



# Criminal Justice and Court Services Act 2000

## 2000 CHAPTER 43

### PART I

#### THE NEW SERVICES

#### CHAPTER I

#### NATIONAL PROBATION SERVICE FOR ENGLAND AND WALES

#### *Introduction*

#### **1 Purposes of the Chapter.**

- (1) This Chapter has effect for the purposes of providing for—
- (a) courts to be given assistance in determining the appropriate sentences to pass, and making other decisions, in respect of persons charged with or convicted of offences, and
  - (b) the supervision and rehabilitation of such persons.

[<sup>F1</sup>(1A) This Chapter also has effect for the purposes of providing for—

- (a) authorised persons to be given assistance in determining whether conditional cautions should be given and which conditions to attach to conditional cautions, and
- (b) the supervision and rehabilitation of persons to whom conditional cautions are given.]

(2) Subsection (1)(b) extends (in particular) to—

- (a) giving effect to community orders [<sup>F2</sup>(as defined by section 177 of the Criminal Justice Act 2003)],
- (b) supervising persons released from prison on licence,

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- (c) providing accommodation in approved premises.
  - [<sup>F3</sup>(d) giving effect to suspended sentence orders (as defined by section 189 of the Criminal Justice Act 2003).]
- (3) Regulations may extend the purposes mentioned in subsection (1) to include other prescribed purposes relating to persons charged with or convicted of offences.
- [<sup>F4</sup>(4) In this section “authorised person” and “conditional caution” have the same meaning as in Part 3 of the Criminal Justice Act 2003.]

#### Textual Amendments

- F1** S. 1(1A) inserted (3.7.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 26(2)**, 336(3)(4); S.I. 2004/1629, art. 2(1)(2)(a)
- F2** Words in s. 1(2)(a) inserted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), **Sch. 32 para. 134(a)**; S.I. 2005/950, art. 2(1), **Sch. 1 para. 42(36)** (with **Sch. 2**) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; S.I. 2012/2906, art. 2(1))
- F3** S. 1(2)(d) inserted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), **Sch. 32 para. 134(b)**; S.I. 2005/950, art. 2(1), **Sch. 1 para. 42(36)** (with **Sch. 2**) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; S.I. 2012/2906, art. 2(1))
- F4** S. 1(4) inserted (3.7.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 26(3)**, 336(3)(4); S.I. 2004/1629, art. 2(1)(2)(a)

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

- C1** S. 1(1) extended (1.4.2001) by S.I. 2001/786, **art. 2**

## 2 Aims of the Service.

- (1) This section applies to—
- (a) the functions of the Secretary of State under this Chapter,
  - (b) the functions of local probation boards, and officers of local probation boards, under this Act or any other enactment,
- so far as they may be exercised for the purposes mentioned in section 1.
- (2) In exercising those functions the person concerned must have regard to the following aims—
- (a) the protection of the public,
  - (b) the reduction of re-offending,
  - (c) the proper punishment of offenders,
  - (d) ensuring offenders’ awareness of the effects of crime on the victims of crime and the public,
  - (e) the rehabilitation of offenders.

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## Functions

### 3 Functions of the Secretary of State.

- (1) The Secretary of State has the function of ensuring that provision is made throughout England and Wales for the purposes mentioned in section 1.
- (2) The Secretary of State may make any payment he considers appropriate towards expenditure incurred by any person for any of those purposes.
- (3) If he considers it appropriate, he may make any payment on conditions.
- (4) The conditions may (among other things)—
  - (a) regulate the purposes for which the payment or any part of it may be used,
  - (b) require repayment to the Secretary of State in specified circumstances.

### 4 Local probation boards.

- (1) For the purpose of implementing this Chapter, England and Wales shall be divided into areas.
- (2) For each area there shall be a board (referred to in this Act as a local probation board) which is to exercise the functions conferred on it by virtue of this Act and any other enactment.
- (3) Schedule 1 (which makes provision about the constitution of local probation boards, their powers and other matters relating to them) is to have effect.
- (4) References in this Act or any other enactment to an officer of a local probation board are references to—
  - (a) any member of the staff of a local probation board appointed to exercise the functions of an officer of the board, and
  - (b) any other individual exercising functions of an officer of a local probation board by virtue of section 5(2).
- (5) The initial areas for the purpose of implementing this Chapter are—
  - (a) the police areas listed in Schedule 1 to the <sup>M1</sup>Police Act 1996 (areas into which England and Wales, apart from London, is divided), and
  - (b) the area comprising the Metropolitan Police District and the City of London Police Area.
- (6) The division of England and Wales into areas for that purpose may be altered from time to time by order made by the Secretary of State.

#### Marginal Citations

M1 1996 c. 16.

### 5 Functions of local probation boards.

- (1) It is a function of a local probation board—
  - (a) to make arrangements for ensuring that sufficient provision is made in respect of its area for the purposes mentioned in section 1 and for ensuring the

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- performance of any other functions conferred by virtue of this Act or any other enactment on the board,
- (b) to make arrangements for ensuring the performance of any functions conferred by virtue of this Act or any other enactment on officers of the board, and to implement, or ensure the implementation of, any arrangements it makes under this section.
- (2) In addition to making arrangements for provision to be made by its staff, a local probation board may (for example)—
- (a) make arrangements with organisations for provision to be made on the board’s behalf by the organisations,
- (b) make arrangements with individuals who are not members of the board’s staff under which they may perform functions of officers of the board,
- and arrangements under paragraph (a) may provide for the organisations to designate individuals who may perform functions of officers of the board.
- (3) The provision that may be made in pursuance of such arrangements includes providing services to any person and, in particular—
- (a) giving assistance to persons remanded on bail or for whom officers of the board have responsibilities,
- (b) providing accommodation in approved premises for persons who have at any time been charged with or convicted of an offence.
- (4) A local probation board may provide for its staff to co-operate with persons in its area who are concerned with the prevention or reduction of crime or with giving assistance to the victims of crime.
- (5) Regulations may confer further functions on local probation boards or officers of local probation boards.
- (6) A local probation board may give grants or other financial assistance to any person only in pursuance of regulations.
- (7) A local probation board—
- (a) may make an arrangement with another local probation board under which it provides on behalf of the other board, in respect of the other board’s area, any services which it could provide under this section in respect of its own area, and
- (b) may charge the other local probation board for any services it provides in pursuance of the arrangement.
- (8) It is for the Secretary of State to determine whether or not any provision made by a local probation board under this section is sufficient.

## **6 The inspectorate.**

- (1) The inspectorate, and the office of chief inspector, established under section 23 of the <sup>M2</sup>Probation Service Act 1993 (inspectorate of probation) shall continue in being, but—
- (a) the members of the inspectorate are to be known as “Her Majesty’s Inspectorate of the National Probation Service for England and Wales”, and
- (b) the chief inspector is to be known as “Her Majesty’s Chief Inspector of the National Probation Service for England and Wales”.

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- (2) The power to appoint a person to be chief inspector or one of the other members of the inspectorate is exercisable by the Secretary of State.
- (3) The Secretary of State may determine—
  - (a) the number of members of the inspectorate,
  - (b) the remuneration, allowances or other amounts to be paid by him to or in respect of the members of the inspectorate.
- (4) Below in this Chapter—
  - (a) references to the chief inspector are to Her Majesty’s Chief Inspector of the National Probation Service for England and Wales,
  - (b) references to the members of the inspectorate are to the chief inspector and the other members of Her Majesty’s Inspectorate of the National Probation Service for England and Wales.

