 98(7), 120(1), **Sch. 10**; S.I. 1999/1279, art. 2

*Young offenders*

<sup>F141</sup>**63** .....

**Textual Amendments**  
**F141** S. 63 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

<sup>F142</sup>**64** .....

**Textual Amendments**  
**F142** S. 64 repealed (9.1.1995) by 1993 c. 33, s. 168(3), **Sch.11**; S.I. 1994/3192, art.2, **Sch.**

**65 Supervision of young offenders after release.**

- (1) Where a person under the age of 22 years (“the offender”) is released from a term of detention in a young offender institution or under [<sup>F143</sup>section 91 of the Powers of Criminal Courts (Sentencing) Act 2000], he shall be under the supervision of
  - [<sup>F144</sup>(a) [<sup>F145</sup>an officer of a local probation board];
  - (b) a social worker of a local authority social services department; or



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- (c) in the case of a person under the age of 18 years on his release, a member of a youth offending team.]
- [<sup>F146</sup>(1A) Where the supervision is to be provided by [<sup>F145</sup>a n officer of a local probation board], [<sup>F145</sup>the officer of a local probation board] shall be an officer appointed for or assigned to the petty sessions area within which the offender resides for the time being.
- (1B) Where the supervision is to be provided by—
- (a) a social worker of a local authority social services department; or
  - (b) a member of a youth offending team,
- the social worker or member shall be a social worker of, or a member of a youth offending team established by, the local authority within whose area the offender resides for the time being.]
- (2) The supervision period ends on the offender’s 22nd birthday if it has not ended before.
- (3) Subject to subsection (2) above, where the offender is released otherwise than on licence under Part II of this Act, the supervision period begins on his release and ends three months from his release.
- (4) Subject to subsection (2) above, where the offender is released on licence under Part II of this Act and the licence expires less than three months from his release, the supervision period begins on the expiry of the licence and ends three months from his release.
- (5) Where a person is under supervision under this section, he shall comply with such requirements, if any, as may for the time being be specified in a notice from the Secretary of State.
- [<sup>F147</sup>(5A) The requirements that may be specified in a notice under subsection (5) above include—
- (a) requirements for securing the electronic monitoring of the person’s compliance with any other requirements specified in the notice;
  - (b) requirements for securing the electronic monitoring of his whereabouts (otherwise than for the purpose of securing his compliance with requirements specified in the notice);
  - (c) in the circumstances mentioned in subsection (5B) below, requirements to provide, when instructed to do so by an officer of a local probation board or a person authorised by the Secretary of State, any sample mentioned in the instruction for the purpose of ascertaining whether the person has any specified Class A drug in his body.
- (5B) The circumstances referred to in subsection (5A)(c) above are that—
- (a) the person has attained the age of 18 years;
  - (b) his term of detention was imposed for a trigger offence; and
  - (c) the requirements to provide samples are being imposed for the purpose of determining whether he is complying with any other requirements specified in the notice.
- (5C) Requirements imposed by virtue of subsection (5A) above shall not have effect on or after the day on which the person would (but for his release) have served his term in full.

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- (5D) The function of giving such an instruction as is mentioned in subsection (5A)(c) above shall be exercised in accordance with guidance given from time to time by the Secretary of State; and the Secretary of State may make rules about the requirements that may be imposed by virtue of subsection (5A) above and the provision of samples in pursuance of such an instruction.]
- (6) A person who without reasonable excuse fails to comply with a requirement imposed under subsection (5) above shall be liable on summary conviction—
- (a) to a fine not exceeding level 3 on the standard scale; or
  - (b) to an appropriate custodial sentence for a period not exceeding 30 days, but not liable to be dealt with in any other way.
- (7) In subsection (6) above “appropriate custodial sentence” means—
- (a) a sentence of imprisonment, if the offender has attained the age of 21 years when he is sentenced; and
  - (b) a sentence of detention in a young offender institution, if he has not attained that age.
- (8) A person released from a custodial sentence passed under subsection (6) above shall not be liable to a period of supervision in consequence of his conviction under that subsection, but his conviction shall not prejudice any liability to supervision to which he was previously subject, and that liability shall accordingly continue until the end of the supervision period.
- [<sup>F148</sup>(9) The power to make rules under this section—
- (a) shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament;
  - (b) shall include power to make different provision for different cases or classes of case.
- (10) In this section, “specified Class A drug” and “trigger offence” have the same meanings as in Part III of the Criminal Justice and Court Services Act 2000.]

#### Textual Amendments

- F143** Words in s. 65(1) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 145**
- F144** S. 65(1)(a)(b)(c) substituted for words in s. 65(1) (30.9.1998 for areas specified in S.I. 1998/2327, **Sch. 1** and subject to art. 9 of that S.I., otherwise 1.4.2000) by 1998 c. 37, s. 119, **Sch. 8 para. 94(1)**; S.I. 1998/2327, arts. 3(1)(b), 9, **Sch. 1**; S.I. 2000/924, **art. 2(e)**
- F145** Words in s. 65(1)(a)(1A) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 4(1)(a)(b)(2)**; S.I. 2001/919, **art. 2(f)(i)**
- F146** S. 65(1A)(1B) inserted (30.9.1998 for areas specified in S.I. 1998/2327, **Sch. 1** and subject to art. 9 of that S.I., and otherwise 1.4.2000) by 1998 c. 37, s. 119, **Sch. 8 para. 94(2)**; S.I. 1998/2327, arts. 3(1)(b), 9, **Sch. 1**; S.I. 2000/924, **art. 2(c)**
- F147** S. 65(5A)-(5D) inserted (1.2.2001 as regards subsections (5A)(a)(b), and (5C) in so far as it applies to subsections (5A)(a)(b) and 20.6.2001 for specified purposes and otherwise 2.7.2001 as regards subsections (5A)(c)(5B)(5D) and (5C) insofar as it applies to (5A)(c)) by 2000 c. 43, s. **63(2)**; S.I. 2000/3302, **art. 3**; S.I. 2001/2232, **art. 2(h)(i)-(iv)**
- F148** S. 65(9)(10) inserted (20.6.2001 for specified purposes and otherwise 2.7.2001) by 2000 c. 43, s. **63(3)**; S.I. 2001/2232, **art. 2(h)(v)(vi)**

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

**C37** S. 65 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1, Pt. II paras. 8(2)(4), 9(2)(4), Sch. 5 paras. 9(1)(a)(b), **10(1)(b)(c)**; S.I. 1997/2200, **art. 2(1)**.  
s. 65 modified (25.8.2000) by 2000 c. 6, **ss. 99(2)**, 168(1)

**Commencement Information**

**I32** S. 65 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

**F149** **66** .....

**Textual Amendments**

**F149** S. 66 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

**F150** **67** .....

**Textual Amendments**

**F150** S. 67 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

*Miscellaneous*

**68** **Persons aged 17 to be treated as young persons for certain purposes.**

The following enactments, namely—

- (a) the Children and Young Persons Acts 1933 to 1969;
- (b) section 43(3) of the 1952 Act (remand centres, young offender institutions etc.);
- (c) section 5(2) of the <sup>M23</sup>Rehabilitation of Offenders Act 1974 (which provides for rehabilitation periods to be reduced by half for young offenders); and
- (d) the 1980 Act,

shall have effect subject to the amendments specified in Schedule 8 to this Act, being amendments which, for certain purposes of those enactments, have the effect of substituting the age of 18 years for the age of 17 years.

**Commencement Information**

**I33** S. 68 wholly in force (except for specified purposes see S.I. 1992/333, art. 2(4)) at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**

**Marginal Citations**

**M23** 1974 c. 53.

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## 69 Non-appearance of persons aged 16 or 17: plea of guilty.

In section 12 of the 1980 Act (non-appearance of accused: plea of guilty), after subsection (1) there shall be inserted the following subsection—

“(1A) The reference in subsection (1) above to the issue of a summons requiring a person to appear before a magistrates’ court other than a youth court includes a reference to the issue of a summons requiring a person who has attained the age of 16 at the time when it is issued to appear before a youth court.”

### Commencement Information

**I34** S. 69 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

## 70 Renaming of juvenile courts etc.

- (1) Juvenile courts shall be renamed youth courts and juvenile court panels shall be renamed youth court panels.
- (2) Any reference to juvenile courts or juvenile court panels in any enactment passed or instrument made before the commencement of this section shall be construed in accordance with subsection (1) above.

### Commencement Information

**I35** S. 70 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

## 71 Amendments to service law.

The enactments mentioned in Schedule 9 to this Act shall have effect subject to the amendments there specified (being amendments to service law corresponding to certain provisions of this Act).

### Commencement Information

**I36** S. 71 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

## 72 Repeal of certain provisions not brought in force.

The following provisions (none of which has been brought into force), namely—  
section 4 of the 1969 Act (prohibition of criminal proceedings for offences by children);  
in section 5 of that Act (restrictions on criminal proceedings for offences by young persons), subsections (1) to (7) and, in subsection (9), the definitions of “qualified informant” and “designated”;  
section 8 of that Act (fingerprinting of suspected young persons); and  
in section 37 of the <sup>M24</sup>Police and Criminal Evidence Act 1984, subsections (11) to (14) (duties of custody officer as respects young persons),  
shall cease to have effect.

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**Commencement Information**

**I37** S. 72 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(1), **Sch. 2**.

**Marginal Citations**

**M24** 1984 c. 60.

**PART IV**

PROVISION OF SERVICES

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

**C38** Pt. IV (ss. 73-92) applied (30.6.1999) by 1999 c. 9, s. 1(2), **Sch. 1** as added by 1991 c. 56, **Sch. 4A para. 13(2)(a)**

*Probation services*

**F151**<sup>73</sup> .....

**Textual Amendments**

**F151** S. 73 repealed (5.2.1994) by 1993 c. 47, ss. 32, 33(2), **Sch.4**

**F152**<sup>74</sup> .....

**Textual Amendments**

**F152** S. 74 repealed (5.2.1994) by 1993 c. 47, ss. 32, 33(2), **Sch.4**

**F153**<sup>75</sup> .....

**Textual Amendments**

**F153** S. 75 repealed (5.2.1994) by 1993 c. 47, ss. 32, 33(2), **Sch.4**

*Court security*

**76** **Provision of court security officers.**

(1) In relation to each petty sessions area [<sup>F154</sup>outside Greater London], the committee shall from time to time determine—

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- (a) whether court security officers should be provided, that is to say, persons whose duty it is to maintain order in any court-house to which they are for the time being assigned by the committee; and
- (b) if so, how many such officers should be provided, and whether they should be provided by the committee or by the [F155 paying authority or authorities].
- (2) As soon as practicable after the making of a determination under subsection (1)(b) above, the committee or, as the case may be, the [F155 paying authority or authorities] shall provide the required number of court security officers, on such terms and conditions as they may determine—
- (a) by employing persons to act as court security officers; or
- (b) by entering into a contract with another person for the employment by him of persons to act as such officers.
- (3) Before making any determination under subsection (1) or (2) above F156. . . , the committee shall consult with the [F157 paying authority or authorities].
- (4) Where, [F158 any paying authority] is aggrieved by any determination made by the committee under subsection (1) or (2) above, the authority may, within one month from the receipt by the authority of written notice of the determination, appeal to the [F159 Lord Chancellor], whose decision shall be binding on the committee and the authority.
- [F160(4A) In relation to each petty sessions area within Greater London, the Greater London Magistrates’ Courts Authority shall from time to time determine—
- (a) whether court security officers should be provided; and
- (b) if so, how many such officers should be provided.
- (4B) As soon as practicable after making a determination under subsection (4A)(b) above, the Greater London Magistrates’ Courts Authority shall provide the required number of court security officers, on such terms and conditions as they may determine—
- (a) by employing persons to act as court security officers; or
- (b) by entering into a contract with another person for the employment by him of persons to act as such officers.]
- F161(5) . . . . .
- [F162(6) In this section—
- “the committee”, in relation to a petty sessions area, means the magistrates’ courts committee whose area consists of or includes that petty sessions area, and
- “paying authority”, in relation to a committee, has the same meaning as in section 55 of [F163 the Justices of the Peace Act 1997]].

#### Textual Amendments

**F154** Words in s. 76(1) inserted (1.4.2001) by 1999 c. 22, s. 83(3), **Sch. 12 para. 7** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(i)** (with transitional provisions and savings in Sch. 2 para. 2)

**F155** Words in s. 76(1)(b)(2) substituted (1.4.1995) by 1994 c. 29, s. 91, **Sch. 8 Pt. II para. 33(2)**; S.I. 1995/685, **art. 4(1)(I), 7(2)(i)**

**F156** Words in s. 76(3) repealed (1.4.1995) by 1994 c. 29, ss. 91, 93, Sch. 8 Pt. II para. 33(3)(a), **Sch. 9 Pt. II**; S.I. 1995/685, **arts. 4(n), 8(u)**

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- F157** Words in s. 76(3) substituted (1.4.1995) by 1994 c. 29, s. 91, **Sch. 8 Pt. II para. 33(3)(b)**; S.I. 1995/685, **art. 4(1)(l)**, 7(2)(i)
- F158** Words in s. 76(4) substituted (1.4.1995) by 1994 c. 29, s. 91, **Sch. 8 Pt. II para. 33(4)**; S.I. 1995/685, **art. 4(1)(l)**, 7(2)(i)
- F159** Words in s. 76(4)(5) substituted (1.4.1992) by S.I. 1992/709, art. 2(3), **Sch. 1**.
- F160** S. 76(4A)(4B) inserted (1.4.2001) by 1999 c. 22, s. 83(3), **Sch. 12 para. 7** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(i)** (with transitional provisions and savings in Sch. 2 para. 2)
- F161** S. 76(5) repealed (1.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. V(6)** (with s. 107, Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 2(c)(i)** (with transitional provisions and savings in Sch. 2 para. 2)
- F162** S. 76(6) substituted (1.4.1995) by 1994 c. 29, s. 91, **Sch. 8 Pt. II para. 33(6)**; S.I. 1995/685, **arts. 4(1)(l)**, 7(2)(i)
- F163** Words in s. 76(6) substituted (19.6.1997) by 1997 c. 25, ss. 73(2), 74(1), **Sch. 5 para. 29(2)**

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

- C39** S. 76 amended (temp.)(1.4.1995) by S.I. 1995/685, **art. 6(2)(c)**  
S. 76 modified (19.6.1997) by 1997 c. 25, ss. 73(1), 74(1), **Sch. 4 para. 7(2)(d)(ii)**
- C40** Functions of the Secretary of State under s. 76(4)(5) transferred (1.4.1992) to the Lord Chancellor by S.I. 1992/709, art. 2(1)(c), **Sch. 1**.  
S. 76(3)(4) excluded (19.6.1997) by 1997 c. 25, ss. 73(1), 74(1), **Sch. 4 para. 7(2)(e)**

#### Commencement Information

- I38** S. 76 wholly in force at 1.4.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(1), **Sch. 1**.

## 77 Powers and duties of court security officers.

- (1) A court security officer acting in the execution of his duty shall have the following powers, namely—
- (a) to search any person who is in or is seeking to enter the court-house, and any article in the possession of such a person;
  - (b) to exclude or remove from the court-house any person who refuses to permit such a search as is mentioned in paragraph (a) above, or refuses to surrender any article in his possession which the officer reasonably believes may jeopardise the maintenance of order in the court-house;
  - (c) to exclude or remove any person from the court-house, or restrain any person in the court-house, where (in either case) it is reasonably necessary to do so in order—
    - (i) to maintain order in the court-house;
    - (ii) to enable court business to be carried on without interference or delay;
    - or
    - (iii) to secure his or any other person's safety.
- (2) The powers conferred by subsection (1)(a) above to search a person shall not be construed as authorising a court security officer to require a person to remove any of his clothing other than an outer coat, jacket or gloves.
- (3) The powers conferred by subsection (1)(b) and (c) above shall include power to use reasonable force, where necessary.
- (4) In the execution of his duty, a court security officer shall act in accordance with any general or specific instructions which have been given to him (whether orally or in writing) by a person in authority.



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- (5) In subsection (4) above “person in authority”, in relation to any court-house, means—
- (a) a justice of the peace, [<sup>F164</sup>justices’ chief executive] or justices’ clerk who is exercising any functions in the court-house; and
  - (b) any officer or staff [<sup>F164</sup>of the magistrates’ courts committee authorised by such a justices’ chief executive or clerk] for the purpose.
- (6) For the purposes of this section and section 78 below, a court security officer shall not be regarded as acting in the execution of his duty at any time when he is not readily identifiable as such an officer (whether by means of a uniform or badge which he is wearing or otherwise).

#### Textual Amendments

**F164** Words in s. 77(5)(a)(b) substituted (1.4.1995) by 1994 c. 29, s. 91, **Sch. 8 Pt. II para. 34(a)(b)**; S.I. 1995/685, **arts. 4(1), 7(2)(j)**

#### Commencement Information

**I39** S. 77 wholly in force at 1.4.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(1), **Sch. 1**.

## 78 Protection of court security officers.

- (1) Any person who assaults a court security officer acting in the execution of his duty shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding six months or to both.
- (2) Any person who resists or wilfully obstructs a court security officer acting in the execution of his duty shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### Commencement Information

**I40** S. 77 wholly in force at 1.4.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(1), **Sch. 1**.

## [<sup>F165</sup>79 Duties of responsible authorities.

- (1) In section 55(2) (duties of local authorities outside Greater London) of the Justices of the <sup>M25</sup>Peace Act 1979 (“the 1979 Act”), for paragraph (b) there shall be substituted the following paragraphs—
  - “(b) the sums payable under Part II of this Act on account of a person’s salary or expenses as justices’ clerk for the non-metropolitan county or metropolitan district or any part thereof, the remuneration of any staff employed by the magistrates’ courts committee to assist him and the remuneration of any court security officers employed (whether by that committee or the council) under section 76(2)(a) of the Criminal Justice Act 1991, together with—
    - (i) secondary Class I contributions payable in respect of any such person, staff or officers under Part I of the Social Security Act 1975, and
    - (ii) state scheme premiums so payable under Part III of the Social Security Pensions Act 1975;

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- (bb) the sums payable under any contract entered into (whether by the magistrates' courts committee or the council) under section 76(2)(b) of the Criminal Justice Act 1991;”.
- (2) In section 58(2) of that Act (corresponding arrangements in the inner London area), for paragraph (b) there shall be substituted the following paragraphs—
  - “(b) the sums payable by way of salary or expenses to justices' clerks and other officers employed by the committee of magistrates and the remuneration of any court security officers employed (whether by that committee or the Receiver) under section 76(2)(a) of the Criminal Justice Act 1991, together with—
    - (i) secondary Class I contributions payable in respect of any such officers under Part I of the Social Security Act 1975, and
    - (ii) state scheme premiums so payable under Part III of the Social Security Pensions Act 1975;
  - (bb) the sums payable under any contract entered into (whether by the committee of magistrates or the Receiver) under section 76(2)(b) of the Criminal Justice Act 1991;”.]

#### Textual Amendments

**F165** S. 79 repealed (1.4.1995 so far as it applies to s. 55(2) of the 1979 Act and otherwise *prosp.*) by 1994 c. 29, s. 93, **Sch. 9 Pt.II**; S.I. 1995/685, **arts. 4(n), 8(v)**

#### Commencement Information

**I41** S. 79 wholly in force at 1.4.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(1), **Sch. 1**.

#### Marginal Citations

**M25** 1979 c. 55.

### *Prisoner escorts*

## **80 Arrangements for the provision of prisoner escorts.**

- (1) The Secretary of State may make arrangements for any of the following functions, namely—
  - [<sup>F166</sup>(a) the delivery of prisoners from one set of relevant premises to another;]
  - (b) the custody of prisoners held on [<sup>F167</sup>the premises of any court] (whether or not they would otherwise be in the custody of the court) and their production before the court;
  - [<sup>F168</sup>(c) the custody of prisoners temporarily held in a prison in the course of delivery from one prison to another; and]
  - (e) the custody of prisoners while they are outside a prison for temporary purposes,

to be performed in such cases as may be determined by or under the arrangements by prisoner custody officers who are authorised to perform such functions.

[<sup>F169</sup>(1A) In paragraph (a) of subsection (1) above “relevant premises” means a court, prison, police station or hospital; and either (but not both) of the sets of premises mentioned

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in that paragraph may be situated in a part of the British Islands outside England and Wales.]

- (2) Arrangements made by the Secretary of State under this section (“prisoner escort arrangements”) may include entering into contracts with other persons for the provision by them of prisoner custody officers.
- (3) Any person who, under [<sup>F170</sup>a warrant or a hospital order or remand], is responsible for the performance of any such function as is mentioned in subsection (1) above shall be deemed to have complied with [<sup>F170</sup>the warrant, order or remand] if he does all that he reasonably can to secure that the function is performed by a prisoner custody officer acting in pursuance of prisoner escort arrangements.

[<sup>F171</sup>(4) In this section—

“hospital” has the same meaning as in the <sup>M26</sup>Mental Health Act 1983;

“hospital order” means an order for a person’s admission to hospital made under section 37, 38 or 44 of that Act, section 5 of the <sup>M27</sup>Criminal Procedure (Insanity) Act 1964 or section 6, 14 or 14A of the <sup>M28</sup>Criminal Appeal Act 1968;

“hospital remand” means a remand of a person to hospital under section 35 or 36 of the Mental Health Act 1983;

“warrant” means a warrant of commitment, a warrant of arrest or a warrant under section 46, 47, 48, 50 or 74 of that Act.]

#### Textual Amendments

- F166** S. 80(1)(a) substituted (3.11.1994) by 1994 c. 33, s. 93(1)(a).  
**F167** Words in s. 80(1)(b) substituted (3.11.1994) by 1994 c. 33, s. 93(1)(b).  
**F168** S. 80(1)(c) substituted (3.11.1994) for s. 80(1)(c)(d) by 1994 c. 33, s. 93(1)(c).  
**F169** S. 80(1A) inserted (3.11.1994) by 1994 c. 33, s. 93(2).  
**F170** Words in s. 80(3) substituted (3.11.1994) by 1994 c. 33, s. 93(3).  
**F171** S. 80(4) inserted (3.11.1994) by 1994 c. 33, s. 93(4).

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

- C41** S. 80: transfer of functions (20.4.2000) by S.I. 2000/1160, art. 4(1)(2)(g)

#### Commencement Information

- I42** S. 80 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3

#### Marginal Citations

- M26** 1983 c. 20.  
**M27** 1964 c. 84.  
**M28** 1968 c. 19.