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**Marginal Citations**

**M2** 1993 c. 47.

## 7 **Functions of inspectorate.**

- (1) The chief inspector must secure that the provision made in pursuance of arrangements made by each local probation board under section 5 is inspected by a member of the inspectorate.
- (2) The Secretary of State may direct the members of the inspectorate to assess the provision made by reference to criteria specified in directions.
- (3) A report of an inspection under subsection (1) must be sent to the Secretary of State.
- (4) The Secretary of State may give directions as to—
  - (a) the information to be given in the report and the form in which it is to be given,
  - (b) the time by which the report is to be given.
- (5) The Secretary of State must lay a copy of the report before each House of Parliament.
- (6) The Secretary of State may give directions, in connection with the purposes mentioned in section 1 or any related purposes, conferring further functions on the chief inspector and the other members of the inspectorate.

[<sup>F5</sup>(7) Schedule 1A (which makes further provision about the inspectorate) has effect.]

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**Textual Amendments**

**F5** S. 7(7) inserted (1.4.2007) by [Police and Justice Act 2006 \(c. 48\)](#), **ss. 31(1), 53(1)**; [S.I. 2007/709](#), **art. 3(m)** (with **art. 6**)

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### *Miscellaneous*

#### **8 Support services.**

- (1) The Secretary of State may by order provide for any services to which, in his opinion, subsection (3) applies to be provided not by the staff of local probation boards but by others under arrangements made with the boards.
- (2) The order may provide that only the Secretary of State, or an organisation or individual of a description specified in the order, may provide the services.
- (3) This subsection applies to services—
  - (a) which are required by local probation boards in connection with the exercise of their functions, but
  - (b) which, with a view to obtaining better value for money or to improving the standard of the services or the efficiency of their provision, are better provided by persons other than the staff of local probation boards.

#### **9 Approved premises.**

- (1) The Secretary of State may approve premises in which accommodation is provided—
  - (a) for persons granted bail in criminal proceedings (within the meaning of the <sup>M3</sup>Bail Act 1976), or
  - (b) for, or in connection with, the supervision or rehabilitation of persons convicted of offences.
- (2) References in any enactment to an approved bail hostel or approved probation hostel are to be read as references to premises approved under this section.
- (3) Regulations may provide for the regulation, management and inspection of premises approved under this section.
- (4) The Secretary of State may at any time make payments of any amount he considers appropriate towards the expenditure of any person in carrying on, or enlarging or improving, any premises if the premises are approved under this section or the payment is made with a view to their approval.

#### **Marginal Citations**

**M3** 1976 c. 63.

#### **10 Default powers.**

- (1) The power conferred by this section is exercisable by the Secretary of State in respect of a local probation board if it appears to him that the board is failing to perform the functions conferred on it or that its arrangements for performing those functions do not represent good value for money.
- (2) The Secretary of State may make an order (a “management order”) in respect of the board.
- (3) A management order may modify the application of Schedule 1 in relation to the board by—

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- (a) providing for the board to comprise persons determined in accordance with an arrangement made between the Secretary of State and an organisation (a “management arrangement”), and
  - (b) making any other modifications which appear to the Secretary of State to be necessary or expedient in consequence of that provision or of the management arrangement.
- (4) A management order may provide for the persons determined in accordance with the management arrangement to replace all or any of the chairman, the chief officer and the other existing members of the board; and vacancies occurring among the replacements are to be filled in accordance with the management arrangement.
- (5) The power to revoke a management order is exercisable at any time when the Secretary of State considers it necessary or expedient to revoke it.
- (6) On the revocation of a management order, any person who is a member of the board by virtue of the order and the arrangement ceases to be a member; and, accordingly, any vacancy occurring by virtue of the revocation is to be filled in accordance with Schedule 1 (unless the Secretary of State makes a new management order).

## CHAPTER II

### CHILDREN AND FAMILY COURT ADVISORY AND SUPPORT SERVICE

#### 11 Establishment of the Service.

- (1) There shall be a body corporate to be known as the Children and Family Court Advisory and Support Service (referred to in this Part as the Service) which is to exercise the functions conferred on it by virtue of this Act and any other enactment.
- (2) Schedule 2 (which makes provision about the constitution of the Service, its powers and other matters relating to it) is to have effect.
- (3) References in this Act or any other enactment to an officer of the Service are references to—
  - (a) any member of the staff of the Service appointed under paragraph 5(1)(a) of that Schedule, and
  - (b) any other individual exercising functions of an officer of the Service by virtue of section 13(2) or (4).

#### 12 Principal functions of the Service.

- (1) In respect of family proceedings in which the welfare of children [<sup>F6</sup>other than children ordinarily resident in Wales] is or may be in question, it is a function of the Service to—
  - (a) safeguard and promote the welfare of the children,
  - (b) give advice to any court about any application made to it in such proceedings,
  - (c) make provision for the children to be represented in such proceedings,
  - (d) provide information, advice and other support for the children and their families.
- (2) The Service must also make provision for the performance of any functions conferred on officers of the Service by virtue of this Act or any other enactment (whether or

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not they are exercisable for the purposes of the functions conferred on the Service by subsection (1)).

- (3) Regulations may provide for grants to be paid by the Service to any person for the purpose of furthering the performance of any of the Service’s functions.
- (4) The regulations may provide for the grants to be paid on conditions, including conditions—
  - (a) regulating the purposes for which the grant or any part of it may be used,
  - (b) requiring repayment to the Service in specified circumstances.
- (5) In this section, “family proceedings” has the same meaning as in the <sup>M4</sup>Matrimonial and Family Proceedings Act 1984 and also includes any other proceedings which are family proceedings for the purposes of the <sup>M5</sup>Children Act 1989, but—
  - (a) references to family proceedings include (where the context allows) family proceedings which are proposed or have been concluded, [<sup>F7</sup>and]
  - <sup>F7</sup>(b) .....

#### Textual Amendments

- F6** Words in s. 12(1) inserted (1.4.2005) by Children Act 2004 (c. 31), s. 67(6), **Sch. 3 para. 13**; S.I. 2005/700, art. 2(2)
- F7** S. 12(5)(b) repealed (28.11.2003) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 118, **Sch. 5** (with Sch. 4 paras. 2, 6-8); S.I. 2003/3079, **art. 2(1)(c)(d)**

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

- C2** S. 12: transfer of functions (12.1.2004) by The Transfer of Functions (Children, Young People and Families) Order 2003 (S.I. 2003/3191), arts. 1(2), 3, 4
- C3** S. 12 power to extend functions conferred by 1989 c. 41, s. 26(2C) (as inserted (21.5.2004) by Adoption and Children Act 2002 (c. 38), **ss. 118(2)**, 148(1) (with Sch. 4 paras. 6-8); S.I. 2004/1403, art. 2)

#### Marginal Citations

- M4** 1984 c. 42.
- M5** 1989 c. 41.

### 13 Other powers of the Service.

- (1) The Service may make arrangements with organisations under which the organisations perform functions of the Service on its behalf.
- (2) Arrangements under subsection (1) may provide for the organisations to designate individuals who may perform functions of officers of the Service.
- (3) But the Service may only make an arrangement under subsection (1) if it is of the opinion—
  - (a) that the functions in question will be performed efficiently and to the required standard, and
  - (b) that the arrangement represents good value for money.
- (4) The Service may make arrangements with individuals under which they may perform functions of officers of the Service.



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- (5) The Service may commission, or assist the conduct of, research by any person into matters concerned with the exercise of its functions.

**14 Provision of staff or services to other organisations.**

- (1) The Service may make arrangements with an organisation or individual under which staff of the Service may work for the organisation or individual.
- (2) The Service may make arrangements with an organisation or individual under which any services provided to the Service by its staff are also made available to the organisation or individual.
- (3) The Service may charge for anything done under arrangements under this section.