## 81 Monitoring etc. of prisoner escort arrangements.

- (1) Prisoner escort arrangements shall include the appointment of—
- (a) a prisoner escort monitor, that is to say, a Crown servant whose duty it shall be to keep the arrangements under review and to report on them to the Secretary of State; and

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- (b) a panel of lay observers whose duty it shall be to inspect the conditions in which prisoners are transported or held in pursuance of the arrangements and to make recommendations to the Secretary of State.
- (2) It shall also be the duty of a prisoner escort monitor to investigate and report to the Secretary of State on—
- (a) any allegations made against prisoner custody officers acting in pursuance of prisoner escort arrangements; and
  - (b) any alleged breaches of discipline on the part of prisoners for whose delivery or custody such officers so acting are responsible.
- (3) Any expenses incurred by members of lay panels may be defrayed by the Secretary of State to such extent as he may with the approval of the Treasury determine.

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

**C42** S. 81(1)(a)(2): transfer of functions (20.4.2000) by S.I. 2000/1160, art. 4(1)(2)(b)

**Commencement Information**

**I43** S. 81 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3

**82 Powers and duties of prisoner custody officers acting in pursuance of such arrangements.**

- (1) A prisoner custody officer acting in pursuance of prisoner escort arrangements shall have the following powers, namely—
- (a) to search in accordance with rules made by the Secretary of State any prisoner for whose delivery or custody he is responsible in pursuance of the arrangements; and
  - (b) to search any other person who is in or is seeking to enter any place where any such prisoner is or is to be held, and any article in the possession of such a person.
- (2) The powers conferred by subsection (1)(b) above to search a person shall not be construed as authorising a prisoner custody officer to require a person to remove any of his clothing other than an outer coat, jacket or gloves.
- (3) A prisoner custody officer shall have the following duties as respects prisoners for whose delivery or custody he is responsible in pursuance of prisoner escort arrangements, namely—
- (a) to prevent their escape from lawful custody;
  - (b) to prevent, or detect and report on, the commission or attempted commission by them of other unlawful acts;
  - (c) to ensure good order and discipline on their part;
  - (d) to attend to their wellbeing; and
  - (e) to give effect to any directions as to their treatment which are given by a court, and the Secretary of State may make rules with respect to the performance by prisoner custody officers of their duty under paragraph (d) above.

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- [<sup>F172</sup>(4) Where a prisoner custody officer acting in pursuance of prisoner escort arrangements is on any premises in which the Crown Court or a magistrates' court is sitting, it shall be his duty to give effect to any order of that court made—
- (a) in the case of the Crown Court, under [<sup>F173</sup>section 142 of the Powers of Criminal Courts (Sentencing) Act 2000]](power of Court to order search of persons before it); or
  - (b) in the case of a magistrates' court, under section 80 of the 1980 Act (application of money found on defaulter).
- (5) The powers conferred by subsection (1) above, and the powers arising by virtue of subsections (3) and (4) above, shall include power to use reasonable force where necessary.
- (6) The power to make rules under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

**F172** S. 82(4) substituted (3.11.1994) by 1994 c. 33, s. 94(1)

**F173** Words in s. 82(4) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 9 para. 146

#### Commencement Information

**I44** S. 82 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3

### [83 <sup>F174</sup>Breaches of discipline by prisoners under escort.

- (1) This section applies where a prisoner for whose delivery or custody a prisoner custody officer has been responsible in pursuance of prisoner escort arrangements is delivered to a prison.
- (2) For the purposes of such prison rules as relate to disciplinary offences, the prisoner shall be deemed to have been—
  - (a) in the custody of the governor of the prison; or
  - (b) in the case of a contracted out prison, in the custody of its director,
 at all times during the period for which the prisoner custody officer was so responsible.
- (3) In the case of any breach by the prisoner at any time during that period of such prison rules as so relate, a disciplinary charge may be laid against him by the prisoner custody officer.
- (4) Nothing in this section shall enable a prisoner to be punished under prison rules for any act or omission of his for which he has already been punished by a court.
- (5) In this section “prison rules”, in relation to a prison situated in a part of the British Islands outside England and Wales, means rules made under any provision of the law of that part which corresponds to section 47 of the 1952 Act.]

#### Textual Amendments

**F174** S. 83 substituted (3.11.1994) by 1994 c. 33, s.95.

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### Contracted out prisons

#### [84] <sup>F175</sup>Contracting out prisons etc.

- (1) The Secretary of State may enter into a contract with another person for the provision or running (or the provision and running) by him, or (if the contract so provides) for the running by sub-contractors of his, of any prison or part of a prison.
- (2) While a contract under this section for the running of a prison or part of a prison is in force—
  - (a) the prison or part shall be run subject to and in accordance with sections 85 and 86 below, the 1952 Act (as modified by section 87 below) and prison rules; and
  - (b) in the case of a part, that part and the remaining part shall each be treated for the purposes of sections 85 to 88A below as if they were separate prisons.
- (3) Where the Secretary of State grants a lease or tenancy of land for the purposes of any contract under this section, none of the following enactments shall apply to it, namely—
  - (a) Part II of the <sup>M29</sup>Landlord and Tenant Act 1954 (security of tenure);
  - (b) section 146 of the <sup>M30</sup>Law of Property Act 1925 (restrictions on and relief against forfeiture);
  - (c) section 19(1), (2) and (3) of the <sup>M31</sup>Landlord and Tenant Act 1927 and the <sup>M32</sup>Landlord and Tenant Act 1988 (covenants not to assign etc.); and
  - (d) the <sup>M33</sup>Agricultural Holdings Act 1986.

In this subsection “lease or tenancy” includes an underlease or sub-tenancy.

- (4) In this Part—
  - “contracted out prison” means a prison or part of a prison for the running of which a contract under this section is for the time being in force;
  - “the contractor”, in relation to a contracted out prison, means the person who has contracted with the Secretary of State for the running of it; and
  - “sub-contractor”, in relation to a contracted out prison, means a person who has contracted with the contractor for the running of it or any part of it.]

#### Textual Amendments

**F175** S. 84 substituted (3.11.1994) by 1994 c. 33, s.96.

#### Marginal Citations

**M29** 1954 c. 56.

**M30** 1925 c. 20.

**M31** 1927 c. 36

**M32** 1988 c. 26.

**M33** 1986 c. 5.

#### 85 Officers of contracted out prisons.

- (1) Instead of a governor, every contracted out prison shall have—

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- (a) a director, who shall be a prisoner custody officer appointed by the contractor and specially approved for the purposes of this section by the Secretary of State; and
  - (b) a controller, who shall be a Crown servant appointed by the Secretary of State; and every officer of such a prison who performs custodial duties shall be a prisoner custody officer who is authorised to perform such duties [<sup>F176</sup>or a prison officer who is temporarily attached to the prison].
- (2) Subject to subsection (3) below, the director shall have such functions as are conferred on him by the 1952 Act (as modified by section 87 below) or as may be conferred on him by prison rules.
- (3) The director shall not—
- (a) inquire into a disciplinary charge laid against a prisoner, conduct the hearing of such a charge or make, remit or mitigate an award in respect of such a charge; or
  - (b) except in cases of urgency, order the removal of a prisoner from association with other prisoners, the temporary confinement of a prisoner in a special cell or the application to a prisoner of any other special control or restraint.
- (4) The controller shall have such functions as may be conferred on him by prison rules and shall be under a duty—
- (a) to keep under review, and report to the Secretary of State on, the running of the prison by or on behalf of the director; and
  - (b) to investigate, and report to the Secretary of State on, any allegations made against prisoner custody officers performing custodial duties at the prison [<sup>F177</sup>or prison officers who are temporarily attached to the prison].
- (5) [<sup>F178</sup>The contractor and any sub-contractor of his shall each]be under a duty to do all that he reasonably can (whether by giving directions to the officers of the prison or otherwise) to facilitate the exercise by the controller of all such functions as are mentioned in or conferred by subsection (4) above.

#### Textual Amendments

**F176** Words in s. 85(1) inserted (3.11.1994) by 1994 c. 33, s. 97(1).

**F177** Words in s. 85(4)(b) inserted (3.11.1994) by 1994 c. 33, s. 97(2).

**F178** Words in s. 85(5) substituted (3.11.1994) by 1994 c. 33, s. 101(1).

#### Commencement Information

**I45** S. 85 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3

## 86 Powers and duties of prisoner custody officers employed at contracted out prisons.

- (1) A prisoner custody officer performing custodial duties at a contracted out prison shall have the following powers, namely—
- (a) to search in accordance with prison rules any prisoner who is confined in the prison; and
  - (b) to search any other person who is in or is seeking to enter the prison, and any article in the possession of such a person.



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- (2) The powers conferred by subsection (1)(b) above to search a person shall not be construed as authorising a prisoner custody officer to require a person to remove any of his clothing other than an outer coat, jacket or gloves.
- (3) A prisoner custody officer performing custodial duties at a contracted out prison shall have the following duties as respects prisoners confined in the prison, namely—
  - (a) to prevent their escape from lawful custody;
  - (b) to prevent, or detect and report on, the commission or attempted commission by them of other unlawful acts;
  - (c) to ensure good order and discipline on their part; and
  - (d) to attend to their wellbeing.
- (4) The powers conferred by subsection (1) above, and the powers arising by virtue of subsection (3) above, shall include power to use reasonable force where necessary.

#### Commencement Information

**I46** S. 86 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3

VALID FROM 01/11/2007

#### [<sup>F179</sup>86A Power of prisoner custody officers to detain suspected offenders

- (1) A prisoner custody officer performing custodial duties at a contracted out prison shall have the following powers in relation to any person who is in or is seeking to enter the prison (other than a prisoner confined in the prison).
- (2) Where the officer has reason to believe that the person is committing or has committed an offence under any of sections 39 to 40D of the Prison Act 1952, the officer may—
  - (a) require the person to wait with him for the arrival of a constable for such period as may be necessary (not exceeding two hours); and
  - (b) use reasonable force to prevent the person from making off while subject to a requirement under paragraph (a).
- (3) A person who makes off while subject to such a requirement is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (4) In subsection (2), a reference to an offence under a particular provision includes a reference to any offence consisting of an attempt to commit, incitement or conspiracy to commit, or aiding, abetting, counselling or procuring the commission of, an offence under that provision.]

#### Textual Amendments

**F179** S. 86(A) inserted (1.11.2007) by Offender Management Act 2007 (c. 21), ss. 17(1), 41(1); S.I. 2007/3001, art. 2(1)(b)

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

- C43** S. 86A(2) modified (temp.) (1.11.2007) by [The Offender Management Act 2007 \(Commencement No.1 and Transitional Provisions\) Order 2007 \(S.I. 2007/3001\)](#), [art. 2\(2\)](#)
- C44** S. 86A(4) modified (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 63(1)(2), 94, [Sch. 6 para. 19\(b\)](#); S.I. 2008/2504, [art. 2\(a\)](#)

VALID FROM 01/11/2007

#### <sup>F180</sup>86B Powers of authorised persons to perform custodial duties

- (1) In this section—
- “restricted activity” means an activity which is (apart from this section) required by section 85(1) to be carried out by an officer of a contracted-out prison who is—
- (a) a prisoner custody officer authorised to perform custodial duties; or
  - (b) a prison officer temporarily attached to the prison; and
- “worker”, in relation to a contracted out prison, means a person who works at the prison, other than an officer mentioned above.
- (2) The Secretary of State may by order specify descriptions of restricted activity that may be the subject of authorisations under subsection (3) given to workers at a contracted-out prison.
- (3) A worker at a contracted-out prison may carry out any activity of a description specified under subsection (2), but only if and to the extent that he is for the time being authorised to do so by the director of the prison.
- (4) The director may give such authorisation—
- (a) in general or specific terms, subject to any limitations or conditions he considers appropriate; and
  - (b) to one or more particular workers or to any worker who is (or comes to be) within a specified description of workers at the prison.
- (5) Nothing in an order or authorisation under this section is to be taken as authorising the use of force.
- (6) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

- F180** S. 86(B) inserted (1.11.2007) by [Offender Management Act 2007 \(c. 21\)](#), [ss. 18\(2\)](#), 41(1); S.I. 2007/3001, [art. 2\(1\)\(c\)](#)

#### 87 Consequential modifications of 1952 Act.

- (1) In relation to a contracted out prison, the provisions of the 1952 Act specified in subsections (2) to (8) below shall have effect subject to the modifications so specified.

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- (2) In section 7(1) (prison officers), the reference to a governor shall be construed as a reference to a director and a controller.
- [<sup>F181</sup>(3) Section 8 (powers of prison officers) [<sup>F182</sup>and section 8A (powers of search by authorised employees)] shall not apply in relation to a prisoner custody officer performing custodial duties at the prison.
- (4) In sections 10(5), 12(3), 13(1) [<sup>F183</sup>16A][<sup>F184</sup>16B]and 19(1) and (3) (various functions of the governor of a prison), references to the governor shall be construed as references to the director.
- [<sup>F185</sup>(4A) Section 11 (ejection of prison officers and their families refusing to quit) shall not apply.]
- [<sup>F185</sup>(5) In section 12(1) and (2) (place of confinement of prisoners), any reference to a prisoner or prisoners shall be construed as a reference to a remand prisoner or prisoners.]
- (6) In section 13(2) (legal custody of prisoner), the reference to an officer of the prison shall be construed as a reference to a prisoner custody officer performing custodial duties at the prison [<sup>F186</sup>or a prison officer who is temporarily attached to the prison].
- (7) In section 14(2) (cells), the reference to a prison officer shall be construed as a reference to a prisoner custody officer performing custodial duties at the prison [<sup>F186</sup>or a prison officer who is temporarily attached to the prison].
- (8) Section 35 (vesting of prison property in the Secretary of State) shall have effect subject to the provisions of the contract entered into under section 84(1) above.

#### Textual Amendments

**F181** S. 87(3) substituted (3.11.1994) by 1994 c. 33, s. 97(3).

**F182** Words in s. 87(3) inserted (3.2.1995) by 1994 c. 33, s. 168(2), **Sch. 10 para. 68**; S.I. 1995/127, art. 2(1), **Sch. 1** Appendix B

**F183** Words in s. 87(4) inserted (9.1.1995) by 1994 c. 33, s. 168(2), **Sch. 10 para. 69**; S.I. 1994/3192, art. 2, **Sch.**

**F184** Words in s. 87(4) inserted (21.5.1997) by 1997 c. 38, **ss.2, 3(2)**.

**F185** S. 87(4A) inserted (3.11.1994) by 1994 c. 33, s. 97(4).

**F186** Words in s. 87(6)(7) inserted (3.11.1994) by 1994 c. 33, s. 97(5).

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

**C45** S. 87 has effect (9.7.1992) by S.I. 1992/1656, **art. 3** as if s. 87(5) were omitted (which S.I. is revoked (24.2.1993) by S.I. 1993/368, **art. 2**.)

S. 87 has effect (24.02.1993) by S.I. 1993/368, **art. 4** as if subsection (5) were omitted.

#### Commencement Information

**I47** S. 87 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, **art. 2(4)** and Sch. 3

## 88 Intervention by the Secretary of State.

- (1) This section applies where, in the case of a contracted out prison, it appears to the Secretary of State—
- (a) that the director has lost, or is likely to lose, effective control of the prison or any part of it; and

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- (b) that the making of an appointment under subsection (2) below is necessary in the interests of preserving the safety of any person, or of preventing serious damage to any property.
- (2) The Secretary of State may appoint a Crown servant to act as governor of the prison for the period—
- (a) beginning with the time specified in the appointment; and
- (b) ending with the time specified in the notice of termination under subsection (4) below.
- (3) During that period—
- (a) all the functions which would otherwise be exercisable by the director or the controller shall be exercisable by the governor;
- (b) [<sup>F187</sup>the contractor and any sub-contractor of his shall each] do all that he reasonably can to facilitate the exercise by the governor of those functions; and
- (c) the officers of the prison shall comply with any directions given by the governor in the exercise of those functions.
- (4) Where the Secretary of State is satisfied—
- (a) that the governor has secured effective control of the prison or, as the case may be, the relevant part of it; and
- (b) that the governor's appointment is no longer necessary as mentioned in subsection (1)(b) above,
- he shall, by a notice to the governor, terminate the appointment at a time specified in the notice.
- (5) As soon as practicable after making or terminating an appointment under this section, the Secretary of State shall give a notice of the appointment, or a copy of the notice of termination, to the contractor, [<sup>F188</sup>any sub-contractor of his,]the director and the controller.

#### Textual Amendments

**F187** Words in s. 88(3)(b) substituted (3.11.1994) by 1994 c. 33, s. 101(2).

**F188** Words in s. 88(5) inserted (3.11.1994) by 1994 c. 33, s. 101(3).

#### Commencement Information

**I48** S. 88 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3

*[<sup>F189</sup>Contracted out functions]*

#### Textual Amendments

**F189** S. 88A and cross heading inserted (3.11.1994) by 1994 c. 33, s.99.

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[<sup>F190</sup>**88A Contracted out functions at directly managed prisons.**

- (1) The Secretary of State may enter into a contract with another person for any functions at a directly managed prison to be performed by prisoner custody officers who are provided by that person and are authorised to perform custodial duties.
- (2) Section 86 above shall apply in relation to a prisoner custody officer performing contracted out functions at a directly managed prison as it applies in relation to such an officer performing custodial duties at a contracted out prison.
- (3) In relation to a directly managed prison—
  - (a) the reference in section 13(2) of the 1952 Act (legal custody of prisoners) to an officer of the prison; and
  - (b) the reference in section 14(2) of that Act (cells) to a prison officer,shall each be construed as including a reference to a prisoner custody officer performing custodial duties at the prison in pursuance of a contract under this section.
- (4) Any reference in subsections (1) to (3) above to the performance of functions or custodial duties at a directly managed prison includes a reference to the performance of functions or such duties for the purposes of, or for purposes connected with, such a prison.
- (5) In this Part—

“contracted out functions” means any functions which, by virtue of a contract under this section, fall to be performed by prisoner custody officers;

“directly managed prison” means a prison which is not a contracted out prison.]

**Textual Amendments**

**F190** S. 88A and cross heading inserted (3.11.1994) by 1994 c. 33, s.99.

*Supplemental*

**89 Certification of prisoner custody officers**

- (1) In this Part “prisoner custody officer” means a person in respect of whom a certificate is for the time being in force certifying—
  - (a) that he has been approved by the Secretary of State for the purpose of performing escort functions or custodial duties or both; and
  - (b) that he is accordingly authorised to perform them.
- (2) The provisions of Schedule 10 to this Act shall have effect with respect to the certification of prisoner custody officers.
- (3) In this section and Schedule 10 to this Act—

“custodial duties” means custodial duties at a [<sup>F191</sup>contracted out or directly managed prison];

“escort functions” means the functions specified in section 80(1) above.

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#### Textual Amendments

**F191** Words in s. 89(3) substituted (3.11.1994) by 1994 c. 33, s. 101(4).

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

**C46** S. 89: transfer of functions (20.4.2000) by S.I. 2000/1160, art. 4(1)(2)(h)

#### Commencement Information

**I49** S. 89 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3

## 90 Protection of prisoner custody officers.

- (1) Any person who assaults a prisoner custody officer
  - [<sup>F192</sup>(a) acting in pursuance of prisoner escort arrangements;
  - (b) performing custodial duties at a contracted out prison; or
  - (c) performing contracted out functions at a directly managed prison,]
 shall be liable on summary conviction to fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding six months or to both.
- (2) Section 17(2) of the <sup>M34</sup>Firearms Act 1968 (additional penalty for possession of firearms when committing certain offences) shall apply to offences under subsection (1) above.
- (3) Any person who resists or wilfully obstructs a prisoner custody officer
  - [<sup>F192</sup>(a) acting in pursuance of prisoner escort arrangements;
  - (b) performing custodial duties at a contracted out prison; or
  - (c) performing contracted out functions at a directly managed prison,]
 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) For the purposes of this section, a prisoner custody officer shall not be regarded as acting in pursuance of prisoner escort arrangements at any time when he is not readily identifiable as such an officer (whether by means of a uniform or badge which he is wearing or otherwise).

#### Textual Amendments

**F192** Words in s. 90(1)(3) substituted (3.11.1994) by 1994 c. 33, s. 101(5).

#### Commencement Information

**I50** S. 90 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3

#### Marginal Citations

**M34** 1968 c. 27.

## 91 Wrongful disclosure of information.

- (1) A person who
  - [<sup>F193</sup>(a) is or has been employed (whether as a prisoner custody officer or otherwise) in pursuance of prisoner escort arrangements, or at a contracted out prison; or

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(b) is or has been employed to perform contracted out functions at a directly managed prison,]

shall be guilty of an offence if he discloses, otherwise than in the course of his duty or as authorised by the Secretary of State, any information which he acquired in the course of his employment and which relates to a particular prisoner.

(2) A person guilty of an offence under subsection (1) above shall be liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both;
- (b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.

#### Textual Amendments

**F193** Words in s. 91(1) substituted (3.11.1994) by 1994 c. 33, s. 101(6).

#### Commencement Information

**I51** S. 91 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3

## 92 Interpretation of Part IV.

(1) In this Part [<sup>F194</sup>unless the context otherwise requires]—

“contracted out prison” and “the contractor” have the meanings given by [<sup>F195</sup>section 84(4)] above;

[<sup>F196</sup>“contracted out functions” and “directly managed prison” have the meanings given by section 88A(5) above;]

“court-house” means a petty sessional court-house within the meaning of the 1980 Act or an occasional court-house appointed under section 147 of that Act;

“court security officer” has the meaning given by section 76(1) above;

“prison” includes a young offender institution or remand centre;

[<sup>F196</sup>“prison officer” means an officer of a directly managed prison;

“prison rules” means rules made under section 47 of the 1952 Act;]

[<sup>F197</sup>“prisoner” means any person for the time being detained in legal custody as a result of a requirement imposed by a court or otherwise that he be so detained;]

“prisoner custody officer” has the meaning given by section 89(1) above;

“prisoner escort arrangements” has the meaning given by section 80(2) above.

[<sup>F196</sup>“sub-contractor” has the meaning given by section 84(4) above.]

[<sup>F198</sup>(1A) Any reference in this Part to custodial duties at a contracted out prison includes a reference to custodial duties in relation to a prisoner who is outside such a prison for temporary purposes.]

(2) Unless the contrary intention appears, expressions used in sections 76 to 79 above which are also used in [<sup>F199</sup>the Justices of the Peace Act 1997] have the same meanings as in that Act.