**15 Right to conduct litigation and right of audience.**

- (1) The Service may authorise an officer of the Service of a prescribed description—
- (a) to conduct litigation in relation to any proceedings in any court,
  - (b) to exercise a right of audience in any proceedings before any court,
- in the exercise of his functions.
- (2) An officer of the Service exercising a right to conduct litigation by virtue of subsection (1)(a) who would otherwise have such a right by virtue of section 28(2)(a) of the <sup>M6</sup>Courts and Legal Services Act 1990 is to be treated as having acquired that right solely by virtue of this section.
- (3) An officer of the Service exercising a right of audience by virtue of subsection (1)(b) who would otherwise have such a right by virtue of section 27(2)(a) of the <sup>M7</sup>Courts and Legal Services Act 1990 is to be treated as having acquired that right solely by virtue of this section.
- (4) In this section and section 16, “right to conduct litigation” and “right of audience” have the same meanings as in section 119 of the <sup>M8</sup>Courts and Legal Services Act 1990.

**Marginal Citations**

- M6** 1990 c. 41.  
**M7** 1990 c. 41.  
**M8** 1990 c. 41.

**16 Cross-examination of officers of the Service.**

- (1) An officer of the Service may, subject to rules of court, be cross-examined in any proceedings to the same extent as any witness.
- (2) But an officer of the Service may not be cross-examined merely because he is exercising a right to conduct litigation or a right of audience granted in accordance with section 15.

<sup>F8</sup>**17 Inspection.**

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### Textual Amendments

**F8** S. 17 repealed (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 10**; S.I. 2005/910, art. 3(aa)

## CHAPTER III

### GENERAL

#### *Property and staff*

#### 18 Definitions.

- (1) This section applies for the purposes of sections 19 to 21 and Schedule 3.
- (2) “Eligible employee” means—
  - (a) in relation to a local authority or the Official Solicitor or the Receiver for the Metropolitan Police District, a person who is employed under a contract of employment with the authority, the solicitor or the receiver on work which would have continued but for this Part,
  - (b) in relation to a probation committee, a person (other than a chief probation officer) who is employed under a contract of employment with the committee.
- (3) “New employer” means a local probation board or the Service.
- (4) “Old employer” means a local authority, a probation committee, the Official Solicitor or the Receiver for the Metropolitan Police District.
- (5) “Property” includes rights and interests of any description, other than—
  - (a) those under a contract of employment,
  - (b) land, in the case of transfers to a local board.

#### 19 Property.

- (1) The [F9Secretary of State] may by order make a scheme—
  - (a) for the transfer to the [F9Secretary of State] or the Service of any property belonging to the old employer,
  - (b) for the transfer to the [F9Secretary of State] or the Service of any liabilities to which the old employer is subject,
  - (c) for the transfer of property or liabilities to a new employer after an initial transfer to the [F9Secretary of State] under paragraph (a) or (b),
  - (d) for the Service to have any rights or interests which the [F9Secretary of State] considers appropriate in relation to any property transferred to the [F9Secretary of State] under the scheme.
- (2) Stamp duty is not chargeable in respect of any transfer or grant to the Service effected by virtue of this section.
- (3) No instrument made or executed under or in pursuance of the scheme for the purposes of such a transfer or grant is to be treated as duly stamped unless—
  - (a) it is stamped with the duty to which it would, but for this section, be liable, or

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- (b) it has, in accordance with the provisions of section 12 of the <sup>M9</sup>Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty or that it has been duly stamped.
- (4) Schedule 3 (contents of schemes) applies in relation to a scheme under this section.
- [<sup>F10</sup>(5) For the purposes of stamp duty land tax, a land transaction effected by virtue of this section, under which the purchaser is the Service, is exempt from charge.
- (6) Relief under subsection (5) must be claimed in a land transaction return or an amendment of such a return.
- (7) In this section—
- “land transaction” has the meaning given by section 43(1) of the Finance Act 2003;
- “land transaction return” has the meaning given by section 76(1) of that Act;
- “purchaser” has the same meaning as in Part 4 of that Act.]

#### Textual Amendments

**F9** Words in s. 19 substituted (12.1.2004) by [The Transfer of Functions \(Children, Young People and Families\) Order 2003 \(S.I. 2003/3191\)](#), art. 1(2), **Sch. para. 4(2)**

**F10** S. 19(5)-(7) inserted (1.12.2003) by [The Stamp Duty Land Tax \(Consequential Amendment of Enactments\) Regulations 2003 \(S.I. 2003/2867\)](#), reg. 1, **Sch. para. 30**

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

**C4** S. 19: transfer of functions (12.1.2004) by [The Transfer of Functions \(Children, Young People and Families\) Order 2003 \(S.I. 2003/3191\)](#), arts. 1(2), 3, 4

#### Marginal Citations

**M9** 1891 c. 39.

## 20 Transfer of staff.

- (1) The [<sup>F11</sup>Secretary of State] may by order make a scheme for the transfer to a new employer of any eligible employee.
- (2) A scheme may also provide for any persons who are employed as chief probation officer under a contract of employment with a probation committee to be appointed (under paragraphs 2 and 3 of Schedule 1) as chief officer of a local probation board.
- (3) A scheme may apply—
- (a) to all, or any description of, eligible employees or persons so employed, or
- (b) to any individual eligible employee or person so employed.
- (4) A scheme may be made only if any directions about consultation given by the [<sup>F11</sup>Secretary of State] have been complied with in relation to each of the eligible employees and chief probation officers to be transferred or appointed in pursuance of the scheme.

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### Textual Amendments

**F11** Words in s. 20 substituted (12.1.2004) by [The Transfer of Functions \(Children, Young People and Families\) Order 2003 \(S.I. 2003/3191\)](#), art. 1(2), **Sch. para. 4(2)**

### Modifications etc. (not altering text)

**C5** S. 20: transfer of functions (12.1.2004) by [The Transfer of Functions \(Children, Young People and Families\) Order 2003 \(S.I. 2003/3191\)](#), arts. 1(2), 3, 4

## 21 Effect of transfer of eligible employees.

- (1) The contract of employment of an employee transferred under a scheme—
  - (a) is not terminated by the transfer,
  - (b) has effect from the date of transfer as if originally made between the employee and the transferee.
- (2) Where an employee is transferred under a scheme—
  - (a) all the rights, powers, duties and liabilities of the old employer under or in connection with the contract of employment are by virtue of this subsection transferred to the transferee on the date of transfer, and
  - (b) anything done before that date by or in relation to the old employer in respect of that contract or the employee is to be treated from that date as having been done by or in relation to the transferee.

This subsection does not prejudice the generality of subsection (1).
- (3) But if the employee informs the old employer or the transferee that he objects to the transfer—
  - (a) subsections (1) and (2) do not transfer his contract of employment, or the rights, powers, duties and liabilities under or in connection with it, and
  - (b) the contract of employment is terminated immediately before the date of transfer.
- (4) An employee is not to be treated, for the purposes of the <sup>M10</sup>Employment Rights Act 1996, as having been dismissed by the old employer by reason of—
  - (a) the transfer of his contract of employment under a scheme, or
  - (b) the termination of his contract of employment by virtue of subsection (3).
- (5) Subject to subsection (4), where an employee's contract of employment with a probation committee is not transferred under a scheme, it is terminated immediately before the date on which the committee ceases to exist; and the employee is to be treated, for the purposes of the <sup>M11</sup>Employment Rights Act 1996, as having been dismissed by the committee.
- (6) This section does not prejudice any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions.
 