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(3) Sections 80, 81(1) and (2)(a), 82 and 89 to 91 above, subsection (1) above and Schedule 10 to this Act shall have effect as if—

- (a) any reference in section 80(1), 81(1), 82 or 91 above to prisoners included a reference to persons [<sup>F200</sup>remanded or committed to local authority accommodation under section 23 of the 1969 Act] by virtue of a security requirement imposed under section 23(4) of the 1969 Act (remands and committals to local authority accommodation); and
- (b) any reference in [<sup>F200</sup>section 80(1)(c) or (e) or (1A)] above to a prison included a reference to such accommodation.

[<sup>F201</sup>(4) In sections 80, 82 and 83 above, “prison”—

- (a) so far as relating to the delivery of prisoners to or from a prison situated in Scotland, includes a remand centre or young offenders institution within the meaning of section 19 of the <sup>M35</sup>Prisons (Scotland) Act 1989; and
- (b) so far as relating to the delivery of prisoners to or from a prison situated in Northern Ireland, includes a remand centre or young offenders centre.]

#### Textual Amendments

**F194** Words in s. 92(1) inserted (3.11.1994) by 1994 c. 33, s. 101(7)(a).

**F195** Words in s. 92(1) substituted (3.11.1994) by 1994 c. 33, s. 101(7)(b).

**F196** Definitions in s. 92(1) inserted (3.11.1994) by 1994 c. 33, s. 101(7)(c)–(e).

**F197** Definition in s. 92(1) substituted (3.11.1994) by 1994 c. 33, s. 93(5).

**F198** S. 92(1A) inserted (3.11.1994) by 1994 c. 33, s. 98.

**F199** Words in s. 92(2) substituted (19.6.1997) by 1997 c. 25, ss. 73(2), 74(1), Sch. 5 para. 29(3).

**F200** Words in s. 92(3) substituted (3.11.1994) by 1994 c. 33, s. 93(6).

**F201** S. 92(4) inserted (3.11.1994) by 1994 c. 33, s. 93(7).

#### Commencement Information

**I52** S. 92 partly in force; s. 92(3) not in force; s. 92(1) in force at 31.10.1991 see s. 102(2)(3) and S.I.

1991/2208, art. 2(4) and Sch. 3; s. 92(2) in force at 1.4.1992 see S.I. 1992/333, art. 2(1), Sch. 1.

S. 92(3) shall come into force on the day appointed by the Secretary of State by order under s. 62(1) see S.I. 1992/333, art. 2(5), Sch. 3.

#### Marginal Citations

**M35** 1989 c. 45.

## PART V

### FINANCIAL AND OTHER PROVISIONS

#### Cash limits

#### 93 Cash limits for magistrates' courts.

<sup>F202</sup>(1) . . . . .

(2) In section 58 of that Act (corresponding arrangements in inner London area), after subsection (2) there shall be inserted the following subsection—

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“(2A) Nothing in subsection (1) or (2) above shall require the Receiver to incur any expenditure or make any payment which would—

- (a) cause the net cost to him in any year of the matters mentioned in subsection (1) of section 59 of this Act to exceed the amount which, in relation to the Receiver and that year, is for the time being determined by the Secretary of State under subsection (3)(b) of that section; or
- (b) cause his capital expenditure in any year in pursuance of functions under this Part of this Act to exceed the amount which, in relation to the Receiver and that year, is for the time being determined by the Secretary of State under subsection (4)(b) of that section;

and in determining any such net cost as is mentioned in paragraph (a) above there shall be disregarded any such capital expenditure as is mentioned in paragraph (b) above.”

F203 (3) .....

F203 (4) .....

**Textual Amendments**

F202 S. 93(1) repealed (1.4.1995) by 1994 c. 29, s. 93, Sch. 9 Pt. II; S.I. 1995/685, arts. 4(n), 8(w)

F203 S. 93(3)(4) repealed (19.6.1997) by 1997 c. 25, ss. 73(3), 74(1), Sch. 6 Pt.I.

**Commencement Information**

I53 S. 93 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3

F204 94 .....

**Textual Amendments**

F204 S. 94 repealed (5.2.1994) by 1993 c. 47, ss. 32, 33(2), Sch.4

*Miscellaneous*

**95 Information for financial and other purposes.**

- (1) The Secretary of State shall in each year publish such information as he considers expedient for the purpose of—
  - (a) enabling persons engaged in the administration of criminal justice to become aware of the financial implications of their decisions; or
  - (b) facilitating the performance by such persons of their duty to avoid discriminating against any persons on the ground of race or sex or any other improper ground.
- (2) Publication under subsection (1) above shall be effected in such manner as the Secretary of State considers appropriate for the purpose of bringing the information to the attention of the persons concerned.

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#### Commencement Information

**I54** S. 95 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, **art. 2(4)** and Sch. 3

<sup>F205</sup>**96** .....

#### Textual Amendments

**F205** S. 96 repealed (5.2.1994) by 1993 c. 47, ss. 32, 33(2), **Sch.4**

<sup>F206</sup>**97** .....

#### Textual Amendments

**F206** S. 97 repealed (5.2.1994) by 1993 c. 47, ss. 32, 33(2), **Sch.4**

## PART VI

### SUPPLEMENTAL

#### 98 Expenses etc. under Act.

There shall be paid out of money provided by Parliament—

- (a) any sums required by the Secretary of State for making payments under contracts entered into under section 13, 80 or 84 above <sup>F207</sup> . . . ;
- (b) any sums so required for defraying the expenses of the Parole Board, or any expenses incurred by members of lay panels appointed under section 81 above;
- (c) any administrative expenses incurred by the Secretary of State under this Act; and
- (d) any increase attributable to this Act in the sums payable out of money so provided under any other Act.

#### Textual Amendments

**F207** Words in s. 98(a) repealed (5.2.1994) by 1993 c. 47, ss. 32, 33(2), **Sch.4**

#### Commencement Information

**I55** S. 98 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, **art. 2(4)** and Sch. 3

#### 99 General interpretation.

(1) In this Act—

“the 1933 Act” means the <sup>M36</sup>Children and Young Persons Act 1933;

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“the 1952 Act” means the <sup>M37</sup>Prison Act 1952;  
“the 1967 Act” means the <sup>M38</sup>Criminal Justice Act 1967;  
“the 1969 Act” means the <sup>M39</sup>Children and Young Persons Act 1969;  
“the 1973 Act” means the <sup>M40</sup>Powers of Criminal Courts Act 1973;  
<sup>F208</sup> . . .  
“the 1980 Act” means the <sup>M41</sup>Magistrates’ Courts Act 1980;  
“the 1982 Act” means the <sup>M42</sup>Criminal Justice Act 1982;  
“the 1983 Act” means the <sup>M43</sup>Mental Health Act 1983;  
“the 1988 Act” means the <sup>M44</sup>Criminal Justice Act 1988;  
“child”, unless the contrary intention appears, means a person under the age of fourteen years;  
[<sup>F209</sup>“local probation board” means a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000;]  
“prison rules” means rules made under section 47 of the 1952 Act;  
“young person” means a person who has attained the age of fourteen years and is under the age of eighteen years.  
[<sup>F210</sup>“youth offending team” means a team established under section 39 of the Crime and Disorder Act 1998.]

- (2) For the purposes of any provision of this Act which requires the determination of the age of a person by the court or the Secretary of State, his age shall be deemed to be that which it appears to the court or the Secretary of State to be after considering any available evidence.

#### Textual Amendments

**F208** Definition in s. 99(1) repealed (19.6.1997) by 1997 c. 25, ss. 73(3), 74(1), **Sch. 6 Pt. I**.

**F209** S. 99(1): definition of  
“local probation board”

inserted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 110**; S.I. 2001/919, **art. 2(f)(ii)**

**F210** Definition of “youth offending team” in s. 99(1) inserted (30.9.1998 for areas specified in S.I. 1998/2327, **art. 3(1)**, **Sch. 1** and subject to art. 9 of that S.I., otherwise 1.4.2000) by 1998 c. 37, s. 119, **Sch. 8 para. 95**; S.I. 1998/2327, **art. 3(1)(b)**; S.I. 2000/924, **art. 2(c)**

#### Commencement Information

**I56** S. 99 wholly in force; s. 99(1) (save for the definitions of “child” and “young person”) in force at 14.10.1991 see s. 102(2)(3) and S.I. 1991/2208, **art. 2(1)** and Sch. 1; s. 99 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, **art. 2(2)**, **Sch. 2**.

#### Marginal Citations

**M36** 1933 c. 12.

**M37** 1952 c. 52.

**M38** 1967 c. 80.

**M39** 1969 c. 54.

**M40** 1973 c. 62.

**M41** 1980 c. 43.

**M42** 1982 c. 48.

**M43** 1983 c. 20.

**M44** 1988 c. 33.

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## 100 Minor and consequential amendments.

The enactments mentioned in Schedule 11 to this Act shall have effect subject to the amendments there specified (being minor amendments and amendments consequential on the preceding provisions of this Act).

### Commencement Information

**I57** S. 100 wholly in force at 1.6.1999; S. 100 in force for certain purposes at 14.10.1991 and for further purposes at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(1)(4) and Schs. 1 and 3; s. 100 in force for certain purposes at 1.4.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(1), Sch. 1; s. 100 in force for certain purposes at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.; s. 100 in force for certain purposes (1.6.1999) by S.I. 1999/1280, art. 3, Sch.

S. 100 shall come into force for certain purposes on the day appointed by the Secretary of State by order under s. 62(1) see S.I. 1992/333, art. 2(5), Sch. 3 (which art. 2(5) is revoked (1.6.1999) by S.I. 1999/1280, art. 2)

## 101 Transitional provisions, savings and repeals.

- (1) The transitional provisions and savings contained in Schedule 12 to this Act shall have effect; but nothing in this subsection shall be taken as prejudicing the operation of sections 16 and 17 of the <sup>M45</sup> Interpretation Act 1978 (which relate to the effect of repeals).
- (2) The enactments mentioned in Schedule 13 to this Act (which include some that are spent or no longer of practical utility) are hereby repealed to the extent specified in the third column of that Schedule.

### Commencement Information

**I58** S. 101 partly in force; s. 101(1) in force for certain purposes 14.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(1) and Sch. 1; s. 101(1) in force for certain purposes at 25.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(2) and Sch. 2; s. 101(2) in force for certain purposes at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3; s. 101 in force for certain purposes at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.; s. 101 in force for certain purposes (1.6.1999) by S.I. 1999/1280, art. 3, Sch.

S. 101 to come into force for certain purposes on the day appointed by the Secretary of State by order under s. 62(1) see S.I. 1992/333, art. 2(5), Sch. 3 (which art. 2(5) is repealed (1.6.1999) by S.I. 1999/1280, art. 2)

### Marginal Citations

**M45** 1978 c. 30.

## 102 Short title, commencement and extent.

- (1) This Act may be cited as the Criminal Justice Act 1991.
- (2) This Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint, and different days may be appointed for different provisions or for different purposes.

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- (3) Without prejudice to the provisions of Schedule 12 to this Act, an order under subsection (2) above may make such transitional provisions and savings as appear to the Secretary of State necessary or expedient in connection with any provision brought into force by the order.
- (4) Subject to subsections (5) to (8) below, this Act extends to England and Wales only.
- (5) The following provisions of this Act, namely—
- (a) this section;
  - (b) sections 16, 17(1) and (2), 24 and 26(3) and (4); and
  - (c) Schedule 3, paragraph 6 of Schedule 6, paragraph 5 of Schedule 8, <sup>F211</sup> . . . and, so far as relating to the <sup>M46</sup> Social Work (Scotland) Act 1968, Schedule 13, also extend to Scotland; and section 23(2) above and, in so far as relating to the <sup>M47</sup> Criminal Procedure (Scotland) Act 1975, Schedule 13 to this Act extend to Scotland only.
- (6) This section, section 16 above, Schedule 3 to this Act, <sup>F212</sup> . . . and, so far as relating to the <sup>M48</sup> Social Work (Scotland) Act 1968, Schedule 13 to this Act also extend to Northern Ireland.
- (7) An Order in Council under section 81(11) of the 1982 Act may direct that both or either of—
- (a) section 37 of that Act as amended by section 17(1) above; and
  - (b) section 32 of the 1980 Act as amended by section 17(2) above,
- shall extend, subject to such modifications as may be specified in the Order, to the Isle of Man or any of the Channel Islands.
- [<sup>F213</sup>(7A) Sections 80, 82 and 83 above, so far as relating to the delivery of prisoners to or from premises situated in a part of the British Islands outside England and Wales, extend to that part of those Islands.]
- (8) Nothing in subsection (4) above affects the extent of this Act in so far as it amends or repeals any provision of the <sup>M49</sup> Army Act 1955, the <sup>M50</sup> Air Force Act 1955, the <sup>M51</sup> Naval Discipline Act 1957 or the <sup>M52</sup> Armed Forces Act 1991.

#### Subordinate Legislation Made

- P1** S. 102(2)(3) power exercised by S.I. 1991/2208  
S. 102(2)(3) power exercised by S.I. 1991/2706
- P2** S. 102(2)(3) power exercised (21.2.1992): different dates appointed for specified provisions by S.I. 1999/333, **art. 2(1)(2)** (as amended by S.I. 1999/2118)  
S. 102(2)(3) power partly exercised (11.12.1994): 9.1.1995 appointed day by 1994/3191
- P3** S. 102(2) power partly exercised (4.5.1999): 1.6.1999 appointed for specific provisions by S.I. 1999/1280, **art. 3, Sch.**

#### Textual Amendments

- F211** Words in s. 102(5)(c) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)
- F212** Words in s. 102(6) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)
- F213** S. 102(7A) inserted (3.11.1994) by 1994 c. 33, **s. 101(8)**.

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#### **Commencement Information**

**I59** S. 102 so far as not in force wholly in force at 14.10.1991 see s. 102(2)(3) and S.I. 1991/2208, **art. 2(1)** and Sch. 1

#### **Marginal Citations**

**M46** 1968 c. 49.

**M47** 1975 c. 21.

**M48** 1968 c. 49.

**M49** 1955 c. 18.

**M50** 1955 c. 19.

**M51** 1957 c. 53.

**M52** 1991 c. 62.



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## SCHEDULES

### <sup>F214</sup>SCHEDULE 1

Sections 8(3) and 9(2).

#### Textual Amendments

**F214** Sch. 1 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

#### Commencement Information

**I60** Sch. 1 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

### <sup>F215</sup>SCHEDULE 2

Section 14(1).

#### Textual Amendments

**F215** Sch. 2 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

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

**C47** Sch. 2 applied (with modifications) (1.4.1996) by 1995 c. 46, ss. 234(5)(6), 309(2) (with ss. 24(2), 307(2))  
Sch. 2 applied (with modifications) (30.9.1998) by 1998 c. 37, ss. 68(3), 70(5), Sch. 5 para. 5(4)(5);  
S.I. 1998/2327, arts. 2(1)(o)  
Sch. 2 applied (with modifications) (30.9.1998) by 1969 c. 54, s. 16B (as inserted by 1998 c. 37, s. 119,  
Sch. 8 para. 21; S.I. 1998/2327, arts. 2(1)(y)(2)(i))

#### Commencement Information

**I63** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

### SCHEDULE 3

Section 16.

#### RECIPROCAL ENFORCEMENT OF CERTAIN ORDERS

#### Commencement Information

**I86** Sch. 3 (paras. 1 - 11) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

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## F281 PART I

### TRANSFER OF COMMUNITY ORDERS TO SCOTLAND OR NORTHERN IRELAND

#### Textual Amendments

**F281** Sch. 3 Pt. I (paras. 1-6) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

#### Commencement Information

**I87** Sch. 3 (paras. 1 - 11) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2

#### *Probation orders: Scotland*

- .....
- 1 (1) Where a court considering the making of a probation order is satisfied that the offender resides in Scotland, or will be residing there when the order comes into force, section 2 of the 1973 Act (probation orders) shall have effect as if after subsection (1) there were inserted the following subsection—
- “(1A) A court shall not make a probation order in respect of any offender unless it is satisfied that suitable arrangements for his supervision can be made by the council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 in whose area he resides, or will be residing when the order comes into force.”
- (2) Where a probation order has been made and—
- (a) a magistrates’ court acting for the petty sessions area specified in the order is satisfied that the offender proposes to reside or is residing in Scotland; and
  - (b) it appears to the court that suitable arrangements for his supervision can be made by the council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 in whose area he proposes to reside or is residing,
- the power of the court to amend the order under Part IV of Schedule 2 to this Act shall include power to amend it by requiring him to be supervised in accordance with arrangements so made.
- (3) Where a court is considering the making or amendment of a probation order in accordance with this paragraph, Schedule 1A to the 1973 Act (additional requirements in probation orders) shall have effect as if—
- (a) any reference to a probation officer were a reference to an officer of the council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 in whose area the offender resides or will be residing when the order or amendment comes into force;
  - (b) the reference in paragraph 2(5) to the probation committee for the area in which the premises are situated were a reference to the regional or islands council for that area;
  - (c) paragraph 3 (requirements as to attendance at probation centre) were omitted; and

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- (d) the reference in paragraph 5(3) to a mental hospital were a reference to a hospital within the meaning of the Mental Health (Scotland) Act 1984, not being a State hospital within the meaning of that Act.
- (4) A probation order made or amended in accordance with this paragraph shall—
- (a) specify the locality in Scotland in which the offender resides or will be residing when the order or amendment comes into force; and
  - (b) specify as the appropriate court for the purposes of subsection (2) of section 183 or 384 of the Criminal Procedure (Scotland) Act 1975 a court of summary jurisdiction (which, in the case of an offender convicted on indictment, shall be the sheriff court) having jurisdiction in the locality specified under paragraph (a) above.

*Probation orders: Northern Ireland*

.....

- 2 (1) Where a court considering the making of a probation order is satisfied that the offender resides in Northern Ireland, or will be residing there when the order comes into force, section 2 of the 1973 Act shall have effect as if after subsection (1) there were inserted the following subsection—

“(1A) A court shall not make a probation order in respect of any offender unless it is satisfied that suitable arrangements for his supervision can be made by the Probation Board for Northern Ireland.”

- (2) Where a probation order has been made and—
- (a) a magistrates’ court acting for the petty sessions area specified in the order is satisfied that the offender proposes to reside or is residing in Northern Ireland; and
  - (b) it appears to the court that suitable arrangements for his supervision can be made by the Probation Board for Northern Ireland,
- the power of the court to amend the order under Part IV of Schedule 2 to this Act shall include power to amend it by requiring him to be supervised in accordance with arrangements so made.

- (3) Where a court is considering the making or amendment of a probation order in accordance with this paragraph, Schedule 1A to the 1973 Act shall have effect as if—
- (a) any reference to a probation officer were a reference to a probation officer assigned to the petty sessions district in Northern Ireland in which the offender resides or will be residing when the order or amendment comes into force;
  - (b) the reference in paragraph 2(5) to the probation committee for the area in which the premises are situated were a reference to the Probation Board for Northern Ireland;
  - (c) references in paragraph 3 to a probation centre were references to a day centre within the meaning of paragraph 3 of Schedule 1 to the Criminal Justice (Northern Ireland) Order 1996; and
  - (d) the reference in paragraph 5(3) to treatment as a resident patient in a mental hospital were a reference to treatment (whether as an in-patient or an out-patient) at such hospital as may be specified in the order, being a hospital within the meaning of the Health and Personal Social Services

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(Northern Ireland) Order 1972, approved by the Department of Health and Social Services for Northern Ireland for the purposes of paragraph 4(3) of Schedule 1 to the Criminal Justice (Northern Ireland) Order 1996 .

- (4) A probation order made or amended in accordance with this paragraph shall specify the petty sessions district in Northern Ireland in which the offender resides or will be residing when the order or amendment comes into force.

*Community service orders: Scotland*

- 3 (1) Where a court considering the making of a community service order is satisfied that the offender resides in Scotland, or will be residing there when the order comes into force, section 14 of the 1973 Act shall have effect as if for subsection (2A) there were substituted the following subsection—

“(2A) A court shall not make a community service order in respect of any offender unless—

- (a) the court has been notified by the Secretary of State that arrangements exist for persons who reside in the locality in Scotland in which the offender resides, or will be residing when the order comes into force, to perform work under community service orders made under section 1 of the Community Service by Offenders (Scotland) Act 1978; and
- (b) it appears to the court that provision can be made for him to perform work under those arrangements.”

- (2) Where a community service order has been made and—

- (a) a magistrates’ court acting for a petty sessions area for the time being specified in it is satisfied that the offender proposes to reside or is residing in Scotland;
- (b) the court has been notified by the Secretary of State that arrangements exist for persons who reside in the locality in Scotland in which the offender proposes to reside or is residing to perform work under community service orders made under section 1 of the Community Service by Offenders (Scotland) Act 1978; and
- (c) it appears to the court that provision can be made for him to perform work under the community service order under those arrangements,

it may amend the order by specifying that the unpaid work required to be performed by the order be so performed.

- (3) A community service order made or amended in accordance with this paragraph shall—

- (a) specify the locality in Scotland in which the offender resides or will be residing when the order or amendment comes into force; and
- (b) require the council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 in whose area the locality specified under paragraph (a) above is situated to appoint or assign an officer who will discharge in respect of the order the functions in respect of community service orders conferred on the local authority officer by the Community Service by Offenders (Scotland) Act 1978.

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*Community service orders: Northern Ireland*

- .....
- 4 (1) Where a court considering the making of a community service order is satisfied that the offender resides in Northern Ireland, or will be residing there when the order comes into force, section 14 of the 1973 Act shall have effect—
- (a) .....
  - (b) . . . as if for subsection (2A) there were substituted the following subsection—  
  
“(2A) A court shall not make a community service order in respect of any offender unless it appears to the court that provision can be made by the Probation Board for Northern Ireland for him to perform work under the order.”
- (2) Where a community service order has been made and—
- (a) a magistrates’ court acting for a petty sessions area for the time being specified in it is satisfied that the offender proposes to reside or is residing in Northern Ireland; and
  - (b) it appears to the court that provision can be made by the Probation Board for Northern Ireland for him to perform work under the order,
- it may amend the order by specifying that the unpaid work required to be performed by the order be so performed . . .
- (3) A community service order made or amended in accordance with this paragraph shall—
- (a) specify the petty sessions district in Northern Ireland in which the offender resides or will be residing when the order or amendment comes into force; and
  - (b) require the Probation Board for Northern Ireland to select an officer who will discharge in respect of the order the functions in respect of community service orders conferred on the relevant officer by the Part II of the Criminal Justice (Northern Ireland) Order 1996.

*Combination orders: Scotland*

- .....
- 5 Paragraphs 1 and 3 above shall apply in relation to combination orders—
- (a) in so far as they impose such a requirement as is mentioned in paragraph (a) of subsection (1) of section 11 of this Act, as if they were probation orders; and
  - (b) in so far as they impose such a requirement as is mentioned in paragraph (b) of that subsection, as if they were community service orders.

*General*

.....

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**Status:** *Point in time view as at 01/05/2004. This version of this Act contains provisions that are not valid for this point in time.*

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- 6 (1) Where a community order is made or amended in any of the circumstances specified in this Schedule, the court which makes or amends the order shall send three copies of it as made or amended to the home court, together with such documents and information relating to the case as it considers likely to be of assistance to that court.
- (2) Where a community order is made or amended in any of the circumstances specified in this Schedule, then, subject to the following provisions of this paragraph—
- (a) the order shall be treated as if it were a corresponding order made in the part of the United Kingdom in which the offender resides, or will be residing at the relevant time; and
  - (b) the legislation relating to such orders which has effect in that part of the United Kingdom shall apply accordingly.
- (3) Before making or amending a community order in those circumstances the court shall explain to the offender in ordinary language—
- (a) the requirements of the legislation relating to corresponding orders which has effect in the part of the United Kingdom in which he resides or will be residing at the relevant time;
  - (b) the powers of the home court under that legislation, as modified by this paragraph; and
  - (c) its own powers under this paragraph,
- and an explanation given in accordance with this sub-paragraph shall be sufficient without the addition of an explanation under section 2(3) or 14(5) of the 1973 Act.
- (4) The home court may exercise in relation to the community order any power which it could exercise in relation to a corresponding order made by a court in the part of the United Kingdom in which the home court exercises jurisdiction, by virtue of the legislation relating to such orders which has effect in that part, except the following, namely—
- (a) in the case of a probation order or a combination order, a power conferred by section 186(2)(b), 187, 387(2)(b) or 388 of, or paragraph 1 of Schedule 5 to, the Criminal Procedure (Scotland) Act 1975;
  - (b) in the case of a probation order, a power conferred by paragraphs 3(1)(d), 4(1)(d), 7(2) or 8(2) of Schedule 2 to the Criminal Justice (Northern Ireland) Order 1996
  - (c) in the case of a community service order—
    - (i) a power conferred by section 4(2)(b) or 5(1)(c) or (d) of the Community Service by Offenders (Scotland) Act 1978;
    - <sup>F291</sup>(ii) a power conferred by paragraph 3(1)(d), 4(1)(d), 7(2) or 8(2) of Schedule 2 to the Criminal Justice (Northern Ireland) Order 1996; or
    - (iii) a power to vary the order by substituting for the number of hours of work specified in it any greater number than the court which made the order could have specified.
- (5) If at any time while legislation relating to corresponding orders which has effect in Scotland or Northern Ireland applies by virtue of sub-paragraph (2) above to a community order made in England and Wales—
- (a) it appears to the home court—
    - (i) if that court is in Scotland, on information from the local authority officer concerned; and

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- (ii) if it is in Northern Ireland, upon a complaint being made to a justice of the peace acting for the petty sessions district for the time being specified in the order,  
that the offender has failed to comply with any of the requirements of the legislation applicable to the order; or
- (b) it appears to the home court on the application of the offender or—
- (i) if that court is in Scotland, of the local authority officer concerned;  
and
- (ii) if it is in Northern Ireland, of the probation officer concerned,  
that it would be in the interests of justice for a power conferred by paragraph 7 or 8 of Schedule 2 to this Act to be exercised,  
the home court may require the offender to appear before the court which made the order.
- (6) Where an offender is required by virtue of sub-paragraph (5) above to appear before the court which made the community order, that court—
- (a) may issue a warrant for his arrest; and
- (b) may exercise any power which it could exercise in respect of the community order if the offender resided in England and Wales,  
and any enactment relating to the exercise of such powers shall have effect accordingly, and with any reference to the responsible officer being construed as a reference to the local authority or probation officer concerned.
- (7) Where an offender is required by virtue of paragraph (a) of sub-paragraph (5) above to appear before the court which made the community order—
- (a) the home court shall send to that court a certificate certifying that the offender has failed to comply with such of the requirements of the order as may be specified in the certificate, together with such other particulars of the case as may be desirable; and
- (b) a certificate purporting to be signed by the clerk of the home court shall be admissible as evidence of the failure before the court which made the order.
- (8) In this paragraph—
- “corresponding order”, in relation to a combination order, means a probation order including such a requirement as is mentioned in subsection (5A) of section 183 or 384 of the Criminal Procedure (Scotland) Act 1975;
- “home court” means—
- (a) if the offender resides in Scotland, or will be residing there at the relevant time, the sheriff court having jurisdiction in the locality in which he resides or proposes to reside; and
- (b) if he resides in Northern Ireland, or will be residing there at the relevant time, the court of summary jurisdiction acting for the petty sessions district in which he resides or proposes to reside;
- “the local authority officer concerned”, in relation to an offender, means the officer of a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 responsible for his supervision or, as the case may be, discharging in relation to him the functions assigned by the Community Service by Offenders (Scotland) Act 1978;



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“the probation officer concerned”, in relation to an offender, means the probation officer responsible for his supervision or, as the case may be, discharging in relation to him the functions conferred by Part II of the Criminal Justice (Northern Ireland) Order 1996;

“the relevant time” means the time when the order or the amendment to it comes into force.

## PART II

### TRANSFER OF CORRESPONDING ORDERS FROM SCOTLAND

#### Commencement Information

**I94** Sch. 3 (paras. 1 - 11) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2

#### *Probation orders*

- 7 (1) The Criminal Procedure (Scotland) Act 1975 shall be amended as follows.
- (2) In each of sections 183 and 384 (which provide, respectively, for probation orders in solemn and in summary proceedings), in subsection (1A) for the words “by the local authority in whose area he resides or is to reside” there shall be substituted the following paragraphs—
- “(a) in a case other than that mentioned in paragraph (b) below, by the local authority in whose area he resides or is to reside; or
- (b) in a case where, by virtue of section 188(1) of this Act, subsection (2) of this section would not apply, by the probation committee for the area which contains the petty sessions area which would be named in the order”.
- (3) In each of sections 188 and 389 (which provide, respectively, for probation orders relating to persons residing in England being made in solemn and in summary proceedings)—
- (a) in subsection (1)—
- (i) for the words “that the offender shall perform unpaid work” there shall be substituted the words “which, while corresponding to a requirement mentioned in paragraph 2 or 3 of Schedule 1A to the <sup>M60</sup>Powers of Criminal Courts Act 1973, would if included in a probation order made under that Act fail to accord with a restriction as to days of presentation, participation or attendance mentioned in paragraph 2(4)(a) or (6)(a), or as the case may be 3(3)(a), of that Schedule”;
- (ii) for the word “17” there shall be substituted the word “16”
- (iii) the word “and”, where it secondly occurs, shall cease to have effect; and
- (iv) at the end there shall be added the words “; and where the order includes a requirement that the probationer perform unpaid work for a number of hours, the number specified shall not exceed one hundred.”;
- (b) in subsection (2)—

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- (i) for the words “that the probationer has attained the age of 17 years and proposes to reside in or is residing in England” there shall be substituted the following paragraphs—
  - “(a) that the probationer has attained the age of 16 years;
  - (b) that he proposes to reside, or is residing, in England; and
  - (c) that suitable arrangements for his supervision can be made by the probation committee for the area which contains the petty sessions area in which he resides or will reside”; and
- (ii) after the word “section”, where it secondly occurs, there shall be inserted the words “or to vary any requirement for performance of unpaid work so that such hours as remain to be worked do not exceed one hundred”;
- (c) in subsection (3)—
  - (i) in paragraph (a), for the words “section 3(2) of” and “section 3 of” there shall be substituted, respectively, the words “paragraph 5(3) of Schedule 1A to” and “paragraph 5 of Schedule 1A to”; and
  - (ii) in paragraph (b), for the words “subsections (4) to (6) of section 3 of” there shall be substituted the words “sub-paragraphs (5) to (7) of paragraph 5 of Schedule 1A to”;
- (d) in subsection (4), for the words from “the Powers” to the end of the proviso there shall be substituted the words “Schedule 2 to the Criminal Justice Act 1991 shall apply to the order—
  - (a) except in the case mentioned in paragraph (b) below, as if that order were a probation order made under section 2 of the Powers of Criminal Courts Act 1973; and
  - (b) in the case of an order which contains a requirement such as is mentioned in subsection (5A) of section 183 or 384 of this Act, as if it were a combination order made under section 11 of the said Act of 1991:

Provided that Part III of that Schedule shall not so apply; and sub-paragraphs (3) and (4) of paragraph 3 of that Schedule shall so apply as if for the first reference in the said sub-paragraph (3) to the Crown Court there were substituted a reference to a court in Scotland and for the other references in those sub-paragraphs to the Crown Court there were substituted references to the court in Scotland.”; and

- (e) in subsection (5), for the words from “for which” to “this section” there shall be substituted the words “named in a probation order made or amended under this section that the person to whom the order relates”.

- (4) Sections 189 and 390 (which make further provision as to probation orders in, respectively, solemn and summary proceedings) shall cease to have effect.

**Commencement Information**

**I95** Sch. 3 (paras. 1 - 11) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

**Marginal Citations**

**M60** 1973 c. 62.

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### Community service orders

F295<sup>8</sup> .....

#### Textual Amendments

**F295** Sch. 3 para. 8 repealed (S.)(1.4.1996) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II para. 16, **Sch.5** (with Sch. 3 paras. 1, 3, 16, 17)

### Supervision requirements

9 Section 72 of the <sup>M61</sup>Social Work (Scotland) Act 1968 (supervision of children moving to England and Wales or to Northern Ireland) shall be amended as follows—

(a) in subsection (1)(b), for the words “to a juvenile court acting for the petty sessions area” there shall be substituted the following sub-paragraphs—

“(i) in the case of residence in England and Wales, to a youth court acting for the petty sessions area (within the meaning of the Children and Young Persons Act 1969);

(ii) in the case of residence in Northern Ireland, to a juvenile court acting for the petty sessions district (within the meaning of Part III of the Magistrates’ Courts (Northern Ireland) Order 1981).”;

(b) in subsection (1A)—

(i) for the words “The juvenile court in England or Wales” there shall be substituted the words “A youth court”;

(ii) after the word “12” there shall be inserted the words “, 12A, 12AA, 12B or 12C”; and

(iii) paragraph (a), and the word “and” immediately following that paragraph, shall cease to have effect;

F296<sup>(c)</sup> .....

(d) in subsection (3), after the words “by a” there shall be inserted the words “youth court or, as the case may be”; and

(e) subsection (4) shall cease to have effect.

#### Textual Amendments

**F296** Sch. 3 Pt. II para. 9(c) repealed (4.11.1996) by S.I. 1995/756, **art. 15**, Sch.; S.R. 1996/297, **art. 3**

#### Commencement Information

**I96** Sch. 3 (paras. 1 - 11) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, **art. 2(2)**, **Sch. 2**.

#### Marginal Citations

**M61** 1968 c. 49.

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## PART III

### TRANSFER OF PROBATION ORDERS FROM NORTHERN IRELAND

#### Commencement Information

**I97** Sch. 3 (paras. 1 - 11) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2

10 (1) Where <sup>F297</sup> . . . a court in Northern Ireland considering the making of a probation order is satisfied that the offender resides in England and Wales, or will be residing there when the order comes into force, [<sup>F298</sup> Article 10 of the Criminal Justice (Northern Ireland) Order 1996] (probation orders) shall have effect as if after subsection (1) there were inserted the following subsection—

“(1A) A court shall not make a probation order in respect of any offender unless it is satisfied that suitable arrangements for his supervision can be made by the probation committee for the area which contains the petty sessions area in which he resides or will reside.”

(2) Where a probation order has been made by a court in Northern Ireland and—

- (a) a court of summary jurisdiction acting for the petty sessions district in Northern Ireland for the time being specified in the order is satisfied that the offender <sup>F299</sup> . . . proposes to reside or is residing in England and Wales; and
- (b) it appears to the court that suitable arrangements for his supervision can be made by the [<sup>F300</sup> local probation board] for the area which contains the petty sessions area in which he resides or will reside,

the power of the court to amend the order under Schedule 2 to the [<sup>F301</sup> Criminal Justice (Northern Ireland) Order 1996] shall include power to amend it by requiring him to be supervised in accordance with arrangements so made.

(3) Where a court is considering the making or amendment of a probation order in accordance with this paragraph, [<sup>F302</sup> Schedule 1 to the Criminal Justice (Northern Ireland) Order 1996] shall have effect as if—

- (a) any reference to a probation officer were a reference to [<sup>F303</sup> an officer of a local probation board assigned] to the petty sessions area in England and Wales in which the offender resides or will be residing when the order or amendment comes into force;
- (b) the reference in [<sup>F304</sup> paragraph 4(3)] to treatment (whether as an in-patient or an out-patient) at such hospital as may be specified in the order, being a hospital within the meaning of the <sup>M62</sup>Health and Personal Social Services (Northern Ireland) Order 1972, approved by the Department of Health and Social Services for Northern Ireland for the purposes of that section were a reference to treatment as a resident patient in a [<sup>F305</sup> hospital or mental nursing home within the meaning of the Mental Health Act 1983, not being hospital premises at which high security psychiatric services within the meaning of that Act are provided];
- (c) the reference in [<sup>F306</sup> paragraph 2(5)] to the Probation Board for Northern Ireland were a reference to the [<sup>F300</sup> local probation board] for the area in which the premises are situated; and

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(d) references in [<sup>F307</sup>paragraph 3] to a day centre were references to a [<sup>F303</sup>community rehabilitation centre] within the meaning of paragraph 3 of [<sup>F305</sup>Schedule 2 to the Powers of Criminal Courts (Sentencing) Act 2000].

(4) A probation order made or amended in accordance with this paragraph shall specify the petty sessions area in England and Wales in which the offender resides or will be residing when the order or amendment comes into force.

#### Textual Amendments

- F297** Words in Sch. 3 para. 10(1) repealed (1.1.1998) by S.I. 1996/3161, art. 2(d)(i); S.R. 1997/523, art. 3
- F298** Words in Sch. 3 para. 10(1) substituted (1.1.1998) by S.I. 1996/3161, art. 2(d)(ii); S.R. 1997/523, art. 3
- F299** Words in Sch. 3 para. 10(2) repealed (1.1.1998) by S.I. 1996/3161, art. 2(d)(iii); S.R. 1997/523, art. 3
- F300** Words in Sch. 3 Pt. III para. 10(2)(b)(3)(c) substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. II para. 111(a)(i); S.I. 2001/919, art. 2(f)(ii)
- F301** Words in Sch. 3 para. 10(2) substituted (1.1.1998) by S.I. 1996/3161, art. 2(d)(iv); S.R. 1997/523, art. 3
- F302** Words in Sch. 3 para. 10(3) substituted (1.1.1998) by S.I. 1996/3161, art. 2(d)(v); S.R. 1997/523, art. 3
- F303** Words in Sch. 3 Pt. III para. 10(3)(a)(d) substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. II para. 111(a)(ii)(iii); S.I. 2001/919, art. 2(f)(ii)
- F304** Words in Sch. 3 para. 10(3)(b) substituted (1.1.1998) by S.I. 1996/3161, art. 2(d)(vi); S.R. 1997/523, art. 3
- F305** Words in Sch. 3 Pt. III para. 10(3)(b)(d) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 9 para. 147(1)(2)(a)(b)
- F306** Words in Sch. 3 para. 10(3)(c) substituted (1.1.1998) by S.I. 1996/3161, art. 2(d)(vii); S.R. 1997/523, art. 3
- F307** Words in Sch. 3 para. 10(3)(d) substituted (1.1.1998) by S.I. 1996/3161, art. 2(d)(viii); S.R. 1997/523, art. 3

#### Commencement Information

- I98** Sch. 3 (paras. 1 - 11) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

#### Marginal Citations

- M62** S.I. 1972/1265 (N.I. 14).

- 11 (1) Where a probation order is made or amended in any of the circumstances specified in paragraph 10 above, the court which makes or amends the order shall send three copies of it as made or amended to the home court, together with such documents and information relating to the case as it considers likely to be of assistance to that court.
- (2) Where a 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 probation order made in England and Wales; and
  - (b) [<sup>F308</sup>the provisions of sections 41 and 42 of and Schedules 2 and 3 to the Powers of Criminal Courts (Sentencing) Act 2000 (so far as relating to such orders)]. . . shall apply accordingly.
- (3) Before making or amending a probation order in the circumstances specified in paragraph 10 above the court shall explain to the offender in ordinary language—

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- (a) the requirements of [<sup>F309</sup>section 41 of the Powers of Criminal Courts (Sentencing) Act 2000] relating to probation orders;
  - (b) the powers of the home court under [<sup>F310</sup>Schedule 3 to that Act], as modified by this paragraph; and
  - (c) its own powers under this paragraph,and an explanation given in accordance with this sub-paragraph shall be sufficient without the addition of an explanation under [<sup>F311</sup>Article 10(3) of the Criminal Justice (Northern Ireland) Order 1996].
- (4) The home court may exercise in relation to the probation order any power which it could exercise in relation to a probation order made by a court in England and Wales by virtue of [<sup>F312</sup>the Powers of Criminal Courts (Sentencing) Act 2000], except a power conferred by [<sup>F312</sup>paragraph 4(1)(d), 5(1)(d), 10(3) or 11(2) of Schedule 3 to that Act].
- (5) If at any time while [<sup>F313</sup>the Powers of Criminal Courts (Sentencing) Act 2000] applies by virtue of sub-paragraph (2) above to a probation order made in Northern Ireland it appears to the home court—
  - (a) on information to a justice of the peace acting for the petty sessions area for the time being specified in the order, that the offender has failed to comply with any of the requirements of [<sup>F313</sup>that Act] applicable to the order; or
  - (b) on the application of the offender or [<sup>F314</sup>the officer of a local probation board], that it would be in the interests of justice for the power conferred by [<sup>F315</sup>paragraph 7 or 8 of Schedule 2 to the Criminal Justice (Northern Ireland) Order 1996] to be exercised,the home court may require the offender to appear before the court which made the order.
- (6) Where an offender is required by virtue of sub-paragraph (5) above to appear before the court which made the probation order, that court—
  - (a) may issue a warrant for his arrest; and
  - (b) may exercise any power which it could exercise in respect of the probation order if the offender resided in Northern Ireland,and [<sup>F316</sup>Schedule 2 to the Criminal Justice (Northern Ireland) Order 1996] shall have effect accordingly.
- (7) Where an offender is required by virtue of paragraph (a) of sub-paragraph (5) above to appear before the court which made the probation order—
  - (a) the home court shall send to that court a certificate certifying that the offender has failed to comply with such of the requirements of the order as may be specified in the certificate, together with such other particulars of the case as may be desirable; and
  - (b) a certificate purporting to be signed by the clerk of the home court shall be admissible as evidence of the failure before the court which made the order.
- (8) In this paragraph “home court” means, if the offender resides in England and Wales, or will be residing there at the time when the order or the amendment to it comes into force, the court of summary jurisdiction acting for the petty sessions area in which he resides or proposes to reside.

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### Textual Amendments

- F308** Words in Sch. 3 Pt. III para. 11(2)(b) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 147(1)(3)(a)**
- F309** Words in Sch. 3 Pt. III para. 11(3)(a) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 147(1)(3)(b)**
- F310** Words in Sch. 3 Pt. III para. 11(3)(b) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 147(1)(3)(c)**
- F311** Words in Sch. 3 para. 11(3) substituted (1.1.1998) by S.I. 1996/3161, **art. 2(e)(ii)**; S.R. 1997/523, **art. 3**
- F312** Words in Sch. 3 Pt. III para. 11(4) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 147(1)(3)(d)**
- F313** Words in Sch. 3 Pt. III para. 11(5) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 147(1)(3)(e)**
- F314** Words in Sch. 3 Pt. III para. 11(5)(b) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 4(b)(2)**; S.I. 2001/919, **art. 2(f)(i)**
- F315** Words in Sch. 3 para. 11(5)(b) substituted (1.1.1998) by S.I. 1996/3161, **art. 2(e)(iii)**; S.R. 1997/523, **art. 3**
- F316** Words in Sch. 3 para. 11(6) substituted (1.1.1998) by S.I. 1996/3161, **art. 2(e)(iv)**; S.R. 1997/523, **art. 3**

### Commencement Information

- I99** Sch. 3 (paras. 1 - 11) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(1), **Sch. 2**.

## SCHEDULE 4

Section 17(3).