But no such right arises by reason only that, by virtue of this section, the identity of his employer changes unless the employee shows that, in all the circumstances, the change is a significant change and is to his detriment.
- (7) In this section—

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“date of transfer” means the date of transfer determined under the scheme in relation to the employee,

“scheme” means a scheme made by virtue of section 20,

“transferee” means the new employer to whom the employee is or would be transferred under the scheme.

#### Marginal Citations

M10 1996 c. 18.

M11 1996 c. 18.

## 22 Effect of transfer of chief probation officers.

- (1) This section applies where a scheme made by virtue of section 20 provides for a person who is employed as chief probation officer under a contract of employment with a probation committee to be appointed as chief officer of a local probation board.
- (2) The officer’s period of employment with the committee counts as a period of employment in his Crown employment and the appointment does not break the continuity of that employment.
- (3) So far as it is consistent with appointment under paragraphs 2 and 3 of Schedule 1, the terms and conditions of the officer’s contract of employment have effect on and after his appointment as if they were terms and conditions of his Crown employment.
- (4) Section 21(2) applies, with the necessary modifications, in relation to the officer as it applies in relation to an employee of a probation committee whose contract of employment is transferred to the local probation board.
- (5) The officer is not to be treated, for the purposes of the <sup>M12</sup>Employment Rights Act 1996, as having been dismissed by the probation committee by reason of his appointment.
- (6) But if the officer informs the probation committee or the Secretary of State that he objects to the appointment, subsections (2) to (5) do not apply.
- (7) Where the officer is not appointed as chief officer of a local probation board (whether because he objects to the appointment or for any other reason), his contract of employment is terminated immediately before the date on which the committee ceases to exist; and he is to be treated, for the purposes of the <sup>M13</sup>Employment Rights Act 1996, as having been dismissed by the committee.
- (8) In this section, “Crown employment” means the employment which the chief officer of a local probation board is to be treated as employed in, for the purposes of the <sup>M14</sup>Employment Rights Act 1996, by virtue of paragraph 3(5) of Schedule 1 to this Act.

#### Marginal Citations

M12 1996 c. 18.

M13 1996 c. 18.

M14 1996 c. 18.

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## 23 Transfer of staff in consequence of arrangements under Part I.

- (1) This section applies where, by reason of the implementation or termination of any arrangements under section 5, 8 or 13, any functions exercisable by any person (the “old employer”) become exercisable by another person (whether on behalf, or instead, of the old employer).
- (2) The [<sup>F12</sup>Secretary of State] may by order make a scheme for the transfer to the other person (the “transferee”) of any person (an “eligible employee”) employed under a contract of employment with the transferor on work which would have continued but for the implementation or termination of the arrangements.
- (3) A scheme may apply—
  - (a) to all, or any description of, eligible employees, or
  - (b) to any individual eligible employee.
- (4) A scheme may be made only if any directions about consultation given by the [<sup>F12</sup>Secretary of State] have been complied with in relation to each of the eligible employees to be transferred in pursuance of the scheme.
- (5) Section 21 (except subsection (5) and the definitions of “scheme” and “transferee”) applies to a scheme made by virtue of this section as it applies to a scheme made by virtue of section 20, and as if “old employer” and “transferee” had the same meanings as in this section.

### Textual Amendments

**F12** Words in s. 23 substituted (12.1.2004) by [The Transfer of Functions \(Children, Young People and Families\) Order 2003 \(S.I. 2003/3191\)](#), art. 1(2), **Sch. para. 4(2)**

### Modifications etc. (not altering text)

**C6** S. 23: transfer of functions (12.1.2004) by [The Transfer of Functions \(Children, Young People and Families\) Order 2003 \(S.I. 2003/3191\)](#), arts. 1(2), 3, 4

### *Provision for the protection of children*

## 24 Provision for the protection of children.

- (1) The <sup>M15</sup>Protection of Children Act 1999 (“the 1999 Act”) shall have effect as if the Service were a child care organisation within the meaning of that Act.
- (2) Arrangements which the Service makes with an organisation under section 13(1) must provide that, before selecting an individual to be employed under the arrangements in a child care position, the organisation—
  - (a) must ascertain whether the individual is included in any of the lists mentioned in section 7(1) of the 1999 Act, and
  - (b) if he is included in any of those lists, must not select him for that employment.
- (3) Such arrangements must provide that, if at any time the organisation has power to refer a relevant individual to the Secretary of State under section 2 of the 1999 Act (inclusion in list on reference following disciplinary action etc.), the organisation must so refer him.

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In this subsection, “relevant individual” means an individual who is or has been employed in a child care position under the arrangements.

(4) In this section, “child care position” and “employment” have the same meanings as in the 1999 Act.

#### Marginal Citations

M15 1999 c. 14.

### Interpretation

#### 25 Interpretation of Part I.

In this Part—

<sup>F13</sup>  
...

“approved premises” means premises approved under section 9,

“by virtue of” includes by or under,

“organisation” includes a public body and a private or voluntary organisation,

“prescribed” means prescribed by regulations,

“regulations” means—

- (a) [<sup>F14</sup>in the case of regulations under section 15, regulations made by the Lord Chancellor, and]
- (b) [<sup>F14</sup>in any other case, regulations made by the Secretary of State.]

#### Textual Amendments

**F13** Words in s. 25 omitted (12.1.2004) by virtue of [The Transfer of Functions \(Children, Young People and Families\) Order 2003 \(S.I. 2003/3191\)](#), art. 1(2), [Sch. para. 4\(3\)\(a\)](#)

**F14** Words in s. 25 substituted (12.1.2004) by [The Transfer of Functions \(Children, Young People and Families\) Order 2003 \(S.I. 2003/3191\)](#), art. 1(2), [Sch. para. 4\(3\)\(b\)](#)

## PART II

### PROTECTION OF CHILDREN

#### *Disqualification orders*

#### 26 Meaning of “offence against a child”.

- (1) For the purposes of this Part, an individual commits an offence against a child if—
- (a) he commits any offence mentioned in paragraph 1 of Schedule 4,
  - (b) he commits against a child any offence mentioned in paragraph 2 of that Schedule, or
  - (c) he falls within paragraph 3 of that Schedule,

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and references to being convicted of, or charged with, an offence against a child are to be read accordingly.

- (2) The Secretary of State may by order amend Schedule 4 so as to add, modify or omit any entry.

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**Extent Information**

**E1** s.26 extends to UK. See s.81(1)(2)(a) for the extent

**27 Equivalent armed forces offences.**

- (1) For the purposes of this Part, an individual is treated as being convicted of or (as the case may be) charged with an offence against a child if he is convicted of or charged with an equivalent armed forces offence.
- (2) In subsection (1), “equivalent armed forces offence” means an armed forces offence constituted by an act or omission which—
- (a) is an offence against a child, or
  - (b) would, if committed in England or Wales, be an offence against a child.
- (3) In that subsection, “equivalent armed forces offence” also includes a civil offence of attempting to commit—
- (a) an offence against a child, or
  - (b) an act that would, if committed in England or Wales, be an offence against a child.
- (4) For the purpose of determining whether an offence is an equivalent armed forces offence, Schedule 4 shall have effect as if the words “or attempting” were omitted from paragraph 3(t).
- (5) In this section, “civil offence” has the same meaning as in the <sup>M16</sup>Army Act 1955.

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**Extent Information**

**E2** s.27 extends to UK. see s.81(1)(2)(a) for the extent

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**Marginal Citations**

**M16** 1955 c. 18.

**28 Disqualification from working with children: adults.**

- (1) This section applies where either of the conditions set out below is satisfied in the case of an individual.
- (2) The first condition is that—
- (a) the individual is convicted of an offence against a child committed when he was aged 18 or over, and
  - (b) a qualifying sentence is imposed by a senior court in respect of the conviction.
- (3) The second condition is that—



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- (a) the individual is charged with an offence against a child committed when he was aged 18 or over, and
  - (b) a relevant order is made by a senior court in respect of the act or omission charged against him as the offence.
- (4) Subject to subsection (5), the court must order the individual to be disqualified from working with children.
- (5) An order shall not be made under this section if the court is satisfied, having regard to all the circumstances, that it is unlikely that the individual will commit any further offence against a child.
- (6) If the court does not make an order under this section, it must state its reasons for not doing so and cause those reasons to be included in the record of the proceedings.

#### Extent Information

**E3** s.28 extends to UK. see s.81(1)(2)(a) for the extent

## 29 Disqualification from working with children: juveniles.

- (1) This section applies where either of the conditions set out below is satisfied in the case of an individual.
- (2) The first condition is that—
- (a) the individual is convicted of an offence against a child committed at a time when the individual was under the age of 18, and
  - (b) a qualifying sentence is imposed by a senior court in respect of the conviction.
- (3) The second condition is that—
- (a) the individual is charged with an offence against a child committed at a time when the individual was under the age of 18, and
  - (b) a relevant order is made by a senior court in respect of the act or omission charged against him as the offence.
- (4) If the court is satisfied, having regard to all the circumstances, that it is likely that the individual will commit a further offence against a child, it must order the individual to be disqualified from working with children.
- (5) If the court makes an order under this section, it must state its reasons for doing so and cause those reasons to be included in the record of the proceedings.

#### Extent Information

**E4** s.29 extends to UK. see s.81(1)(2)(a) for the extent

## [<sup>F15</sup>29A Disqualification at discretion of court: adults and juveniles

- (1) This section applies where—
- (a) an individual is convicted of an offence against a child (whether or not committed when he was aged 18 or over),
  - (b) the individual is sentenced by a senior court, and

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- (c) no qualifying sentence is imposed in respect of the conviction.
- (2) If the court is satisfied, having regard to all the circumstances, that it is likely that the individual will commit a further offence against a child, it may order the individual to be disqualified from working with children.
- (3) If the court makes an order under this section, it must state its reasons for doing so and cause those reasons to be included in the record of the proceedings.

#### Textual Amendments

**F15** Ss. 29A, 29B inserted (E.W.) (1.5.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 30 para. 2](#); [S.I. 2004/829](#), art. 3(1)(2)(a)

### 29B Subsequent application for order under section 28 or 29

- (1) Where—
- section 28 applies but the court has neither made an order under that section nor complied with subsection (6) of that section, or
  - section 29 applies but the court has not made an order under that section, and it appears to the prosecutor that the court has not considered the making of an order under that section,
- the prosecutor may at any time apply to that court for an order under section 28 or 29.
- (2) Subject to subsection (3), on an application under subsection (1)—
- in a case falling within subsection (1)(a), the court—
    - must make an order under section 28 unless it is satisfied as mentioned in subsection (5) of that section, and
    - if it does not make an order under that section, must comply with subsection (6) of that section,
  - in a case falling within subsection (1)(b), the court—
    - must make an order under section 29 if it is satisfied as mentioned in subsection (4) of that section, and
    - if it does so, must comply with subsection (5) of that section.
- (3) Subsection (2) does not enable or require an order under section 28 or 29 to be made where the court is satisfied that it had considered the making of an order under that section at the time when it imposed the qualifying sentence or made the relevant order.]

#### Textual Amendments

**F15** Ss. 29A, 29B inserted (E.W.) (1.5.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 30 para. 2](#); [S.I. 2004/829](#), art. 3(1)(2)(a)

### 30 Sections 28 <sup>F16</sup>to 29B] : supplemental.

- (1) In sections 28 <sup>F17</sup>to 29B] and this section—
- “guardianship order” means a guardianship order within the meaning of the <sup>M17</sup>Army Act 1955, the <sup>M18</sup>Air Force Act 1955, the <sup>M19</sup>Naval Discipline Act 1957 or the <sup>M20</sup>Mental Health Act 1983,

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“qualifying sentence” means—

- (a) a sentence of imprisonment for a term of 12 months or more,
- (b) a sentence of detention in a young offender institution for a term of 12 months or more,
- (c) a sentence of detention during Her Majesty’s pleasure,
- (d) a sentence of detention for a period of 12 months or more under section 91 of the <sup>M21</sup>Powers of Criminal Courts (Sentencing) Act 2000 (offenders under 18 convicted of certain serious offences),
- (dd) [<sup>F18</sup>a sentence of detention under section 226 or 228 of the Criminal Justice Act 2003,]
- (e) a detention and training order for a term of 12 months or more,
- (f) a sentence of detention for a term of 12 months or more imposed by a court-martial or the Courts-Martial Appeal Court,
- (g) a hospital order within the meaning of the <sup>M22</sup>Mental Health Act 1983, or
- (h) a guardianship order,

“relevant order” means—

- (a) an order made by the Crown Court, the Court of Appeal, a court-martial or the Courts-Martial Appeal Court that the individual in question be admitted to hospital, or
- (b) a guardianship order,

“senior court” means the Crown Court, the Court of Appeal, a court-martial or the Courts-Martial Appeal Court.

- (2) The reference to detention in paragraph (f) of the above definition of “qualifying sentence” includes a reference to detention by virtue of a custodial order under—
  - (a) section 71AA of, or paragraph 10 of Schedule 5A to, the <sup>M23</sup>Army Act 1955,
  - (b) section 71AA of, or paragraph 10 of Schedule 5A to, the <sup>M24</sup>Air Force Act 1955,
  - (c) section 43AA of, or paragraph 10 of Schedule 4A to, the <sup>M25</sup>Naval Discipline Act 1957.
- (3) In this Part, references to a sentence of imprisonment, or to a sentence of detention imposed by a court-martial or the Courts-Martial Appeal Court, include references to a suspended sentence.
- (4) If, for the purpose of making an order under section 28 or 29, the court determines, after considering any available evidence, that an individual was, or was not, under the age of 18 at the time when the offence in question was committed, his age at that time shall be taken, for the purposes of that sections (and in particular for the purpose of determining any question as to the validity of the order), to be that which the court determined it to be.
- (5) Below in this Part—
  - (a) references to a disqualification order are to an order under section 28 [<sup>F19</sup>, 29 or 29A] ,
  - (b) in relation to an individual on whom a sentence has been passed, or in relation to whom an order has been made, as mentioned in subsection (2) or (3) of section 28 or 29, references to his sentence are to that sentence or order.
  - [<sup>F20</sup>(c) in relation to an individual to whom section 29A applies and on whom a sentence has been passed, references to his sentence are to that sentence.]

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### Extent Information

**E5** S. 30 extends to UK. See s. 81(1)(2)(a) for the extent

### Textual Amendments

- F16** Words in s. 30 heading substituted (E.W.) (1.5.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 30 para. 3\(2\)](#); S.I. 2004/829, art. 3(1)(2)(a)
- F17** Words in s. 30(1) substituted (E.W.) (1.5.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 30 para. 3\(3\)\(a\)](#); S.I. 2004/829, art. 3(1)(2)(a)
- F18** Words in s. 30(1) inserted (E.W.) (1.5.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 30 para. 3\(3\)\(b\)](#); S.I. 2004/829, art. 3(1)(2)(a)
- F19** Words in s. 30(5)(a) substituted (E.W.) (1.5.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 30 para. 3\(4\)\(a\)](#); S.I. 2004/829, art. 3(1)(2)(a)
- F20** S. 30(5)(c) inserted (E.W.) (1.5.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 30 para. 3\(4\)\(b\)](#); S.I. 2004/829, art. 3(1)(2)(a)

### Marginal Citations

- M17** 1955 c. 18.  
**M18** 1955 c. 19.  
**M19** 1957 c. 53.  
**M20** 1983 c. 20.  
**M21** 2000 c. 6.  
**M22** 1983 c. 20.  
**M23** 1955 c. 18.  
**M24** 1955 c. 19.  
**M25** 1957 c. 53.