### INCREASE OF CERTAIN MAXIMA

### Commencement Information

- I100** Sch. 4 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

## PART I

### SUBSTITUTION OF OTHER AMOUNTS

### Commencement Information

- I101** Sch. 4 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

(1) Provision	(2) General description	(3) Present amount	(4) New amount
In Schedule 5A to the Army Act 1955 and the Air Force Act 1955, paragraph 11(2).	Maximum amount of compensation order.	£2,000	£5,000



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Section 23(3) of the Attachment of Earnings Act 1971.	Maximum judge's fine in High Court or county court.	£100	£250
F317	F317	F317	F317
...	...	...	...
Section 8(1) of the Armed Forces Act 1976.	Maximum fine awarded by Standing Civilian Courts.	£2,000	£5,000
F317	F317	F317	F317
...	...	...	...
Section 63(3)(a) of [F318 the 1980 Act.]	Maximum fine for disobedience of order other than for payment of money.	£2,000	£5,000
Section 97(4) of that Act.	Maximum fine for refusal to give evidence.	£1,000	£2,500
Section 12(2) of the Contempt of Court Act 1981.	Maximum fine for contempt in face of magistrates' court.	£1,000	£2,500
Section 14(2) of that Act.	Maximum fine for contempt in an inferior court.	£1,000	£2,500
Section 55(2) of the County Courts Act 1984.	Maximum fine for neglecting witness summons.	£400	£1,000
Section 118 (1) of that Act.	Maximum fine for contempt of court.	£1,000	£2,500
Section 10(1) and (2) and 21(5) of the Coroners Act 1988.	Maximum coroner's fine for refusal to give evidence etc.	£400	£1,000

#### Textual Amendments

**F317** Words in [Sch. 4 Pt. I](#) repealed (25.8.2000) by [2000 c. 6, ss. 165, 168\(1\)](#), [Sch. 12 Pt. I](#) (with [Sch. 11 paras. 1, 2](#))

**F318** Words in [Sch. 4 Pt. I](#) substituted (25.8.2000) by [2000 c. 6, ss. 165, 168\(1\)](#), [Sch. 9 para. 148](#)



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## PART II

### SUBSTITUTION OF LEVELS ON STANDARD SCALE

#### Commencement Information

**I102** Sch. 4 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Section 33(1)(a) of the 1980 Act.	Maximum fine on summary conviction of offence tried in pursuance of section 22 of that Act (certain offences triable either way to be tried summarily if value involved is small).	£1,000	Level 4
Section 34(3)(b) of that Act.	Maximum fine on summary conviction where statute provides no express power to fine.	£400	Level 3

## PART III

### SUBSTITUTION OF STATUTORY MAXIMUM

#### Commencement Information

**I103** Sch. 4 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

(1) Provision	(2) General description	(3) Present amount
Section 6(8) of the Whaling Industry (Regulation) Act 1934.	Maximum fine on summary conviction for failure to keep or falsify records.	£1,000
Section 9(1) of that Act.	Maximum fine on summary conviction for forgery of certain documents.	£1,000
Section 11(1)(c) of the Sea Fisheries (Conservation) Act 1967.	Maximum fine on summary conviction for an offence under section 1, 2, 4(7) or (7A), 4A(7) or (8), 6(5) or (5A)(b) or 7(3) of that Act.	£1,000
Section 16(1A) of that Act.	Maximum fine on summary conviction for assaulting or	£1,000

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Section 5(4) of the Sea Fisheries Act 1968.	obstructing officer exercising enforcement powers. Maximum fine on summary conviction for contravening order regulating fishing operations.	£1,000
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**PART IV**

PROVISIONS SUBSTITUTED FOR SCHEDULE 6A TO 1980 ACT

**Commencement Information**

**I104** Sch. 4 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

“SCHEDULE 6A

FINES THAT MAY BE ALTERED UNDER SECTION 143

Enactment	Maximum fine
CHILDREN AND YOUNG PERSONS ACT 1969 (c.54)Section 15(3)(a) (failure to comply with supervision order)	£1,000
Section 15(5)(b) and (c) (failure to comply with supervision order)	£5,000
ATTACHMENT OF EARNINGS ACT 1971 (c.32)Section 23(3) (judge’s fine)	£250
POWERS OF CRIMINAL COURTS ACT 1973 (c.62)Section 27(3) (failure to comply with suspended sentence supervision order)	£1,000
MAGISTRATES’ COURTS ACT 1980 (c.43)Section 63(3)(a) (disobedience of orders other than payment of money)	£5,000
Section 97(4) (refusal to give evidence etc.)	£2,500
CONTEMPT OF COURT ACT 1981 (c.49)Section 12(2) (contempt in face of magistrates’ court)	£2,500
Section 14(2) (contempt in an inferior court)	£2,500
Enactment	Maximum fine
CRIMINAL JUSTICE ACT 1982 (c.48)Section 19(3) (failure to comply with attendance centre order or attendance centre rules)	£1,000

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COUNTY COURTS ACT 1984 £1,000

(c.28)Section 55(2) (neglect or refusal to give evidence)

Section 118(1) (contempt in face of court) £2,500

CORONERS ACT 1988 (c.13)Sections 10(1) £1,000  
and (2) and 21(5) (refusal to give evidence etc.)

CRIMINAL JUSTICE ACT 1991 (c.53)In £1,000”.  
Schedule 2, paragraphs 3(1) and 4(1) (failure to comply with probation, community service, curfew or combination order)

## F319 PART V

### OTHER AMENDMENTS

#### Textual Amendments

**F319** Sch. 4 Pt. V repealed (20.9.1993) by 1993 c. 36, ss. 65(3)(4), 79(14), Sch. 3 para. 1(2), Sch. 6 Pt.I; S.I. 1993/1968, art. 2(2), Sch.2, Appendix.

#### Commencement Information

**I105** Sch. 4 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2

1 In section 27 of the 1973 Act (breach of requirement of suspended sentence supervision order), for subsection (4) there shall be substituted the following subsection—

“(4) Section 18 of the Criminal Justice Act 1991 (fixing of certain fines by reference to units) shall apply for the purposes of subsection (3) above as if the failure to comply with the requirement were a summary offence punishable by a fine not exceeding level 3 on the standard scale; and a fine imposed under that subsection shall be deemed for the purposes of any enactment to be a sum adjudged to be paid by a conviction.”

2 In section 97 of the 1980 Act (maximum fine for refusal to give evidence), after subsection (4) there shall be inserted the following subsection—

“(5) Section 18 of the Criminal Justice Act 1991 (fixing of certain fines by reference to units) shall apply for the purposes of subsection (4) above as if the failure to attend before the magistrates’ court were a summary offence punishable by a fine not exceeding level 4 on the standard scale; and a fine imposed under that subsection shall be deemed for the purposes of any enactment to be a sum adjudged to be paid by a conviction.”

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.....  
3 In section 12 of the Contempt of Court Act 1981 (maximum fine for contempt in face of magistrates' court), after subsection (2) there shall be inserted the following subsection—

“(2A) Section 18 of the Criminal Justice Act 1991 (fixing of certain fines by reference to units) shall apply for the purposes of subsection (2) above as if the failure to attend before the magistrates' court were a summary offence punishable by a fine not exceeding level 4 on the standard scale; and a fine imposed under that subsection shall be deemed for the purposes of any enactment to be a sum adjudged to be paid by a conviction.”

.....  
4 In section 14 of that Act (maximum fine for contempt in an inferior court), after subsection (2) there shall be inserted the following subsection—

“(2A) Section 18 of the Criminal Justice Act 1991 (fixing of certain fines by reference to units) shall apply for the purposes of subsection (2) above as if the failure to attend before the magistrates' court were a summary offence punishable by a fine not exceeding level 4 on the standard scale; and a fine imposed under that subsection shall be deemed for the purposes of any enactment to be a sum adjudged to be paid by a conviction.”

## [<sup>F320</sup>SCHEDULE 5

### THE PAROLE BOARD: SUPPLEMENTARY PROVISIONS]

#### Textual Amendments

**F320** Sch. 5 substituted (1.7.1996) by 1994 c. 33, s. 168(2), Sch. 10 para.70; S.I. 1996/1608, art.2 (S.I. 1996/1530 having been revoked by that instrument)

#### <sup>F321</sup>Status and capacity

#### Textual Amendments

**F321** Sch. 5 substituted (1.7.1996) by 1994 c. 33, s. 168(2), Sch. 10 para.70; S.I. 1996/1608, art.2 (S.I. 1996/1530 having been revoked by that instrument)

- <sup>F322</sup>1 (1) The Board shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and the Board's property shall not be regarded as property of, or held on behalf of, the Crown.
- (2) It shall be within the capacity of the Board as a statutory corporation to do such things and enter into such transactions as are incidental to or conducive to the discharge of
- [<sup>F323</sup>(a) its functions under this Part in respect of long-term and short-term prisoners; and

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- (b) its functions under Chapter II of Part II of the <sup>M63</sup>Crime (Sentences) Act 1997 in respect of life prisoners within the meaning of that Chapter]

**Textual Amendments**

- F322** Sch. 5 substituted (1.7.1996) by 1994 c. 33, s. 168(2), **Sch. 10 para. 70**; S.I. 1996/1608, **art. 2** (S.I. 1996/1530 having been revoked by that instrument)
- F323** Sch. 5 para. 1(2)(a)(b) substituted for words in Sch. 5 para. 1(2) (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para.97**; S.I. 1998/2327, **art.2(1)(y)(2)(gg)**

**Marginal Citations**

- M63** 1997 c.43.

*F324* Membership

**Textual Amendments**

- F324** Sch. 5 substituted (1.7.1996) by 1994 c. 33, s. 168(2), **Sch. 10 para.70**; S.I. 1996/1608, **art.2** (S.I. 1996/1530 having been revoked by that instrument)

- <sup>F325</sup>2 (1) The Board shall consist of a chairman and not less than four other members appointed by the Secretary of State.
- (2) The Board shall include among its members—
- (a) a person who holds or has held judicial office;
  - (b) a registered medical practitioner who is a psychiatrist;
  - (c) a person appearing to the Secretary of State to have knowledge and experience of the supervision or after-care of discharged prisoners; and
  - (d) a person appearing to the Secretary of State to have made a study of the causes of delinquency or the treatment of offenders.
- (3) A member of the Board—
- (a) shall hold and vacate office in accordance with the terms of his appointment;
  - (b) may resign his office by notice in writing addressed to the Secretary of State;
- and a person who ceases to hold office as a member of the Board shall be eligible for re-appointment.

**Textual Amendments**

- F325** Sch. 5 substituted (1.7.1996) by 1994 c. 33, s. 168(2), **Sch. 10 para.70**; S.I. 1996/1608, **art.2** (S.I. 1996/1530 having been revoked by that instrument)

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### *F326* Payments to members

#### Textual Amendments

**F326** Sch. 5 substituted (1.7.1996) by 1994 c. 33, s. 168(2), Sch. 10 para.70; S.I. 1996/1608, art. 2 (S.I. 1996/1530 having been revoked by that instrument)

- F327**<sup>3</sup> (1) The Board may pay to each member such remuneration and allowances as the Secretary of State may determine.
- (2) The Board may pay or make provision for paying to or in respect of any member such sums by way of pension, allowances or gratuities as the Secretary of State may determine.
- (3) If a person ceases to be a member otherwise than on the expiry of his term of office and it appears to the Secretary of State that there are special circumstances that make it right that he should receive compensation, the Secretary of State may direct the Board to make to that person a payment of such amount as the Secretary of State may determine.
- (4) A determination or direction of the Secretary of State under this paragraph requires the approval of the Treasury.

#### Textual Amendments

**F327** Sch. 5 substituted (1.7.1996) by 1994 c. 33, s. 168(2), Sch. 10 para.70; S.I. 1996/1608, art.2 (S.I. 1996/1530 having been revoked by that instrument)

### *F328* Proceedings

#### Textual Amendments

**F328** Sch. 5 substituted (1.7.1996) by 1994 c. 33, s. 168(2), Sch. 10 para.70; S.I. 1996/1608, art.2 (S.I. 1996/1530 having been revoked by that instrument)

- F329**<sup>4</sup> (1) Subject to the provisions of section 32(5) of this Act, the arrangements relating to meetings of the Board shall be such as the Board may determine.
- (2) The arrangements may provide for the discharge, under the general direction of the Board, of any of the Board's functions by a committee or by one or more of the members or employees of the Board.
- (3) The validity of the proceedings of the Board shall not be affected by any vacancy among the members or by any defect in the appointment of a member.

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#### Textual Amendments

**F329** Sch. 5 substituted (1.7.1996) by 1994 c. 33, s. 168(2), **Sch. 10 para.70**; S.I. 1996/1608, **art.2** (S.I. 1996/1530 having been revoked by that instrument)

#### *F330 Staff*

#### Textual Amendments

**F330** Sch. 5 substituted (1.7.1996) by 1994 c. 33, s. 168(2), **Sch. 10 para.70**; S.I. 1996/1608, **art.2** (S.I. 1996/1530 having been revoked by that instrument)

- F331**5 (1) The Board may appoint such number of employees as it may determine.
- (2) The remuneration and other conditions of service of the persons appointed under this paragraph shall be determined by the Board.
- (3) Any determination under sub-paragraph (1) or (2) shall require the approval of the Secretary of State given with the consent of the Treasury.
- (4) The Employers' Liability (Compulsory Insurance) Act 1969 shall not require insurance to be effected by the Board.

#### Textual Amendments

**F331** Sch. 5 substituted (1.7.1996) by 1994 c. 33, s. 168(2), **Sch. 10 para.70**; S.I. 1996/1608, **art.2** (S.I. 1996/1530 having been revoked by that instrument)

#### *Reports*

- F332**6 (1) Employment with the Board shall be included among the kinds of employment to which a scheme under section 1 of the Superannuation Act 1972 can apply, and accordingly in Schedule 1 to that Act (in which those kinds of employment are listed) at the end of the list of Other Bodies there shall be inserted— "Parole Board."
- (2) The Board shall pay to the Treasury, at such times as the Treasury may direct, such sums as the Treasury may determine in respect of the increase attributable to this paragraph in the sums payable under the Superannuation Act 1972 out of money provided by Parliament.

#### Textual Amendments

**F332** Sch. 5 substituted (1.7.1996) by 1994 c. 33, s. 168(2), **Sch. 10 para.70**; S.I. 1996/1608, **art.2** (S.I. 1996/1530 having been revoked by that instrument)

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### *F333 Financial provisions*

#### **Textual Amendments**

**F333** Sch. 5 substituted (1.7.1996) by 1994 c. 33, s. 168(2), Sch. 10 para.70; S.I. 1996/1608, art.2 (S.I. 1996/1530 having been revoked by that instrument)

- F334**7 (1) The Secretary of State shall pay to the Board—
- (a) any expenses incurred or to be incurred by the Board by virtue of paragraph 3 or 5; and
  - (b) with the consent of the Treasury, such sums as he thinks fit for enabling the Board to meet other expenses.
- (2) Any sums required by the Secretary of State for making payments under subparagraph (1) shall be paid out of money provided by Parliament.

#### **Textual Amendments**

**F334** Sch. 5 substituted (1.7.1996) by 1994 c. 33, s. 168(2), Sch. 10 para.70; S.I. 1996/1608, art.2 (S.I. 1996/1530 having been revoked by that instrument)

### *F335 Authentication of Board's seal*

#### **Textual Amendments**

**F335** Sch. 5 substituted (1.7.1996) by 1994 c. 33, s. 168(2), Sch. 10 para.70; S.I. 1996/1608, art.2 (S.I. 1996/1530 having been revoked by that instrument)

- F336**8 The application of the seal of the Board shall be authenticated by the signature of the Chairman or some other person authorised for the purpose.

#### **Textual Amendments**

**F336** Sch. 5 substituted (1.7.1996) by 1994 c. 33, s. 168(2), Sch. 10 para.70; S.I. 1996/1608, art. 2 (S.I. 1996/1530 having been revoked by that instrument)

### *F337 Presumption of authenticity of documents issued by Board*

#### **Textual Amendments**

**F337** Sch. 5 substituted (1.7.1996) by 1994 c. 33, s. 168(2), Sch. 10 para.70; S.I. 1996/1608, art.2 (S.I. 1996/1530 having been revoked by that instrument)



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- F338<sup>9</sup>** Any document purporting to be an instrument issued by the Board and to be duly executed under the seal of the Board or to be signed on behalf of the Board shall be received in evidence and shall be deemed to be such an instrument unless the contrary is shown.

**Textual Amendments**

**F338** Sch. 5 substituted (1.7.1996) by 1994 c. 33, s. 168(2), **Sch. 10 para.70**; S.I. 1996/1608, **art. 2** (S.I. 1996/1530 having been revoked by that instrument)

*F339* **Accounts and audit**

**Textual Amendments**

**F339** Sch. 5 substituted (1.7.1996) by 1994 c. 33, s. 168(2), **Sch. 10 para.70**; S.I. 1996/1608, **art.2** (S.I. 1996/1530 having been revoked by that instrument)

- F340** 10 (1) It shall be the duty of the Board—
- (a) to keep proper accounts and proper records in relation to the accounts;
  - (b) to prepare in respect of each financial year a statement of accounts in such form as the Secretary of State may direct with the approval of the Treasury; and
  - (c) to send copies of each such statement to the Secretary of State and the Comptroller and Auditor General not later than 31st August next following the end of the financial year to which the statement relates.
- (2) The Comptroller and Auditor General shall examine, certify and report on each statement of accounts sent to him by the Board and shall lay a copy of every such statement and of his report before each House of Parliament.
- (3) In this paragraph, “financial year” means the period beginning with the date on which the Board is incorporated and ending with the next following 31st March, and each successive period of twelve months.

**Textual Amendments**

**F340** Sch. 5 substituted (1.7.1996) by 1994 c. 33, s. 168(2), **Sch. 10 para.70**; S.I. 1996/1608, **art.2** (S.I. 1996/1530 having been revoked by that instrument)

*F341* **Reports**

**Textual Amendments**

**F341** Sch. 5 substituted (1.7.1996) by 1994 c. 33, s. 168(2), **Sch. 10 para.70**; S.I. 1996/1608, **art.2**

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- <sup>F342</sup>11 The Board shall as soon as practicable after the end of each financial year make to the Secretary of State a report on the performance of its functions during the year; and the Secretary of State shall lay a copy of the report before Parliament.

#### Textual Amendments

- F342** Sch. 5 substituted (1.7.1996) by 1994 c. 33, s. 168(2), **Sch. 10 para.70**; S.I. 1996/1608, **art. 2** (S.I. 1996/1530 having been revoked by that instrument)

### <sup>F343</sup>SCHEDULE 6

Section 53(5).

#### NOTICES OF TRANSFER: PROCEDURE IN LIEU OF COMMITTAL

#### Extent Information

- E5** Schedule 6 extends to England and Wales only except as mentioned in s. 102(4)-(6).

#### Textual Amendments

- F343** Sch. 6 repealed (prosp.) by Criminal Justice Act 2003 (c. 44), ss. 41, 332, 336, Sch. 3 Pt. 2 para. 62(3), **Sch. 37**

#### Commencement Information

- I110** Sch. 6 (paras. 1 - 9) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

#### *Contents of notice of transfer*

- 1 (1) A notice of transfer shall specify the proposed place of trial; and in selecting that place the Director of Public Prosecutions shall have regard to the considerations to which a magistrates' court committing a person for trial is required by section 7 of the 1980 Act to have regard when selecting the place at which he is to be tried.
- (2) A notice of transfer shall specify the charge or charges to which it relates and include or be accompanied by such additional material as regulations under paragraph 4 below may require.

#### Commencement Information

- I111** Sch. 6 (paras. 1 - 9) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

#### *Remand*

- 2 (1) If a magistrates' court has remanded in custody a person to whom a notice of transfer relates, it shall have power, subject to section 4 of the <sup>M64</sup>Bail Act 1976 [<sup>F344</sup> section 25 of the Criminal Justice and Public Order Act 1994] and regulations under section 22 of the <sup>M65</sup>Prosecution of Offences Act 1985—

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- (a) to order that he shall be safely kept in custody until delivered in due course of law; or
  - (b) to release him on bail in accordance with the Bail Act 1976, that is to say, by directing him to appear before the Crown Court for trial.
- (2) Where—
- (a) a person's release on bail under paragraph (b) of sub-paragraph (1) above is conditional on his providing one or more sureties; and
  - (b) in accordance with subsection (3) of section 8 of the Bail Act 1976, the court fixes the amount in which a surety is to be bound with a view to his entering into his recognisance subsequently in accordance with subsections (4) and (5) or (6) of that section,
- the court shall in the meantime make an order such as is mentioned in paragraph (a) of that sub-paragraph.
- (3) If the conditions specified in sub-paragraph (4) below are satisfied, a court may exercise the powers conferred by sub-paragraph (1) above in relation to a person charged without his being brought before it in any case in which by virtue of subsection (3A) of section 128 of the 1980 Act it would have the power further to remand him on an adjournment such as is mentioned in that subsection.
- (4) The conditions referred to in sub-paragraph (3) above are—
- (a) that the person in question has given his written consent to the powers conferred by sub-paragraph (1) above being exercised without his being brought before the court; and
  - (b) that the court is satisfied that, when he gave his consent, he knew that the notice of transfer had been issued.
- (5) Where a notice of transfer is given after a person to whom it relates has been remanded on bail to appear before a magistrates' court on an appointed day, the requirement that he shall so appear shall cease on the giving of the notice unless the notice states that it is to continue.
- (6) Where that requirement ceases by virtue of sub-paragraph (5) above, it shall be the duty of the person in question to appear before the Crown Court at the place specified by the notice of transfer as the proposed place of trial or at any place substituted for it by a direction under section 76 of the <sup>M66</sup>Supreme Court Act 1981.
- (7) If, in a case where the notice states that the requirement mentioned in sub-paragraph (5) above is to continue, a person to whom the notice relates appears before the magistrates' court, the court shall have—
- (a) the powers and duties conferred on a magistrates' court by sub-paragraph (1) above but subject as there provided; and
  - (b) power to enlarge, in the surety's absence, a recognisance conditioned in accordance with section 128(4)(a) of the 1980 Act so that the surety is bound to secure that the person charged appears also before the Crown Court.

#### Textual Amendments

**F344** Words in [Sch. 6 para. 2\(1\)](#) inserted (10.4.1995) by [1994 c. 33, s. 168\(2\)](#), [Sch. 10 para.71](#); [S.I. 1995/721, art. 2](#), [Sch. AppendixA](#).

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**Commencement Information**

**I112** Sch. 6 (paras. 1 - 9) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

**Marginal Citations**

**M64** 1976 c. 63.

**M65** 1985 c. 23.

**M66** 1981 c. 54.

*Witnesses*

- 3 For the purposes of the <sup>M67</sup>Criminal Procedure (Attendance of Witnesses) Act 1965—
- (a) any magistrates' court for the petty sessions area for which the court from which a case was transferred sits shall be treated as examining magistrates; and
  - (b) a person indicated in the notice of transfer as a proposed witness shall be treated as a person who has been examined by the court.

**Commencement Information**

**I113** Sch. 6 (paras. 1 - 9) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

**Marginal Citations**

**M67** 1965 c. 69.

*Regulations*

- 4 (1) The Attorney General—
- (a) shall by regulations make provision requiring a copy of a notice of transfer, together with [<sup>F345</sup>copies of the documents containing the evidence (including oral evidence)] on which any charge to which it relates is based, to be given—
    - (i) to any person to whom the notice of transfer relates; and
    - (ii) to the Crown Court sitting at the place specified by the notice of transfer as the proposed place of trial; and
  - (b) may by regulations make such further provision in relation to notices of transfer, including provision as to the duties of the Director of Public Prosecutions in relation to such notices, as appears to him to be appropriate.
- [<sup>F346</sup>(1A) Regulations under sub-paragraph (1)(a) above may provide that there shall be no requirement for copies of documents to accompany the copy of the notice of transfer if they are referred to, in documents sent with the notice of transfer, as having already been supplied.]
- (2) The power to make regulations under this paragraph shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

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### Textual Amendments

**F345** Words in Sch. 6 para. 4(1)(a) substituted (4.7.1996 with application as mentioned in s. 45(8)(9) of the amending Act) by 1996 c. 25, s. 45(5)(8)(9); S.I. 1998/851, art. 2.