## 31 Appeals.

- (1) An individual may appeal against a disqualification order—
- (a) where the first condition mentioned in section 28 or 29 is satisfied in his case, as if the order were a sentence passed on him for the offence of which he has been convicted,
  - (b) where the second condition mentioned in section 28 or 29 is satisfied in his case, as if he had been convicted of an offence on indictment and the order were a sentence passed on him for the offence.
- [<sup>F21</sup>(c) where an order is made under section 29A, as if the order were a sentence passed on him for the offence of which he has been convicted.]
- (2) In relation to a disqualification order made by a court-martial, subsection (1)(b) has effect as if the reference to conviction on indictment were a reference to conviction by a court-martial.

### Extent Information

**E6** s.31 extends to UK. see s.81(1)(2)(a) for the extent

### Textual Amendments

- F21** S. 31(1)(c) inserted (E.W.) (1.5.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 30 para. 4](#); S.I. 2004/829, art. 3(1)(2)(a)

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### **32 Review of disqualification.**

- (1) Subject to section 33, an individual who is subject to a disqualification order may make an application to the Tribunal under this section.
- (2) On an application under this section the Tribunal must determine whether or not the individual is to continue to be subject to the order.
- (3) If the Tribunal is satisfied that the individual is suitable to work with children, it must direct that the order is to cease to have effect; otherwise it must dismiss the application.

#### **Extent Information**

**E7** s.32 extends to UK. see s.81(1)(2)(a) for the extent

### **33 Conditions for application under section 32.**

- (1) An individual may only make an application under section 32 with the leave of the Tribunal.
- (2) An application for leave under this section may not be made unless the appropriate conditions are satisfied in the individual's case.
- (3) In the case of an individual who was under the age of 18 when he committed the offence against a child, the appropriate conditions are satisfied if—
  - (a) at least five years have elapsed since the relevant date, and
  - (b) in the period of five years ending with the time when he makes the application under this section, he has made no other such application.
- (4) In the case of any other individual, the appropriate conditions are satisfied if—
  - (a) at least ten years have elapsed since the relevant date, and
  - (b) in the period of ten years ending with the time when he makes the application under this section, he has made no other such application.
- (5) The Tribunal may not grant an application under this section unless it considers—
  - (a) that the individual's circumstances have changed since the order was made or, as the case may be, since he last made an application under this section, and
  - (b) that the change is such that leave should be granted.
- (6) In this section, “the relevant date” means—
  - (a) in relation to an individual whose sentence is an actual term of custody, the day on which he is released or, if later, the day on which the disqualification order is made,
  - (b) in relation to an individual whose sentence is suspended and does not take effect, the day on which the disqualification order is made,
  - (c) in relation to an individual whose sentence is an order for admission to hospital—
    - (i) if he is detained in a hospital pursuant to the order, the day on which he ceases to be liable to be detained there, or
    - (ii) if he is not so detained, the day on which the disqualification order is made,

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- (d) in relation to an individual whose sentence is a guardianship order, the day on which the disqualification order is made.
- [<sup>F22</sup>(e) in relation to an individual not falling within any of paragraphs (a) to (d), the day on which the disqualification order is made.]
- (7) In this section—
- “actual term of custody” means a term of imprisonment or detention which is not suspended, or is suspended but takes effect,
- “guardianship order” has the same meaning as in section 30,
- “order for admission to hospital” means—
- (a) an order made by the Crown Court, the Court of Appeal, a court-martial or the Courts-Martial Appeal Court that the individual be admitted to hospital, or
- (b) a hospital order within the meaning of the <sup>M26</sup>Mental Health Act 1983.
- [<sup>F23</sup>(8) In subsection (7) “detention” means detention (or detention and training)—
- (a) under any sentence or order falling within paragraphs (b) to (f) of the definition of “qualifying sentence” in section 30(1), or
- (b) under any sentence or order which would fall within those paragraphs if it were for a term or period of 12 months or more.]

#### Extent Information

**E8** s.33 extends to UK.see s.81(1)(2)(a) for the extent

#### Textual Amendments

**F22** S. 33(6)(e) inserted (E.W.) (1.5.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 30 para. 5\(2\)](#); [S.I. 2004/829](#), art. 3(1)(2)(a)

**F23** S. 33(8) substituted (E.W.)(1.5.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 30 para. 5\(3\)](#); [S.I. 2004/829](#), art. 3(1)(2)(a)

#### Marginal Citations

**M26** 1983 c. 20.

### 34 Restoration of disqualification order.

- (1) If it appears to a chief officer of police or a director of social services of a local authority that the conditions set out in subsection (2) are satisfied in the case of an individual, the chief officer or (as the case may be) the director may apply to the High Court for an order under this section to be made in respect of the individual.
- (2) The conditions are that—
- (a) a disqualification order made in respect of the individual is no longer in force, and
- (b) the individual has acted in such a way (whether before or after the order ceased to be in force) as to give reasonable cause to believe that an order under this section is necessary to protect children in general, or any children in particular, from serious harm from him.
- (3) An application under this section may be made at any time after the disqualification order ceased to be in force.

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- (4) If the High Court is satisfied that the conditions set out in subsection (2) are satisfied, it must order that the disqualification order is to be restored; otherwise it must dismiss the application.
- (5) Where an order is made under this section, section 33 has effect with the following modifications—
  - (a) in subsection (3), the reference to the individual being under the age of 18 when he committed the offence against a child is to be read as a reference to his being under that age when the order under this section was made,
  - (b) in subsections (3)(a) and (4)(a), references to the relevant date are to be read as references to the date on which the order under this section was made,
  - (c) in subsection (5)(a), the reference to the individual's circumstances changing since the disqualification order was made is to be read as a reference to his circumstances changing since the order under this section was made.
- (6) For the purposes of this section a disqualification order is no longer in force if a direction under section 32(3) has been given in respect of it and it is not restored by virtue of an order under this section.

*Effect of disqualification from working with children*

**35 Persons disqualified from working with children: offences.**

- (1) An individual who is disqualified from working with children is guilty of an offence if he knowingly applies for, offers to do, accepts or does any work in a regulated position.
- (2) An individual is guilty of an offence if he knowingly—
  - (a) offers work in a regulated position to, or procures work in a regulated position for, an individual who is disqualified from working with children, or
  - (b) fails to remove such an individual from such work.
- (3) It is a defence for an individual charged with an offence under subsection (1) to prove that he did not know, and could not reasonably be expected to know, that he was disqualified from working with children.
- (4) An individual is disqualified from working with children for the purposes of this Part if—
  - (a) he is included (otherwise than provisionally) in the list kept under section 1 of the <sup>M27</sup>Protection of Children Act 1999 (individuals considered unsuitable to work with children),
  - <sup>F24</sup>(b) he is subject to a direction under section 142 of the Education Act 2002 (prohibition from teaching, &c. given on the grounds that he is unsuitable to work with children,]
  - (c) he is included, on the grounds that he is unsuitable to work with children, in any list kept by the Secretary of State or the National Assembly for Wales of persons disqualified under section 470 or 471 of the <sup>M28</sup>Education Act 1996, or
  - (d) he is subject to a disqualification order.
- <sup>F25</sup>(5) .....
- (6) An individual who is guilty of an offence under this section is liable—