**F346** Sch. 6 para. 4(1A) inserted (4.7.1996 with application as mentioned in s. 45(8)(9) of the amending Act) by 1996 c. 25, s. 45(6)(8)(9); S.I. 1998/851, art. 2.

### Commencement Information

**I114** Sch. 6 (paras. 1 - 9) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

### *Applications for dismissal*

- 5
- (1) Where a notice of transfer has been given, any person to whom the notice relates may, at any time before he is arraigned (and whether or not an indictment has been preferred against him), apply orally or in writing to the Crown Court sitting at the place specified by the notice of transfer as the proposed place of trial for the charge, or any of the charges, in the case to be dismissed.
  - (2) The judge shall dismiss a charge (and accordingly quash a count relating to it in any indictment preferred against the applicant) which is the subject of any such application if it appears to him that the evidence against the applicant would not be sufficient for a jury properly to convict him.
  - (3) No oral application may be made under sub-paragraph (1) above unless the applicant has given the Crown Court mentioned in that sub-paragraph written notice of his intention to make the application.
  - (4) Oral evidence may be given on such an application only with the leave of the judge or by his order; and the judge shall give leave or make an order only if it appears to him, having regard to any matters stated in the application for leave, that the interests of justice require him to do so.
  - (5) No leave or order under sub-paragraph (4) above shall be given or made in relation to oral evidence from a child (within the meaning of section 53 of this Act) who is alleged—
    - (a) to be a person against whom an offence to which the notice of transfer relates was committed; or
    - (b) to have witnessed the commission of such an offence.
  - (6) If the judge gives leave permitting, or makes an order requiring, a person to give oral evidence, but that person does not do so, the judge may disregard any document indicating the evidence that he might have given.
  - (7) Dismissal of the charge, or all the charges, against the applicant shall have the same effect as a refusal by examining magistrates to commit for trial, except that no further proceedings may be brought on a dismissed charge except by means of the preferment of a voluntary bill of indictment.
  - (8) Crown Court Rules may make provision for the purposes of this paragraph and, without prejudice to the generality of this sub-paragraph, may make provision—

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- (a) as to the time or stage in the proceedings at which anything required to be done is to be done (unless the court grants leave to do it at some other time or stage);
- (b) as to the contents and form of notices or other documents;
- (c) as to the manner in which evidence is to be submitted; and
- (d) as to persons to be served with notices or other material.

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

- C55** Sch. 6 para. 5 modified (10.4.1995) by 1994 c. 33, ss. 34(2)(b)(ii)(4)-(7), 36(2)(b)(ii)(3)-(8), 37(2)(b)(ii)(3)-(7), 38; S.I. 1995/721, art. 2, Sch.  
Sch. 6 para. 5 modified (3.2.1995) by 1984 c. 60, s. 62(10)(aa)(ii) (as inserted (3.2.1995) by 1994 c. 33, s. 168(3), Sch. 9 para.24; S.I. 1995/127, art. 2(1), Sch. 1 Appendix.)

#### Commencement Information

- I115** Sch. 6 (paras. 1 - 9) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

#### Reporting restrictions

- 6 (1) Except as provided by this paragraph, it shall not be lawful—
- (a) to publish in Great Britain a written report of an application under paragraph 5(1) above; or
  - (b) to include in a relevant programme for reception in Great Britain a report of such an application,
- if (in either case) the report contains any matter other than that permitted by this paragraph.
- (2) An order that sub-paragraph (1) above shall not apply to reports of an application under paragraph 5(1) above may be made by the judge dealing with the application.
- (3) Where in the case of two or more accused one of them objects to the making of an order under sub-paragraph (2) above, the judge shall make the order if, and only if, he is satisfied, after hearing the representations of the accused, that it is in the interests of justice to do so.
- (4) An order under sub-paragraph (2) above shall not apply to reports of proceedings under sub-paragraph (3) above, but any decision of the court to make or not to make such an order may be contained in reports published or included in a relevant programme before the time authorised by sub-paragraph (5) below.
- (5) It shall not be unlawful under this paragraph to publish or include in a relevant programme a report of an application under paragraph 5(1) above containing any matter other than that permitted by sub-paragraph (8) below where the application is successful.
- (6) Where—
- (a) two or more persons were jointly charged; and
  - (b) applications under paragraph 5(1) above are made by more than one of them,
- sub-paragraph (5) above shall have effect as if for the words “the application is” there were substituted the words “all the applications are”.

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- (7) It shall not be unlawful under this paragraph to publish or include in a relevant programme a report of an unsuccessful application at the conclusion of the trial of the person charged, or of the last of the persons charged to be tried.
- (8) The following matters may be contained in a report published or included in a relevant programme without an order under sub-paragraph (2) above before the time authorised by [<sup>F347</sup>sub-paragraphs (5) and (7)] above, that is to say—
- (a) the identity of the court and the name of the judge;
  - (b) the names, ages, home addresses and occupations of the accused and witnesses;
  - (c) the offence or offences, or a summary of them, with which the accused is or are charged;
  - (d) the names of counsel and solicitors engaged in the proceedings;
  - (e) where the proceedings are adjourned, the date and place to which they are adjourned;
  - (f) the arrangements as to bail;
  - (g) whether legal aid was granted to the accused or any of the accused.
- (9) The addresses that may be published or included in a relevant programme under sub-paragraph (8) above are addresses—
- (a) at any relevant time; and
  - (b) at the time of their publication or inclusion in a relevant programme.
- (10) If a report is published or included in a relevant programme in contravention of this paragraph, the following persons, that is to say—
- (a) in the case of a publication of a written report as part of a newspaper or periodical, any proprietor, editor or publisher of the newspaper or periodical;
  - (b) in the case of a publication of a written report otherwise than as part of a newspaper or periodical, the person who publishes it;
  - (c) in the case of the inclusion of a report in a relevant programme, any body corporate which is engaged in providing the service in which the programme is included and any person having functions in relation to the programme corresponding to those of the editor of a newspaper;
- shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (11) Proceedings for an offence under this paragraph shall not, in England and Wales, be instituted otherwise than by or with the consent of the Attorney General.
- (12) Sub-paragraph (1) above shall be in addition to, and not in derogation from, the provisions of any other enactment with respect to the publication of reports of court proceedings.
- (13) In this paragraph—
- “publish”, in relation to a report, means publish the report, either by itself or as part of a newspaper or periodical, for distribution to the public;
- “relevant programme” means a programme included in a programme service (within the meaning of the <sup>M68</sup>Broadcasting Act 1990);
- “relevant time” means a time when events giving rise to the charges to which the proceedings relate occurred.

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#### Textual Amendments

**F347** Words in [Sch. 6 para. 6\(8\)](#) substituted (4.7.1996 with application as mentioned in [s. 45\(8\)\(9\)](#) of the amending Act) by [1996 c. 25, s. 45\(7\)\(8\)\(9\)](#); [S.I. 1998/851, art. 2](#).

#### Commencement Information

**I116** [Sch. 6](#) (paras. 1 - 9) wholly in force at 1.10.1992 see [s. 102\(2\)\(3\)](#) and [S.I. 1992/333, art. 2\(2\)](#), [Sch. 2](#).

#### Marginal Citations

**M68** [1990 c. 42](#).

### *Avoidance of delay*

- 7 (1) Where a notice of transfer has been given in relation to any case—
- (a) the Crown Court before which the case is to be tried; and
  - (b) any magistrates' court which exercises any functions under paragraph 2 or 3 above or section 20(4) of the <sup>M69</sup>Legal Aid Act 1988 in relation to the case,
- shall, in exercising any of its powers in relation to the case, have regard to the desirability of avoiding prejudice to the welfare of any relevant child witness that may be occasioned by unnecessary delay in bringing the case to trial.
- (2) In this paragraph “child” has the same meaning as in section 53 of this Act and “relevant child witness” means a child who will be called as a witness at the trial and who is alleged—
- (a) to be a person against whom an offence to which the notice of transfer relates was committed; or
  - (b) to have witnessed the commission of such an offence.

#### Commencement Information

**I117** [Sch. 6](#) (paras. 1 - 9) wholly in force at 1.10.1992 see [s. 102\(2\)\(3\)](#) and [S.I. 1992/333, art. 2\(2\)](#), [Sch. 2](#).

#### Marginal Citations

**M69** [1988 c. 34](#).

### *Procedures for indictment of offenders*

- 8 (1) In subsection (2) of section 2 of the <sup>M70</sup>Administration of Justice (Miscellaneous Provisions) Act 1933 (procedures for indictment of offenders), after paragraph (aa), there shall be inserted the following paragraph—
- “(ab) the offence is specified in a notice of transfer under section 53 of the Criminal Justice Act 1991 (violent or sexual offences against children); or”.
- (2) In paragraph (iA) of the proviso to that subsection—
- (a) after the words “paragraph (aa)” there shall be inserted the words “or (ab)”; and



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(b) for the words “regulations under section 5(9) of the <sup>M71</sup>Criminal Justice Act 1987” there shall be substituted the the words “regulations under the relevant provision”.

(3) At the end of that proviso there shall be inserted the words “and in paragraph (iA) above “the relevant provision” means section 5(9) of the <sup>M72</sup>Criminal Justice Act 1987 in a case to which paragraph (aa) above applies, and paragraph 4 of Schedule 6 to the Criminal Justice Act 1991 in a case to which paragraph (ab) above applies”.

#### Commencement Information

**I118** Sch. 6 (paras. 1 - 9) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

#### Marginal Citations

**M70** 1933 c. 36.

**M71** 1987 c. 38.

**M72** 1987 c. 38.

#### Legal aid

F348<sup>9</sup>

#### Textual Amendments

**F348** Sch. 6 para. 9 repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with s. 107, Sch. 14 para. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 para. 2)

#### F349 SCHEDULE 7

#### Textual Amendments

**F349** Sch. 7 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

#### SCHEDULE 8

Section 68.

#### AMENDMENTS FOR TREATING PERSONS AGED 17 AS YOUNG PERSONS

#### Extent Information

**E6** Schedule 8 extends to England and Wales only except as mentioned in s. 102(4)-(6).

#### Commencement Information

**I119** Sch. 8 in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

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

- 1 (1) Section 31 of the 1933 Act shall be renumbered as subsection (1) of that section and after that provision as so renumbered there shall be inserted the following subsection—

“(2) In this section and section 34 of this Act, “young person” means a person who has attained the age of fourteen and is under the age of seventeen years.”

- (2) In sections 46(1) and (1A), 48(2) and 99(1) of that Act, for the words “the age of seventeen” there shall be substituted the words “the age of eighteen”.

- (3) In section 107(1) of that Act, for the definition of “young person” there shall be substituted the following definition—

““young person” means a person who has attained the age of fourteen and is under the age of eighteen years.”

**Commencement Information**

**I120** Sch. 8 para. 1 partly in force: para. 1(1) not in force; para. 1(2) in force at 1.10.1992; para. 1(3) in force at 1.10.1992 except for specified purpose; see s. 102(2)(3) and S.I. 1992/333, art. 2(2)(4), Sch. 2.

*Prison Act 1952 (c.52)*

- 2 In section 43(3) of the 1952 Act (remand centres, young offender institutions etc.), for the words “aged 17 years” there shall be substituted the words “aged 18 years”.

**Commencement Information**

**I121** Sch. 8 para. 2 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

*Children and Young Persons Act 1963 (c.37)*

- 3 In section 29(1) of the Children and Young Persons Act 1963, for the words “the age of seventeen” there shall be substituted the words “the age of eighteen”.

**Commencement Information**

**I122** Sch. 8 para. 3 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

*Children and Young Persons Act 1969 (c.54)*

- 4 (1) Section 29 of the 1969 Act shall be renumbered as subsection (1) of that section and after that provision as so renumbered there shall be inserted the following subsection—

“(2) In this section “young person” means a person who has attained the age of fourteen and is under the age of seventeen years.”

- (2) In section 70(1) of that Act, for the definition of “young person” there shall be substituted the following definition—

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““young person” means a person who has attained the age of fourteen and is under the age of eighteen years;”.

**Commencement Information**

**I123** Sch. 8 para. 4 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

*Rehabilitation of Offenders Act 1974 (c.53)*

- 5 In section 5(2) of the Rehabilitation of Offenders Act 1974 (which provides for rehabilitation periods to be reduced by half for young offenders)—
- (a) in paragraph (a), for the words “seventeen years of age” there shall be substituted the words “eighteen years of age”; and
  - (b) in the heading to Table A, for the words “under 17” there shall be substituted the words “under 18”.

**Commencement Information**

**I124** Sch. 8 para. 5 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

*Magistrates’ Courts Act 1980 (c.43)*

- 6 (1) Part I of the 1980 Act (criminal jurisdiction and procedure) shall be amended as follows—
- (a) for the words “the age of 17”, in each place where they occur, there shall be substituted the words “the age of 18 years”;
  - (b) in section 22(9), for the words “under 17” there shall be substituted the words “under 18”;
  - <sup>F350</sup>(c) .....
  - <sup>F350</sup>(d) .....
- (2) In section 81(1), (3) and (8) of that Act, for the words “the age of 17” there shall be substituted the words “the age of 18”.
- (3) In sections 96A, 135(3) and 136(4) of that Act, for the words “aged 17” there shall be substituted the words “aged 18”.

**Textual Amendments**

**F350** Sch. 8 para. 6(1)(c)(d) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

**Commencement Information**

**I125** Sch. 8 para. 6 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

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## SCHEDULE 9

Section 71.

### AMENDMENTS TO SERVICE LAW

#### Commencement Information

**I126** Sch. 9 (paras. 1 - 9) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

#### *Army Act 1955 (c.18) and Air Force Act 1955 (c.19)*

- 1 In section 71A of the Army Act 1955 and the Air Force Act 1955 (life custody for young offenders), in subsections (1B) and (4)(a), for the words “17 years” there shall be substituted the words “18 years”.

#### Commencement Information

**I127** Sch. 9 (paras. 1 - 9) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 2 In section 71AA of those Acts (young service offenders: custodial orders)—
- (a) in subsection (1), for the words “not exceeding” there shall be substituted the words “which—
    - (a) shall be not less than the appropriate minimum period, that is to say—
      - (i) in the case of an offender who has attained eighteen years of age, the period of 21 days; or
      - (ii) in the case of an offender who is under that age, the period of two months; and
    - (b) shall not exceed”;
  - (b) subsection (1A) and, in subsection (1), the words “subject to subsection (1A) below” shall cease to have effect;
  - (c) before subsection (1B) there shall be inserted the following subsection—

“(1AA) The court shall not make a custodial order committing an offender aged 17 to be detained for a period exceeding twelve months or for a period such that the continuous period for which he is committed to be detained under that order and any one or more other custodial orders exceeds twelve months.”; and
  - (d) in subsection (6A), for the words “Section 15 of the Criminal Justice Act 1982” there shall be substituted the words “Section 65 of the Criminal Justice Act 1991”.

#### Commencement Information

**I128** Sch. 9 (paras. 1 - 9) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

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- 3 For subsection (2) of section 93 of those Acts (evidence on oath in court-martial) there shall be substituted the following subsections—

“(1B) A witness before a court-martial—

- (a) shall be examined on oath if he has attained the age of fourteen; and
- (b) shall give evidence unsworn if he is under that age.

(2) Unsworn evidence admitted by virtue of subsection (1B)(b) above may corroborate evidence (sworn or unsworn) given by any other person.”

**Commencement Information**

**I129** Sch. 9 (paras. 1 - 9) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 4 In paragraph 10 of Schedule 5A to those Acts (civilian offenders: custodial orders)

(a) in sub-paragraph (1), for the words from “detained” to “and in this sub-paragraph” there shall be substituted the words “detained for a period, to be specified in the order, which—

(a) shall not be less than the appropriate minimum period, that is to say—

- (i) in the case of an offender who has attained the age of 18, the period of 21 days; or
- (ii) in the case of an offender who is under 18 years of age, the period of two months;

(b) shall not exceed the maximum period for which he could have been sentenced to imprisonment if he had attained the age of 21; and

(c) if the order is made by a Standing Civilian Court, shall not exceed six months.

and in this sub-paragraph ”.

(b) in sub-paragraph (1A), for the words “17 years” there shall be substituted the words “18 years”; and

(c) in sub-paragraph (6A), for the words “Section 15 of the Criminal Justice Act 1982” there shall be substituted the words “Section 65 of the Criminal Justice Act 1991”.

**Commencement Information**

**I130** Sch. 9 (paras. 1 - 9) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

*Naval Discipline Act 1957 (c.53)*

- 5 In section 43A of the Naval Discipline Act 1957 (life custody for young offenders), in subsections (1B) and (4)(a), for the words “17 years” there shall be substituted the words “18 years”.

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**Commencement Information**

**I131** Sch. 9 (paras. 1 - 9) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 6 In section 43AA of that Act (young service offenders: custodial orders)—
- (a) in subsection (1), for the words “not exceeding” there shall be substituted the words “which—
    - (a) shall be not less than the appropriate minimum period, that is to say—
      - (i) in the case of an offender who has attained eighteen years of age, the period of 21 days; or
      - (ii) in the case of an offender who is under that age, the period of two months; and
    - (b) shall not exceed”;
  - (b) subsection (1A) and, in subsection (1), the words “subject to subsection (1A) below”, shall cease to have effect; and
  - (c) before subsection (1B) there shall be inserted the following subsection—

“(1AA) The court shall not make a custodial order committing an offender aged 17 to be detained for a period exceeding twelve months or for a period such that the continuous period for which he is committed to be detained under that order and any one or more other custodial orders exceeds twelve months.”; and
  - (d) in subsection (6A), for the words “Section 15 of the Criminal Justice Act 1982” there shall be substituted the words “ Section 65 of the Criminal Justice Act 1991 ”.

**Commencement Information**

**I132** Sch. 9 (paras. 1 - 9) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 7 For subsections (2) and (3) of section 60 of that Act (evidence on oath in court-martial) there shall be substituted the following subsections—
- “(2) A witness before a court-martial—
- (a) shall be examined on oath if he has attained the age of fourteen; and
  - (b) shall give evidence unsworn if he is under that age.
- (3) Unsworn evidence admitted by virtue of subsection (2)(b) above may corroborate evidence (sworn or unsworn) given by any other person.”

**Commencement Information**

**I133** Sch. 9 (paras. 1 - 9) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 8 In paragraph 10 of Schedule 4A to that Act (civilian offenders: custodial orders)—

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- (a) in sub-paragraph (1), for the words from “detained” to “and in this sub-paragraph” there shall be substituted the words “detained for a period, to be specified in the order, which—
- (a) shall be not less than the appropriate minimum period, that is to say—
- (i) in the case of an offender who has attained the age of 18, the period of 21 days; or
- (ii) in the case of an offender who is under 18 years of age, the period of two months; and
- (b) shall not exceed the maximum period for which he could have been sentenced to imprisonment if he had attained the age of 21;
- and in this sub-paragraph ”;
- (b) in sub-paragraph (1A), for the words “17 years” there shall be substituted the words “18 years”; and
- (c) in sub-paragraph (6A), for the words “Section 15 of the Criminal Justice Act 1982” there shall be substituted the words “Section 65 of the Criminal Justice Act 1991”.

**Commencement Information**

**I134** Sch. 9 (paras. 1 - 9) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

SCHEDULE 10

Section 89.

CERTIFICATION OF PRISONER CUSTODY OFFICERS

**Commencement Information**

**I135** Sch. 10 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3

*Preliminary*

- 1 In this Schedule—
- “certificate” means a certificate under section 89 of this Act;
- “the relevant functions”, in relation to a certificate, means the escort functions or custodial duties authorised by the certificate.

**Commencement Information**

**I136** Sch. 10 para. 1 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3

*Issue of certificates*

- 2 (1) Any person may apply to the Secretary of State for the issue of a certificate in respect of him.

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- (2) The Secretary of State shall not issue a certificate on any such application unless he is satisfied that the applicant—
  - (a) is a fit and proper person to perform the relevant functions; and
  - (b) has received training to such standard as he may consider appropriate for the performance of those functions.
- (3) Where the Secretary of State issues a certificate, then, subject to any suspension under paragraph 3 or revocation under paragraph 4 below, it shall continue in force until such date or the occurrence of such event as may be specified in the certificate.
- (4) A certificate authorising the performance of both escort functions and custodial duties may specify different dates or events as respects those functions and duties respectively.

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

**C56** Sch. 10 para. 2: transfer of functions (20.4.2000) by S.I. 2000/1160, art. 4(1)(2)(h)

#### Commencement Information

**I137** Sch. 10 para. 2 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3

### *Suspension of certificate*

- 3 <sup>F351</sup>(1) This paragraph applies where at any time—
- (a) in the case of a prisoner custody officer acting in pursuance of prisoner escort arrangements, it appears to the prisoner escort monitor for the area concerned that the officer is not a fit and proper person to perform escort functions;
  - (b) in the case of a prisoner custody officer performing custodial duties at a contracted out prison, it appears to the controller of that prison that the officer is not a fit and proper person to perform custodial duties; or
  - (c) in the case of a prisoner custody officer performing contracted out functions at a directly managed prison, it appears to the governor of that prison that the officer is not a fit and proper person to perform custodial duties.]
- (2) The prisoner escort monitor [<sup>F352</sup>controller or governor] may—
- <sup>F353</sup>(a) refer the matter to the Secretary of State for a decision under paragraph 4 below; and
  - (b) in such circumstances as may be prescribed by regulations made by the Secretary of State, suspend the officer's certificate so far as it authorises the performance of escort functions or, as the case may be, custodial duties pending that decision.
- (3) The power to make regulations under this paragraph shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

**F351** Sch. 10 para. 3(1) substituted (3.11.1994) by 1994 c. 33, s. 101(9).

**F352** Words in Sch. 10 para. 3(2) substituted (3.11.1994) by 1994 c. 33, s. 101(10).

**F353** Sch. 10 para. 3(2)(a): transfer of functions (20.4.2000) by S.I. 2000/1160, art. 4(1)(2)(h)



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#### Commencement Information

**I138** Sch. 10 para. 3 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3

#### Revocation of certificate

- 4 Where at any time it appears to the Secretary of State that a prisoner custody officer is not a fit and proper person to perform escort functions or custodial duties, he may revoke that officer's certificate so far as it authorises the performance of those functions or duties.

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

**C57** Sch. 10 para. 4: transfer of functions (20.4.2000) by S.I. 2000/1160, art. 4(1)(2)(h)

#### Commencement Information

**I139** Sch. 10 para. 4 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3

#### False statements

- 5 If any person, for the purpose of obtaining a certificate for himself or for any other person—
- (a) makes a statement which he knows to be false in a material particular; or
  - (b) recklessly makes a statement which is false in a material particular,
- he shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

#### Commencement Information

**I140** Sch. 10 para. 5 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3

## SCHEDULE 11

Section 100.

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### Extent Information

**E7** Schedule 11 extends to England and Wales only except as mentioned in s. 102(4)-(6)

#### Commencement Information

**I141** Sch. 11 partly in force at 14.10.1991; partly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(1)(4) and Schs. 1 and 3; partly in force at 1.4.1992 and 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2, Schs.; partly in force on the day appointed by the Secretary of State by order under s. 62(1) see S.I. 1992/333, art. 2(5), Sch. 3; Sch. 11 partly in force at 1.6.1999 by S.I. 1999/1280, art. 3, Sch.

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

- 1 In section 38(2) of the 1933 Act (false evidence by child) for the words “as aforesaid” there shall be substituted the words “unsworn in any proceedings for an offence by virtue of section 52 of the Criminal Justice Act 1991”.

**Commencement Information**

**I142** Sch. 11 para. 1 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

*Criminal Justice Act 1967 (c.80)*

- 2 (1) Section 67 of the 1967 Act (remand time to be taken into account in computing sentences) shall be amended as follows.
- (2) In subsection (1A)(c)—
- (a) after the word “remanded” there shall be inserted the words “or committed”; and
- (b) after the words “section 23 of the <sup>M73</sup>Children and Young Persons Act 1969” there shall be inserted the words “or section 37 of the <sup>M74</sup>Magistrates’ Courts Act 1980”.
- (3) For subsection (5) there shall be substituted the following subsection—
- “(5) This section applies—
- (a) to sentences of detention in a young offender institution; and
- (b) to determinate sentences of detention passed under section 53(2) of the Children and Young Persons Act 1933 (sentences for serious indictable offences),
- as it applies to sentences of imprisonment.”
- (4) In subsection (6)—
- (a) after the word “being”, in the second place where it occurs, there shall be inserted the words “remanded or”;
- (b) for the words “committed to the care of a local authority” there shall be substituted the words “remanded or committed to local authority accommodation”; and
- (c) after the words “the said section 23” there shall be inserted the words “or 37”.

**Commencement Information**

**I143** Sch. 11 para. 2 wholly in force at 1.6.1999; Sch. 11 para 2(1)(2)(a)(3)(4)(a)(b) in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.; Sch. 11 para. 2(2)(b)(4)(c) in force at 1.6.1999 by S.I. 1999/1280, art. 3, Sch.

Sch. 11 para. 2(2)(b)(4)(c) shall come into force on the day appointed by the Secretary of State by order under s. 62(1) see S.I. 1992/333, art. 2(5), Sch. 3 (which art. 2(5) is revoked (1.6.1999) by S.I. 1999/1280, art. 2)

**Marginal Citations**

**M73** 1969 c. 54.

**M74** 1980 c. 43.

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*Criminal Appeal Act 1968 (c.19)*

- 3 In section 10(2) of the Criminal Appeal Act 1968 (appeal against sentence in other cases dealt with by Crown Court), for paragraph (b) there shall be substituted the following paragraph—
  - “(b) having been made the subject of an order for conditional discharge or a community order within the meaning of Part I of the Criminal Justice Act 1991 (other than a supervision order within the meaning of that Part) or given a suspended sentence, appears or is brought before the Crown Court to be further dealt with for his offence.”

**Commencement Information**  
**I144** Sch. 11 para. 3 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2.**

F354<sup>4</sup> .....

**Textual Amendments**  
**F354** Sch. 11 para. 4 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

*Civil Evidence Act 1968 (c.64)*

F355<sup>5</sup> .....

**Textual Amendments**  
**F355** Sch. 11 para. 5 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

*Children and Young Persons Act 1969 (c. 54)*

F356<sup>6</sup> .....

**Textual Amendments**  
**F356** Sch. 11 para. 6 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F357<sup>7</sup> .....

**Textual Amendments**  
**F357** Sch. 11 para. 7 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F358<sup>8</sup> .....

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**Textual Amendments**

**F358** Sch. 11 para. 8 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

*Vehicles (Excise) Act 1971 (c.10)*

F359<sup>9</sup> .....

**Textual Amendments**

**F359** Sch. 11 para. 9 repealed (1.9.1994) by 1994 c. 22, s. 65, **Sch. 5 Pt.I** (with s. 57(4)).

*Powers of Criminal Courts Act 1973 (c.62)*

F360<sup>10</sup> .....

**Textual Amendments**

**F360** Sch. 11 para. 10 repealed (30.9.1998) by 1998 c. 37, s. 120(2), **Sch.10**; S.I. 1998/2327, **art.2(1)(aa)(3)(t)**

F361<sup>11</sup> .....

**Textual Amendments**

**F361** Sch. 11 para. 11 repealed (30.9.1998) by 1998 c. 37, s. 120(2), **Sch.10**; S.I. 1998/2327, **art.2(1)(aa)(3)(t)**

F362<sup>12</sup> .....

**Textual Amendments**

**F362** Sch. 11 para. 12 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F363<sup>13</sup> .....

**Textual Amendments**

**F363** Sch. 11 para. 13 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F364<sup>14</sup> .....

**Textual Amendments**

**F364** Sch. 11 para. 14 repealed (30.9.1998) by 1998 c. 37, s. 120(2), **Sch.10**; S.I. 1998/2327, **art.2(1)(aa)(3)(t)**

F365<sup>15</sup> .....

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**Textual Amendments**  
**F365** Sch. 11 para. 15 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

<sup>F366</sup>16 .....

**Textual Amendments**  
**F366** Sch. 11 para. 16 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

<sup>F367</sup>17 .....

**Textual Amendments**  
**F367** Sch. 11 para. 17 repealed (5.2.1994) by 1993 c. 47, ss. 32, 33(2), **Sch.4**

*Juries Act 1974 (c.23)*

18 <sup>F368</sup> .....

**Textual Amendments**  
**F368** Sch. 11 para. 18 repealed (5.4.2004) by Criminal Justice Act 2003 (c. 44), **Sch. 37 Pt. 10**; S.I. 2004/829, **art. 2(2)(l)(iv)**

*Solicitors Act 1974 (c.47)*

<sup>F369</sup>19 .....

**Textual Amendments**  
**F369** Sch. 11 para. 19 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

*Rehabilitation of Offenders Act 1974 (c.53)*

20 In section 1(4) of the Rehabilitation of Offenders Act 1974 (rehabilitated persons and spent convictions)—

- <sup>F370</sup>(a) .....
- (b) the words “put on probation or” shall cease to have effect; and
- (c) for the words “placing the person concerned on probation or discharging him” there shall be substituted the words “discharging the person concerned”.

**Textual Amendments**  
**F370** Sch. 11 para. 20(a) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

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**Commencement Information**

**I145** Sch. 11 para. 20 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

*Bail Act 1976 (c.63)*

<sup>F371</sup>21 .....

**Textual Amendments**

**F371** Sch. 11 para. 21 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

- 22 (1) Paragraph 8 of Schedule 1 to that Act (restrictions on the imposition of bail conditions) shall be amended as follows.
- (2) In sub-paragraph (1), after the words “(4) to (7)” there shall be inserted the words “(except subsection (6)(d))”<sup>F372</sup> . . . .
- (3) After sub-paragraph (1) there shall be inserted the following sub-paragraph—
- “(1A) No condition shall be imposed under section 3(6)(d) of this Act unless it appears to be necessary to do so for the purpose of enabling inquiries or a report to be made.”
- (4) In sub-paragraph (2) for the words “Sub-paragraph (1) above also applies”, there shall be substituted the words “Sub-paragraphs (1) and (1A) above also apply”.
- (5) In sub-paragraph (3), for the words “sub-paragraph (1)” there shall be substituted the words “sub-paragraph (1A)”.

**Textual Amendments**

**F372** Words in Sch. 11 para. 22(2) repealed (5.4.2004) by Criminal Justice Act 2003 (c. 44), Sch. 37 Pt. 2; S.I. 2004/829, art. 2(2)(i)(ii)

**Commencement Information**

**I146** Sch. 11 para. 22 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

*Licensed Premises (Exclusion of Certain Persons) Act 1980 (c.32)*

- 23 In section 1(2) of the Licensed Premises (Exclusion of Certain Persons) Act 1980 (exclusion orders), for paragraph (b) there shall be substituted the following paragraph—
- “(b) where the offence was committed in England and Wales, notwithstanding the provisions of sections 1A and 1C of the Power of Criminal Courts Act 1973 (cases in which absolute and conditional discharges may be made, and their effect), in addition to an order discharging him absolutely or conditionally;”.

**Commencement Information**

**I147** Sch. 11 para. 23 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

**Status:** Point in time view as at 01/05/2004. This version of this Act contains provisions that are not valid for this point in time.

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### Magistrates' Courts Act 1980 (c.43)

F373 24 .....

#### Textual Amendments

**F373** Sch. 11 para. 24 repealed (20.9.1993) by 1993 c. 36, s. 79(14), **Sch. 6 Pt.I**; S.I. 1993/1968, art. 2(2), **Sch.2**, Appendix

25 In section 20(2)(b) of that Act (procedure where summary trial appears more suitable), for the words from “on obtaining information” to the end there shall be substituted the words “is of such opinion as is mentioned in subsection (2) of that section”.

#### Commencement Information

**I148** Sch. 11 para. 25 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

F374 26 .....

#### Textual Amendments

**F374** Sch. 11 para. 26 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

27 (1) In subsection (2) of section 143 of that Act (power to alter sums specified in certain provisions), paragraph (i) shall cease to have effect and after paragraph (o) there shall be inserted the following paragraph—

“(p) section 58(2) and (3) of the Criminal Justice Act 1991 (recognition from parents or guardians);”.

(2) For subsection (3) of that section there shall be inserted the following subsection—

“(3) In subsection (1) above the “relevant date” means—

- (a) the date of the coming into force of section 17 of the Criminal Justice Act 1991 (increase of certain maxima); or
- (b) where the sums specified in a provision mentioned in subsection (2) above have been substituted by an order under subsection (1) above, the date of that order.”

#### Commencement Information

**I149** Sch. 11 para. 27 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

28 In paragraph 2(2) of Schedule 4 to that Act (maximum periods of imprisonment in default of payment of magistrates' court fine), for the words “five days” there shall be substituted the words “seven days”.

#### Commencement Information

**I150** Sch. 11 para. 28 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

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*Contempt of Court Act 1981 (c.49)*

- 29 (1) Section 12(2) of the <sup>M75</sup>Contempt of Court Act 1981 (offences of contempt of magistrates' court) shall have effect as if the reference to any officer of the court included a reference to any court security officer assigned to the court-house in which the court is sitting.
- (2) In this paragraph “court security officer” and “court-house” have the meanings given by section 92(1) of this Act.

**Commencement Information**

**I151** Sch. 11 para. 29 wholly in force at 1.4.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2, Schs. 1, 2.

**Marginal Citations**

**M75** 1981 c. 49.

*Criminal Justice Act 1982 (c.48)*

<sup>F375</sup>30 .....

**Textual Amendments**

**F375** Sch. 11 para. 30 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

<sup>F376</sup>31 .....

**Textual Amendments**

**F376** Sch. 11 para. 31 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

<sup>F377</sup>32 .....

**Textual Amendments**

**F377** Sch. 11 para. 32 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

<sup>F378</sup>33 .....

**Textual Amendments**

**F378** Sch. 11 para. 33 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

<sup>F379</sup>34 .....

**Textual Amendments**

**F379** Sch. 11 para. 34 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)



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*Repatriation of Prisoners Act 1984 (c.47)*

- 35 (1) In section 2 of the Repatriation of Prisoners Act 1984 (transfer of prisoners out of United Kingdom), in subsection (4)(b), for sub-paragraph (i) there shall be substituted the following sub-paragraph—

“(i) released on licence under section 33(1)(b) or (2), 34(3) or 35(1) or (2) of the Criminal Justice Act 1991;”.

F380(2) . . . . .

- (3) In paragraph 2 of the Schedule to that Act (operation of certain enactments in relation to prisoners transferred into United Kingdom)—

F380(a) . . . . .

- (b) in sub-paragraph (2), for the words “one third” there shall be substituted the words “any particular proportion or part”.

F380(4) . . . . .

**Textual Amendments**

F380 Sch. 11 para. 35(2)(3)(a)(4) repealed (1.10.1993) by 1993 c. 9, s. 47(3), Sch. 7 Pt.I; S.I. 1993/2050, art. 3(4)

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

C58 Sch. 11 para. 35(3)(b) extended (S.) (1.10.1993) by 1993 c. 9, s. 47(1), Sch. 5 para 3(4); S.I. 1993/2050, art. 3(4)

**Commencement Information**

I152 Sch. 11 para. 35 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

*Prosecution of Offences Act 1985 (c.23)*

- 36 In section 22(11) of the Prosecution of Offences Act 1985 (time limits in relation to preliminary stages of criminal proceedings), after the definition of “appropriate court” there shall be inserted the following definition—

““custody” includes local authority accommodation to which a person is remanded or committed by virtue of section 23 of the Children and Young Persons Act 1969, and references to a person being committed to custody shall be construed accordingly;”.

**Commencement Information**

I153 Sch. 11 para. 36 wholly in force at 14.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(1) and Sch. 1

*Criminal Justice Act 1988 (c.33)*

- 37 In section 34 of the Criminal Justice Act 1988 (abolition of requirement of corroboration for unsworn evidence of children), subsection (1) shall cease to have effect and, in subsection (3), for the words “section 38 of the<sup>M76</sup>Children and Young Persons Act 1933” there shall be substituted the words “section 52 of the Criminal Justice Act 1991”.

**Status:** Point in time view as at 01/05/2004. This version of this Act contains provisions that are not valid for this point in time.  
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**Commencement Information**

**I154** Sch. 11 para. 37 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

**Marginal Citations**

**M76** 1933 c. 12.

*Road Traffic Offenders Act 1988 (c.53)*

**F381**38 .....

**Textual Amendments**

**F381** Sch. 11 para. 38 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

*Extradition Act 1989 (c.33)*

**F382**39 .....

**Textual Amendments**

**F382** Sch. 11 para. 39 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

*References to juvenile courts*

- 40 (1) Without prejudice to the generality of section 70(2) of this Act, in the enactments specified in sub-paragraph (2) below, for the words “juvenile court” or “juvenile courts”, in each place where they occur, there shall be substituted the words “youth court” or, as the case may require, “youth courts”.
- (2) The enactments referred to in sub-paragraph (1) above are as follows—
- (a) in the 1933 Act, sections 45 to 49<sup>F383</sup> . . . and 108(4) and Schedule 2;
  - (b) in the<sup>M77</sup> Education Act 1944, section 40;
  - (c) in the<sup>M78</sup> Children Act 1948, section 4B;
  - (d) in the<sup>M79</sup> Adoption Act 1958, sections 43, 47 and 48;
  - (e) in the<sup>M80</sup> Children and Young Persons Act 1963, sections 3, 18, 23, 26, 28, 29 and 57;
  - (f) in the<sup>M81</sup> Administration of Justice Act 1964, section 12;
  - (g) in the 1969 Act, sections 1 to 3,<sup>F384</sup> . . . 10,<sup>F384</sup> . . . 20A to 22 and 70(1) and Schedule 4;
  - (h) in the<sup>M82</sup> Criminal Justice Act 1972, section 51(1);
  - <sup>F385</sup>(i) .....
  - (j) in the<sup>M83</sup> Adoption Act 1976, sections 34 and 37;
  - (k) in the 1979 Act, sections<sup>F386</sup> . . . 38(2) and 58(1) and (5);
  - (l) in the<sup>M84</sup> Child Care Act 1980, sections 5 to 7, 12C to 12E, 21A, 67 and 79(2);

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- (m) in the <sup>M85</sup>Foster Children Act 1980, sections 11(1), 12(1) and 14;
- (n) in the 1980 Act, sections 12(1), 29, 104 and 146;
- (o) in the 1982 Act, <sup>F387</sup> . . . in Schedule 3, the entry relating to section 49(2) of the 1933 Act;
- (p) in the <sup>M86</sup>Administration of Justice Act 1985, section 61;
- <sup>F388</sup>(q) . . . . .
- (r) in the <sup>M87</sup>Children Act 1989, section 90(1) and Schedule 14.

#### Textual Amendments

- F383** Word in Sch. 11 para. 40(2)(a) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)
- F384** Words in Sch. 11 para. 40(2)(g) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)
- F385** Sch. 11 para. 40(2)(i) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)
- F386** Words in Sch. 11 para. 40(2)(k) repealed (1.4.1995) by 1994 c. 29, s. 93, Sch. 9 Pt. II; S.I. 1995/685, arts. 4(n), 8(x)
- F387** Words in Sch. 11 para. 40(2)(o) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)
- F388** Sch. 11 para. 40(2)(q) repealed (2.4.2001) by 1999 c. 22, s. 106, Sch. 15 Pt. I (with s. 107, Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, art. 3(b) (with transitional provisions and savings in Sch. 2 para. 2)

#### Commencement Information

- I155** Sch. 11 para. 40 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

#### Marginal Citations

- M77** 1944 c. 31.
- M78** 1948 c. 43.
- M79** 1958 c. 5.
- M80** 1963 c. 37.
- M81** 1964 c. 42.
- M82** 1972 c. 71.
- M83** 1976 c. 36.
- M84** 1980 c. 5.
- M85** 1980 c. 6.
- M86** 1985 c. 61.
- M87** 1989 c. 41.

- 40 (1) Without prejudice to the generality of section 70(2) of this Act, in the enactments specified in sub-paragraph (2) below, for the words “juvenile court” or “juvenile courts”, in each place where they occur, there shall be substituted the words “youth court” or, as the case may require, “youth courts”.
- (2) The enactments referred to in sub-paragraph (1) above are as follows—
- (a) in the 1933 Act, sections 45 to 49 <sup>F404</sup> . . . and 108(4) <sup>F405</sup> . . . ;
  - (b) in the <sup>M92</sup>Education Act 1944, section 40;
  - (c) in the <sup>M93</sup>Children Act 1948, section 4B;

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- (d) in the <sup>M94</sup>Adoption Act 1958, sections 43, 47 and 48;
- (e) in the <sup>M95</sup>Children and Young Persons Act 1963, sections 3, 18, 23, 26, 28, 29 and 57;
- [<sup>F406</sup>(f) in the <sup>M96</sup>Administration of Justice Act 1964, section 12;]
- (g) in the 1969 Act, sections 1 to 3, <sup>F407</sup> . . . 10, <sup>F407</sup> . . . 20A to 22 and 70(1) and Schedule 4;
- (h) in the <sup>M97</sup>Criminal Justice Act 1972, section 51(1);
- <sup>F408</sup>(i) . . . . .
- (j) in the <sup>M98</sup>Adoption Act 1976, sections 34 and 37;
- <sup>F409</sup>(k) in the 1979 Act, sections <sup>F410</sup> . . . 38(2) and 58(1) and (5);]
- (l) in the <sup>M99</sup>Child Care Act 1980, sections 5 to 7, 12C to 12E, 21A, 67 and 79(2);
- (m) in the <sup>M100</sup>Foster Children Act 1980, sections 11(1), 12(1) and 14;
- (n) in the 1980 Act, sections 12(1), 29, 104 and 146;
- (o) in the 1982 Act, <sup>F411</sup> . . . in Schedule 3, the entry relating to section 49(2) of the 1933 Act;
- [<sup>F412</sup>(p) in the <sup>M101</sup>Administration of Justice Act 1985, section 61;]
- <sup>F413</sup>(q) . . . . .
- (r) in the <sup>M102</sup>Children Act 1989, section 90(1) and Schedule 14.

#### Textual Amendments

- F404** Word in Sch. 11 para. 40(2)(a) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)
- F405** Words in Sch. 11 para. 40(2)(a) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910 {art. 3(aa)}
- F406** Sch. 11 para. 40(2)(f) repealed (*prosp.*) by 1999 c. 22, ss. 106, 108(1), Sch. 15 Pt. V(2) (with s. 107, Sch. 14 paras. 7(2), **36(9)**)
- F407** Words in Sch. 11 para. 40(2)(g) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)
- F408** Sch. 11 para. 40(2)(i) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)
- F409** Sch. 11 para. 40(2)(k) repealed (19.6.1997) by 1997 c. 25, ss. 73(1)(3), 74(1)(b), **Sch. 6 Pt. I** (with Sch. 4 para. 7(2)(f)).
- F410** Words in Sch. 11 para. 40(2)(k) repealed (1.4.1995) by 1994 c. 29, s. 93, **Sch. 9 Pt. II**; S.I. 1995/685, **arts. 4(n), 8(x)**
- F411** Words in Sch. 11 para. 40(2)(o) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)
- F412** Sch. 11 para. 40(2)(p) repealed (*prosp.*) by 1999 c. 22, ss. 106, 108(1), Sch. 15 Pt. V(2) (with s. 107, Sch. 14 paras. 7(2), **36(9)**)
- F413** Sch. 11 para. 40(2)(q) repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with s. 107, Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 para. 2)

#### Commencement Information

- I173** Sch. 11 para. 40 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

#### Marginal Citations

- M92** 1944 c. 31.
- M93** 1948 c. 43.

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- M94** 1958 c. 5.
- M95** 1963 c. 37.
- M96** 1964 c. 42.
- M97** 1972 c. 71.
- M98** 1976 c. 36.
- M99** 1980 c. 5.
- M100** 1980 c. 6.
- M101** 1985 c. 61.
- M102** 1989 c. 41.

*References to juvenile court panels*

- 41 (1) Without prejudice to the generality of section 70(2) of this Act, in the enactments specified in sub-paragraph (2) below, for the words “juvenile court panel” or “juvenile court panels”, in each place where they occur, there shall be substituted the words “youth court panel” or, as the case may require, “youth court panels”.
- (2) The enactments referred to in sub-paragraph (1) above are as follows—
- (a) in the 1933 Act, Schedule 2;
  - (b) in the 1973 Act, in Schedule 3, paragraph 2(3);
  - <sup>F389</sup>(c) .....
  - (d) in the <sup>M88</sup>Child Care Act 1980, section 12E(5); and
  - (e) in the 1980 Act, section 146.