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

#### Textual Amendments

**F24** S. 35(4)(b) substituted (31.3.2003 for W., 1.6.2003 for E.) by 2002 c. 32, s. 206, **Sch. 21 para. 128(2)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 5, **Sch. Pt. II**; S.I. 2003/1115, **art. 3**

**F25** S. 35(5) repealed (31.3.2003 for W., 1.6.2003 for E.) by 2002 c. 32, s. 206, 215(2), Sch. 21 para. 128(3), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/3158, art. 5, **Sch. Pt. II**; S.I. 2003/1115, **art. 3**

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

**C7** S. 35 applied (7.3.2005) by **The Disqualification from Working with Children (Scotland) Order 2005 (S.I. 2005/267)**, arts. 1, 2

#### Marginal Citations

**M27** 1999 c. 14.

**M28** 1996 c. 56.

### 36 Meaning of “regulated position”.

- (1) The regulated positions for the purposes of this Part are—
- (a) a position whose normal duties include work in an establishment mentioned in subsection (2),
  - (b) a position whose normal duties include work on day care premises,
  - (c) a position whose normal duties include caring for, training, supervising or being in sole charge of children,
  - (d) a position whose normal duties involve unsupervised contact with children under arrangements made by a responsible person,
  - (e) a position whose normal duties include caring for children under the age of 16 in the course of the children’s employment,
  - (f) a position a substantial part of whose normal duties includes supervising or training children under the age of 16 in the course of the children’s employment,
  - (g) a position mentioned in subsection (6),
  - (h) a position whose normal duties include supervising or managing an individual in his work in a regulated position.
- (2) The establishments referred to in subsection (1)(a) are—
- (a) an institution which is exclusively or mainly for the detention of children,
  - (b) a hospital which is exclusively or mainly for the reception and treatment of children,
  - (c) a care home, residential care home, nursing home or private hospital which is exclusively or mainly for children,
  - (d) an educational institution,
  - (e) a children’s home or voluntary home,
  - (f) a home provided under section 82(5) of the <sup>M29</sup>Children Act 1989.



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- (3) For the purposes of this section, work done on any premises is treated as not being done on day care premises to the extent that—
- (a) it is done in a part of the premises in which children are not looked after, or
  - (b) it is done at times when children are not looked after there.
- (4) The duties referred to in subsection (1)(c) and (d) do not include (respectively)—
- (a) caring for, training, supervising or being in sole charge of children in the course of the children’s employment, or
  - (b) duties involving contact with children in the course of the children’s employment.
- (5) The reference in subsection (1)(d) to unsupervised contact is to contact in the absence of any responsible person or carer; and in this subsection, “carer” means a person who holds a position such as is mentioned in subsection (1)(c).
- (6) The positions mentioned in subsection (1)(g) are—
- (a) member of the governing body of an educational institution,
  - (b) member of a relevant local government body,
  - (c) director of social services of a local authority,
  - (d) chief education officer of a local education authority,
  - (e) charity trustee of a children’s charity,
  - (f) member of the Youth Justice Board for England and Wales,
  - [<sup>F26</sup>(fa) Children’s Commissioner and deputy Children’s Commissioner appointed under Part 1 of the Children Act 2004,]
  - (g) Children’s Commissioner for Wales or deputy Children’s Commissioner for Wales,
  - (h) member, or chief executive, of the Children and Family Court Advisory and Support Service.
- (7) For the purposes of subsection (6), a person is a member of a relevant local government body if—
- (a) he is a member of, or of an executive of, a local authority and discharges any education functions, or social services functions, of a local authority,
  - (b) he is a member of an executive of a local authority which discharges any such functions,
  - (c) he is a member of—
    - (i) a committee of an executive of a local authority, or
    - (ii) an area committee, or any other committee, of a local authority, which discharges any such functions.
- (8) In its application to Northern Ireland, subsection (6) is to be read as mentioning also the following positions—
- (a) member, or director of social services, of a Health and Social Services Board established under Article 16 of the <sup>M30</sup>Health and Personal Social Services (Northern Ireland) Order 1972,
  - (b) member, or executive director of social work, of a Health and Social Services trust established under Article 10 of the <sup>M31</sup>Health and Personal Social Services (Northern Ireland) Order 1991,

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- (c) member, or chief education officer, of an education and library board established under Article 3 of the <sup>M32</sup>Education and Libraries (Northern Ireland) Order 1986.
- [<sup>F27</sup>(d) Commissioner for Children and Young People for Northern Ireland appointed under the Commissioner for Children and Young People (Northern Ireland) Order 2003.]
- (9) Any reference in subsection (7) to a committee includes a reference to any sub-committee which discharges any functions of that committee.
- (10) For the purposes of subsection (1)(h), the holder of a position—
- (a) only supervises an individual if he supervises the day-to-day performance of the individual’s duties, and
  - (b) only manages an individual if the individual is directly responsible to him for the performance of his duties or he has authority to dismiss the individual.
- (11) For the purposes of this section, a charity is a children’s charity if the individuals who are workers for the charity normally include individuals working in regulated positions.
- (12) For the purposes of this section, an individual is a worker for a charity if he does work under arrangements made by the charity; but the arrangements referred to in this subsection do not include any arrangements made for purposes which are merely incidental to the purposes for which the charity is established.
- (13) For the purposes of this section, the following are responsible persons in relation to a child—
- (a) the child’s parent or guardian and any adult with whom the child lives,
  - (b) the person in charge of any establishment mentioned in subsection (2) in which the child is accommodated, is a patient or receives education, and any person acting on behalf of such a person,
- [<sup>F28</sup>(c) in relation to England—
- (i) a person registered under Part 3 of the Childcare Act 2006, otherwise than as a childminder, for providing care on premises on which the child is cared for,
  - (ii) a person registered under Part 3 of that Act as a childminder who is providing early years or later years childminding (within the meaning of that Part of that Act) for the child,
- (ca) in relation to Wales, a person registered under Part 10A of the Children Act 1989 for providing day care on premises on which the child is cared for, and]
- (d) any person holding a position mentioned in subsection (6).
- (14) In this section—
- “area committee” has the same meaning as in section 18 of the <sup>M33</sup>Local Government Act 2000,
- “detention” means detention by virtue of an order of a court or under an enactment,
- “education functions”, in relation to a local authority, means any functions with respect to education which are conferred on the authority in its capacity as a local education authority,
- “executive”, in relation to a local authority, has the same meaning as in Part II of the Local Government Act 2000,

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“social services functions”, in relation to a local authority, has the same meaning as in the <sup>M34</sup>Local Authority Social Services Act 1970.

- (15) For the purpose of amending the definition of “regulated position”, the Secretary of State may by order make any amendment of this section (apart from this subsection) which he thinks appropriate.

#### Textual Amendments

- F26** S. 36(6)(fa) inserted (15.11.2004) by Children Act 2004 (c. 31), s. 67(1), **Sch. 1 para. 11**
- F27** S. 36(8)(d) added (14.3.2003) by The Commissioner for Children and Young People (Northern Ireland) Order 2003 (S.I. 2003/439), art. 1(2)(b), **Sch. 2 para. 16** (with art. 27)
- F28** S. 36(13)(c)(ca) substituted for s. 36(13)(c) (6.4.2007) by Childcare Act 2006 (c. 21), s. 109(2), **Sch. 2 para. 39**; S.I. 2007/1019, art. 4 (with art. 6Sch. para. 5)

#### Marginal Citations

- M29** 1989 c. 41.
- M30** S.I. 1972/1265 (N.I. 14).
- M31** S.I. 1991/194 (N.I. 1).
- M32** S.I. 1986/594 (N.I. 3).
- M33** 2000 c. 22.
- M34** 1970 c. 42.