**Textual Amendments**  
**F389** Sch. 11 para. 41(2)(c) repealed (1.4.1995) by 1994 c. 29, s. 93, **Sch. 9 Pt.II**; S.I. 1995/685, **art. 4(n)**, 8(x).

**Commencement Information**  
**I156** Sch. 11 para. 41 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, **art. 2(2)**, **Sch. 2**.

**Marginal Citations**  
**M88** 1980 c. 5.

SCHEDULE 12

Section 101(1).

TRANSITIONAL PROVISIONS AND SAVINGS

**Commencement Information**  
**I157** Sch. 12 partly in force at 14.10.1991 see s. 102(2)(3) and S.I. 1991/2208, **art. 2(1)** and Sch. 1; further in force at 25.10.1991 see s. 102(2)(3) and S.I. 1991/2208, **art. 2(1)** and Sch. 2; further in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, **art. 2(2)**, **Sch. 2**; further in force on the day appointed by the Secretary of State by order under s. 62(1) see S.I. 1992/333, **art. 2(5)**, **Sch. 3**; **Sch. 12 para. 16(2)-(4)** in force (1.6.1999) by S.I. 1999/1280, **art. 3**, **Sch.**

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### *Custodial and community sentences*

F390<sub>1</sub> .....

#### **Textual Amendments**

**F390** Sch. 12 para. 1 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F391<sub>2</sub> .....

#### **Textual Amendments**

**F391** Sch. 12 para. 2 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F392<sub>3</sub> .....

#### **Textual Amendments**

**F392** Sch. 12 para. 3 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F393<sub>4</sub> .....

#### **Textual Amendments**

**F393** Sch. 12 para. 4 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

### *Community orders: supplemental*

F394<sub>5</sub> .....

#### **Textual Amendments**

**F394** Sch. 12 para. 5 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

### *Financial penalties*

F395<sub>6</sub> .....

#### **Textual Amendments**

**F395** Sch. 12 para. 6 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

[<sup>F396</sup>6A Section 17 of this Act shall not apply in relation to offences committed before the commencement of that section.]

#### **Textual Amendments**

**F396** Sch. 12 para. 6A inserted (28.5.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 149**

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*Increase of certain penalties*

- 7 Neither of subsections (3) and (4) of section 26 of this Act shall apply in relation to offences committed before the commencement of that subsection.

**Commencement Information**

**I158** Sch. 12 para. 7 wholly in force at 25.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(2) and Sch. 2

*Early release: general*

- 8 (1) In this paragraph and paragraphs 9 to 11 below—
  - “existing licensee” means any person who, before the commencement of Part II of this Act, has been released on licence under section 60 of the 1967 Act and whose licence under that section is in force at that commencement;
  - “existing prisoner” means any person who, at that commencement, is serving a custodial sentence;
 and sub-paragraphs (2) to (7) below shall have effect subject to those paragraphs.
  - (2) Subject to sub-paragraphs (3) to (7) below, Part II of this Act shall apply in relation to an existing licensee as it applies in relation to a person who is released on licence under that Part; and in its application to an existing prisoner, or to an existing licensee who is recalled under section 39 of this Act, that Part shall apply with the modifications made by those sub-paragraphs.
  - <sup>F397</sup>(3) .....
  - (4) In relation to an existing prisoner whose sentence is for a term of twelve months, section 33(1) of this Act shall apply as if that sentence were for a term of less than twelve months.
  - (5) In relation to an existing prisoner or licensee whose sentence is for a term of—
    - (a) more than twelve months; and
    - (b) less than four years or, as the case may require, such other period as may for the time being be referred to in section 33(5) of this Act,
 Part II of this Act shall apply as if he were or had been a long-term rather than a short-term prisoner.
  - (6) In relation to an existing prisoner or licensee whose sentence is for a term of more than twelve months—
    - (a) section 35(1) of this Act shall apply as if the reference to one half of his sentence were a reference to one-third of that sentence or six months, whichever is the longer; and
    - (b) sections 33(3) and 37(1) of this Act shall apply as if the reference to three-quarters of his sentence were a reference to two-thirds of that sentence.
  - (7) In relation to an existing prisoner or licensee—
    - (a) whose sentence is for a term of more than twelve months; and
    - (b) whose case falls within such class of cases as the Secretary of State may determine after consultation with the Parole Board,



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section 35(1) of this Act shall apply as if the reference to a recommendation by the Board included a reference to a recommendation by a local review committee established under section 59(6) of the 1967 Act.

- (8) In this paragraph “custodial sentence” means—
- (a) a sentence of imprisonment;
  - (b) a sentence of detention in a young offender institution;
  - (c) a sentence of detention (whether during Her Majesty’s pleasure, for life or for a determinate term) under section 53 of the 1933 Act; or
  - (d) a sentence of custody for life under section 8 of the 1982 Act.

#### Textual Amendments

**F397** Sch. 12 para. 8(3) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

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

**C59** Sch. 12 para. 8 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II paras. 8, 9(2)(4), Sch. 5 paras. 9(1)(a)(b)(2)(a)(b), **10(1)(b)(c)(2)(a)(b)**; S.I. 1997/2200, **art. 2(1)(n)**.

#### Commencement Information

**I159** Sch. 12 para. 8 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

- 9 (1) This paragraph applies where, in the case of an existing life prisoner, the Secretary of State certifies his opinion that, if—
- (a) section 34 of this Act had been in force at the time when he was sentenced; and
  - (b) the reference in subsection (1)(a) of that section to a violent or sexual offence the sentence for which is not fixed by law were a reference to any offence the sentence for which is not so fixed,
- the court by which he was sentenced would have ordered that that section should apply to him as soon as he had served a part of his sentence specified in the certificate.
- (2) In a case to which this paragraph applies, Part II of this Act except section 35(2) shall apply as if—
- (a) the existing life prisoner were a discretionary life prisoner for the purposes of that Part; and
  - (b) the relevant part of his sentence within the meaning of section 34 of this Act were the part specified in the certificate. [<sup>F398</sup>and
  - (c) in section 34 of this Act, paragraph (a) of subsection (6) and subsection (6A) were omitted.]
- (3) In this paragraph “existing life prisoner” means a person who, at the commencement of Part II of this Act, is serving one or more of the following sentences, namely—
- (a) a sentence of life imprisonment;
  - (b) a sentence of detention during her Majesty’s pleasure or for life under section 53 of the 1933 Act; or
  - (c) a sentence of custody for life under section 8 of the 1982 Act.
- (4) A person serving two or more such sentences shall not be treated as a discretionary life prisoner for the purposes of Part II of this Act unless the requirements of sub-



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paragraph (1) above are satisfied as respects each of those sentences; and subsections (3) and (5) of section 34 of this Act shall not apply in relation to such a person until after he has served the relevant part of each of those sentences.

**Textual Amendments**

**F398** Sch. 12 para. 9(2)(c) and the word “and” immediately preceding it inserted (3.11.1994) by 1994 c. 33, s. 168(1), **Sch. 9 para. 46(2)**.

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

**C60** Sch. 12 para. 9 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II paras. 8, 9(2), Sch. 5 paras. 9(2)(a)(b), **10(2)(a)(b)**; S.I. 1997/2200, **art. 2(1)(n)**.

**Commencement Information**

**I160** Sch. 12 para. 9 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

- 10 Prison rules made by virtue of section 42 of this Act may include provision for applying any provisions of Part II of this Act, in relation to any existing prisoner or licensee who has forfeited any remission of his sentence, as if he had been awarded such number of additional days as may be determined by or under the rules.

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

**C61** Sch. 12 para. 10-13 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II paras. 8(2)(a)(4), 9(2)(4), Sch. 5 paras. 9(1)(a)(b), **10(1)(b)(c)**; S.I. 1997/2200, **art. 2(1)(n)**.

**Commencement Information**

**I161** Sch. 12 para. 10 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

*Early release of young persons detained under 1933 Act*

- 11 In relation to an existing prisoner or licensee whose sentence is a determinate sentence of detention under section 53 of the 1933 Act—
- (a) Part II of this Act shall apply as if he were or had been a life rather than a long-term or short-term prisoner;
  - (b) section 35(2) of this Act shall apply as if the requirement as to consultation were omitted; and
  - (c) section 37(3) of this Act shall apply as if the reference to his death were a reference to the date on which he would (but for his release) have served the whole of his sentence.

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

**C62** Sch. 12 para. 10-13 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II paras. 8(2)(a)(4), 9(2)(4), Sch. 5 paras. 9(1)(a)(b), **10(1)(b)(c)**; S.I. 1997/2200, **art. 2(1)(n)**.

**Commencement Information**

**I162** Sch. 12 para. 11 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

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*Early release of prisoners serving extended sentences*

- 12 (1) In relation to an existing prisoner or licensee on the passing of whose sentence an extended sentence certificate was issued—
- (a) section 33(3) of this Act shall apply as if the duty to release him unconditionally were a duty to release him on licence; and
  - (b) section 37(1) of this Act shall apply as if the reference to three-quarters of his sentence were a reference to the whole of that sentence.
- (2) In this paragraph “extended sentence certificate” means a certificate issued under section 28 of the 1973 Act stating that an extended term of imprisonment was imposed on an offender under that section.

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

**C63** Sch. 12 para. 10-13 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II paras. 8(2)(a)(4), 9(2)(4), Sch. 5 paras. 9(1)(a)(b), **10(1)(b)(c)**; S.I. 1997/2200, **art. 2(1)(n)**.

**Commencement Information**

**I163** Sch. 12 para. 12 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

*Early release of fine defaulters and contemnors*

- 13 Part II of this Act shall apply in relation to any person who, before the commencement of that Part, has been committed to prison or to be detained under section 9 of the 1982 Act—
- (a) in default of payment of a sum adjudged to be paid by a conviction; or
  - (b) for contempt of court or any kindred offence,
- as it applies in relation to any person who is so committed after that commencement.

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

**C64** Sch. 12 para. 10-13 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II paras. 8(2)(a)(4), 9(2)(4), Sch. 5 paras. 9(1)(a)(b), **10(1)(b)(c)**; S.I. 1997/2200, **art. 2(1)(n)**.

**Commencement Information**

**I164** Sch. 12 para. 13 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

*Responsibilities of parent or guardian*

F399 14 . . . . .

**Textual Amendments**

**F399** Sch. 12 para. 14 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

*Remands and committals of children and young persons*

- 15 (1) In this paragraph—

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“section 23” means section 23 of the 1969 Act as substituted by section 60(1) of this Act;

“the modifications” means the modifications of section 23 set out in section 62 of this Act;

“remand or committal” means a remand of a child or young person charged with or convicted of one or more offences, or a committal of a child or young person for trial or sentence.

- (2) Section 23 as it has effect with the modifications shall not apply in relation to any remand or committal which is in force immediately before the commencement of sections 60 and 62 of this Act.
- (3) Subject to sub-paragraphs (4) and (5) below, section 23 as it has effect without the modifications shall not apply in relation to any remand or committal which is in force immediately before the day appointed under section 62(1) of this Act.
- (4) Any person who, in pursuance of any such remand or committal, is held in a remand centre or prison shall be brought before the court which remanded or committed him before the end of the period of 8 days beginning with the day so appointed.
- (5) Where any person is brought before a court under sub-paragraph (4) above, section 23 as it has effect without the modifications shall apply as if the court were just remanding or committing him as mentioned in subsection (1)(a) of that section.

#### Commencement Information

**I165** Sch. 12 para. 15 partly in force; Sch. 12 para. 15(1)(2) in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Sch. 15 para. 15(3)-(5) shall come into force on the day appointed by the Secretary of State by order under s. 62(1) see S.I. 1992/333, art. 2(5), Sch. 3.

- 16 (1) Subsection (2)(a) of section 60 of this Act shall not apply in any case where proceedings for the offence in question have begun before the commencement of that section.
- (2) Subject to sub-paragraphs (3) and (4) below, subsection (2)(b) and (c) of that section shall not apply in relation to any committal under section 37 of the 1980 Act which is in force immediately before that commencement.
- (3) Any person less than 17 years old who, in pursuance of any such committal, is held in a remand centre or prison shall be brought before the court which committed him before the end of the period of 8 days beginning with that commencement.
- (4) Where any person is brought before a court under sub-paragraph (3) above, section 37 of the 1980 Act shall apply as if the court were just committing him under that section.

#### Commencement Information

**I166** Sch. 12 para. 16 wholly in force at 1.6.1999; Sch. 12 para. 16(1) in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.; Sch. 12 para. 16(2)-(4) in force (1.6.1999) by S.I. 1999/1280, art. 3, Sch. Sch. 12 para. 16(2)-(4) shall come into force on the day appointed by the Secretary of State by order under s. 62(1) see S.I. 1992/333, art. 2(5), Sch. 3 (which art. 2(5) is revoked (1.6.1999) by S.I. 1999/1280, art. 2

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### *Custodial sentences for young offenders*

F400 17 .....

#### **Textual Amendments**

**F400** Sch. 12 para. 17 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

18 Section 64 of this Act shall not apply in any case where the offence in question was committed before the commencement of that section and the offender is aged 16 at the date of his conviction.

#### **Commencement Information**

**I167** Sch. 12 para. 18 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

### *Supervision of young offenders after release*

19 Section 65 of this Act shall not apply in relation to any person under the age of 22 years who, before the commencement of that section, is released from a term of detention in a young offender institution or under section 53 of the 1933 Act; and the repeal by this Act of section 15 of the 1982 Act shall not affect the operation of that section in relation to any such person who is so released.

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

**C65** Sch. 12 para. 19 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II paras. 8(2)(a)(4), 9(2)(4), Sch. 5 paras. 9(1)(a)(b), **10(1)(b)(c)**; S.I. 1997/2200, art. 2(1)(n).

#### **Commencement Information**

**I168** Sch. 12 para. 19 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

### *Supervision orders*

F401 20 .....

#### **Textual Amendments**

**F401** Sch. 12 para. 20 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

### *Attendance centre orders*

F402 21 .....

#### **Textual Amendments**

**F402** Sch. 12 para. 21 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

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*Provisions for treating persons aged 17 as young persons*

- 22 (1) Paragraphs 1, 3, 4 and 6 of Schedule 8 shall not apply in any case where proceedings for the offence in question have begun before the commencement of that Schedule.
- (2) Paragraph 5 of that Schedule shall apply in relation to any sentence imposed on any person who was convicted before that commencement and was aged 17 at the date of his conviction.

**Commencement Information**

**I169** Sch. 12 para. 22 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

*Renaming of juvenile courts etc.*

- 23 In relation to any time before the commencement of section 70 of this Act, references in any other provision of this Act, or in any enactment amended by this Act, to youth courts shall be construed as references to juvenile courts.

**Commencement Information**

**I170** Sch. 12 para. 23 wholly in force at 14.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(1) and Sch. 1

*Supplemental*

- 24 For the purposes of this Schedule proceedings for an offence shall be regarded as having begun as follows—
- (a) in the case of an offence triable only summarily, when a plea is entered;
  - (b) in the case of an offence triable only on indictment, when the magistrates' court begins to inquire into the offence as examining magistrates;
  - (c) in the case of an offence triable either way, when the magistrates' court determines to proceed with the summary trial of the offence or, as the case may be, to proceed to inquire into the offence as examining justices.

**Commencement Information**

**I171** Sch. 12 para. 24 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

SCHEDULE 13

Section 101(2).

REPEALS

**Extent Information**

**E8** Schedule 13 extends to England and Wales only except as mentioned in s. 102(5) - (8).

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### Commencement Information

**I172** Sch. 13 partly in force; Sch. 13 in force so far as relating to the repeal of s. 11 of the Metropolitan Police Act 1839 (2 & 3 Vict. c. 47) see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3; Sch 13 in force at 1.10.1992 (except in so far as it relates to s. 67(6) of the Criminal Justice Act 1967 (c. 80)) see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.; Sch. 13 in force (so far as it relates to 1999 c. 80, s. 67(6)) (1.6.1999) by S.I. 1999/1280, art. 3, Sch.

Sch. 13, so far as it relates to s. 67(6) of the Criminal Justice Act 1967 (c. 80), shall come into force on the day appointed by the Secretary of State by order under s. 62(1) see S.I. 1992/333, art. 2(5), Sch. 3 (which art. 2(5) was revoked (1.6.1999) by S.I. 1999/1280, art. 2

Chapter	Short title	Extent of repeal
2 & 3 Vict. c. 47.	The Metropolitan Police Act 1839.	Section 11.
23 & 24 Geo. 5 c. 12.	The Children and Young Persons Act 1933.	Section 34(1).Section 38(1).
15 & 16 Geo. 6 & 1 Eliz. 2 c. 52.	The Prison Act 1952.	Section 25.
3 & 4 Eliz. 2 c. 18.	The Army Act 1955.	In section 71AA(1), the words “subject to subsection (1A) below” and “being not less than 21 days and”.Section 71AA(1A).Section 93(2A).
3 & 4 Eliz. 2 c. 19.	The Air Force Act 1955.	In section 71AA(1), the words “subject to subsection (1A) below” and “being not less than 21 days and”.Section 71AA(1A).Section 93(2A).
5 & 6 Eliz. 2 c. 53.	The Naval Discipline Act 1957.	In section 43AA(1), the words “subject to subsection (1A) below” and “being not less than 21 days and”.Section 43AA(1A).Section 60(3A).
1967 c. 80.	The Criminal Justice Act 1967.	Sections 59 to 64.In section 67(6), the words “remanded or”, in the first place where they occur, and the words “section 23 of the Children and Young Persons Act 1969 or”.Schedule 2.
1968 c. 19.	The Criminal Appeal Act 1968.	In section 50(1A), the words “a probation order or”.
1968 c. 49.	The Social Work (Scotland) Act 1968.	In section 72, in subsection (1A), paragraph (a) and the

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		word “and” immediately following that paragraph, and subsection (4).
1968 c. 64.	The Civil Evidence Act 1968.	In section 11(5)(a), the words “probation or”.
1969 c. 54.	The Children and Young Persons Act 1969.	In section 3, the words “disregarding section 4 of this Act”, in each place where they occur. Section 4. In section 5, subsections (1) to (7) and, in subsection (9), the definitions of “qualified informant” and “designated”. In section 7, in subsection (7), the words “is found guilty of homicide” and paragraph (c), and subsections (7B) and (7C). Section 8. Section 10(1)(a). In section 12AA, subsections (7), (8) and (12). In section 34(1), in paragraph (a), the word “4,” and paragraph (b). In Schedule 4, paragraphs 2 and 3.
1971 c. 10.	The Vehicles (Excise) Act 1971.	In section 9(5), the words “placing him on probation or”.
1971 c. 23.	The Courts Act 1971.	In Schedule 8, in paragraph 57(1)(a), the reference to subsection (2) of section 10.
1972 c. 19.	The Criminal Justice Act 1972.	Section 35.
1973 c. 62.	The Powers of Criminal Courts Act 1973.	Sections 5 to 10. Section 13. In section 14, in subsection (1), the words “instead of dealing with him in any other way” and, in subsection (3), the words “(i) or (ii)”. Sections 16 to 17C. Sections 20 and 20A. Sections 28 and 29. In section 30(1), the words “(such as the power to make a probation order)”. In section 42(2)(a), the words from “subject to” to “twelve months”. Section 45. Section 48. In section 57(1), the definition of “supervising

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		court”. Schedule 1. In Schedule 3, in paragraph 2(2)(a), the word “several”.
1974 c. 53.	The Rehabilitation of Offenders Act 1974.	In section 1(4), the words “put on probation or”.
1975 c. 21.	The Criminal Procedure (Scotland) Act 1975.	In section 403, the proviso to subsection (4) and, in subsection (6), the words “the proviso to subsection (4) of this section shall not apply, but”. In Schedule 9, paragraph 50.
1976 c. 63.	The Bail Act 1976.	In Schedule 1, in paragraph 8(1), the words from “or, in the case” to the end.
1977 c. 45.	The Criminal Law Act 1977.	Section 47. In Schedule 12, in the entry relating to the Children and Young Persons Act 1969, paragraph 3.
1980 c. 43.	The Magistrates’ Courts Act 1980.	In section 24(4), the words from “but this subsection” to the end. Section 35. In section 36(2), the words from “but this subsection” to the end. Section 103(3)(a). Section 37(1A). In section 108(1A), the words “ a probation order or”. Section 143(2)(i). In Schedule 3, paragraph 5.
1982 c. 48.	The Criminal Justice Act 1982.	In section 1, subsections (3) to (4A). In section 1A(3), the words “and section 1B(3) below”. In section 1B, subsections (1) and (3). Section 2. Section 15. Section 17(3). In section 18(6)(b), the words from the beginning to “residence”. Section 33. In section 48, subsections (1)(c) and (2). Section 62. Schedule 5. In Schedule 11, paragraph 6(a)(v). In Schedule 13, Part I. In Schedule 14, paragraphs 23(a), 25 and 32.
1983 c. 20.	The Mental Health Act 1983.	In section 50(3), the words from “and that period” to the end.



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1984 c.60.	The Police and Criminal Evidence Act 1984.	In section 37, subsections (11) to (14).
1988 c. 33.	The Criminal Justice Act 1988.	Section 34(1).In section 123, subsections (2) and (3).Section 131(2).In Schedule 8, in paragraph 3(1)(c), the words “1(3) and”.In Schedule 10, in Part II, the words “section 15(1)”, “section 15(1) and (5) and” and “section 15(1) (a) and”, and Part III.In Schedule 15, paragraph 22(1).In Schedule 16, the entry relating to section 41(8) of the Administration of Justice Act 1970.
1988 c. 38.	The Legal Aid Act 1988.	In section 20(4), the word “or” immediately following paragraph (b).
1988 c. 53.	The Road Traffic Offenders Act 1988.	In section 46, in subsections (1) and (2), the words “placed on probation or”.
1989 c. 41.	The Children Act 1989.	In Schedule 12, paragraphs 21 and 24.In Schedule 13, paragraph 53(1).
1989 c. 42.	The Local Government and Housing Act 1989.	Section 189.
1991 c. 62.	The Armed Forces Act 1991.	In section 3(1), the words from “and after the words” to the end.In section 5, subsections (2)(b) and (9).In Schedule 2, paragraph 3.

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