### 37 Disqualification in Scotland or Northern Ireland.

- (1) The Secretary of State may by order provide that section 35 shall apply in relation to an individual falling within subsection (2) as it applies in relation to an individual who is disqualified from working with children.
- (2) An individual falls within this subsection if, under the law of Scotland or Northern Ireland, he is subject to a prohibition or disqualification which, in the opinion of the Secretary of State, corresponds to disqualification (by any of the means mentioned in section 35(4)) from working with children.

### 38 Rehabilitation of offenders.

- (1) Where a disqualification order is made in respect of an individual’s conviction of an offence, the rehabilitation period which, in accordance with section 6 of the <sup>M35</sup>Rehabilitation of Offenders Act 1974, is applicable to the conviction is to be determined as if that order had not been made; and a disqualification order is not a sentence for the purposes of that Act.
- (2) In this section, “conviction” has the same meaning as in that Act.

#### Marginal Citations

- M35** 1974 c. 53.

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### *Indecent conduct towards children*

#### **F29 39 Extension of offence: conduct towards 14 and 15 year olds.**

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#### **Textual Amendments**

**F29** S. 39 repealed (1.5.2004) by [Sexual Offences Act 2003 \(c. 42\)](#), s. 141, Sch. 6 para. 44(2), [Sch. 7](#); S.I. 2004/874, art. 2

#### **40 Extension of corresponding Northern Ireland offence: conduct towards 14 to 16 year olds.**

- (1) The Children and Young Persons Act (Northern Ireland) 1968 is amended as follows.
- (2) At the end of section 22 (indecent conduct towards child) there is inserted—
  - “(2) In this section, “child” means a person under the age of seventeen.”
- (3) In section 180(1) (interpretation), in the definition of “child”—
  - (a) after “ “child”” there is inserted “ , except when used in section 22, ”, and
  - (b) at the end there is inserted “ and, when used in section 22, has the meaning assigned to it by that section ”.

### *Indecent photographs of children: increase of maximum penalties*

#### **41 Indecent photographs of children: increase of maximum penalties.**

- (1) In section 6(2) of the <sup>M36</sup>Protection of Children Act 1978 (punishments), for “three” there is substituted “ ten ”.
- (2) In Article 3(4)(a) of the <sup>M37</sup>Protection of Children (Northern Ireland) Order 1978 (indecent photographs of children), for “three” there is substituted “ ten ”.
- (3) In section 160 of the <sup>M38</sup>Criminal Justice Act 1988 (summary offence of possession of indecent photograph of child)—
  - (a) after subsection (2) there is inserted—
    - “(2A) A person shall be liable on conviction on indictment of an offence under this section to imprisonment for a term not exceeding five years or a fine, or both.”,
  - (b) for the sidenote there is substituted “ Possession of indecent photograph of child ”.
- (4) In Article 15 of the <sup>M39</sup>Criminal Justice (Evidence, etc.) (Northern Ireland) Order 1988 (summary offence of possession of indecent photograph of child)—
  - (a) after paragraph (2) there is inserted—
    - “(2A) A person shall be liable on conviction on indictment of an offence under paragraph (1) to imprisonment for a term not exceeding five years or a fine, or both.”,

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- (b) for the heading there is substituted “ Possession of indecent photograph of child ”.

#### Marginal Citations

**M36** 1978 c. 37.

**M37** S.I. 1978/1047 (N.I. 17).

**M38** 1988 c. 33.

**M39** S.I. 1988/1847 (N.I. 17).

### General

## 42 Interpretation of Part II.

(1) In this Part—

“armed forces offence” means an offence under section 70 of the <sup>M40</sup>Army Act 1955, section 70 of the <sup>M41</sup>Air Force Act 1955 or section 42 of the <sup>M42</sup>Naval Discipline Act 1957,

“care home” has the same meaning as in the <sup>M43</sup>Care Standards Act 2000,

“charity” and “charity trustee” have the same meanings as in the <sup>M44</sup>Charities Act 1993,

“child” means a person under the age of 18,

“children’s home” has—

(a) in relation to England and Wales, the same meaning as in the Care Standards Act 2000,

(b) in relation to Northern Ireland, the meaning which would be given by Article 90(1) of the <sup>M45</sup>Children (Northern Ireland) Order 1995 if, in Article 91(2) of that Order, sub-paragraphs (a), (f) and (g) and the words after sub-paragraph (h) were omitted,

“Class A drug” has the same meaning as in the <sup>M46</sup>Misuse of Drugs Act 1971,

[<sup>F30</sup>“day care premises” means—

(a) in relation to England, premises in respect of which a person is registered, otherwise than as a childminder, under Part 3 of the Childcare Act 2006,

(b) in relation to Wales, premises in respect of which a person is registered under Part 10A of the Children Act 1989 for providing day care,]

“disqualification order” has the meaning given by section 30,

“educational institution” means an institution which is exclusively or mainly for the provision of full-time education to children,

“employment” means paid employment, whether under a contract of service or apprenticeship or under a contract for services,

“hospital” has—

(a) in relation to England and Wales, the meaning given by section 128(1) of [<sup>F31</sup>the National Health Service Act 2006 or the National Health Service (Wales) Act 2006],

(b) in relation to Northern Ireland, the meaning given by Article 2(2) of the <sup>M47</sup>Health and Personal Social Services (Northern Ireland) Order 1972,

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- “local authority” has the same meaning as in the <sup>M48</sup>Education Act 1996,  
 “nursing home” has the meaning given by Article 16 of the <sup>M49</sup>Registered Homes (Northern Ireland) Order 1992,  
 “private hospital” has the meaning given by Article 90(2) of the <sup>M50</sup>Mental Health (Northern Ireland) Order 1986,  
 “residential care home” has the meaning given by Article 3 of the <sup>M51</sup>Registered Homes (Northern Ireland) Order 1992,  
 “the Tribunal” means the tribunal established by section 9 of the <sup>M52</sup>Protection of Children Act 1999,  
 “voluntary home” has the meaning given by Article 74(1) of the <sup>M53</sup>Children (Northern Ireland) Order 1995,  
 “work” includes—
- (a) work of any kind, whether paid or unpaid and whether under a contract of service or apprenticeship, under a contract for services, or otherwise than under a contract, and
  - (b) an office established by or by virtue of an enactment,
- and “working” is to be read accordingly.

- (2) In this Part references, in relation to a suspended sentence, to taking effect are to taking effect by virtue of—
- (a) an order or direction under section 91 of the <sup>M54</sup>Naval Discipline Act 1957 or [<sup>F32</sup>paragraph 8(2)(a) or (b) of Schedule 12 of the Criminal Justice Act 2003], or
  - (b) the determination of the suspension under section 120 of the <sup>M55</sup>Army Act 1955 or section 120 of the <sup>M56</sup>Air Force Act 1955.

#### Textual Amendments

- F30** Words in s. 42(1) substituted (6.4.2007) by [Childcare Act 2006 \(c. 21\), s. 109\(2\), Sch. 2 para. 40](#); [S.I. 2007/1019, art. 4 \(with art. 6Sch. para. 6\)](#)
- F31** Words in s. 42(1) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), s. 8\(2\), Sch. 1 para. 213](#) (with [Sch. 3 Pt. 1](#))
- F32** Words in s. 42(2)(a) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 135](#); [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(36\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122, art. 2](#); and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#); [S.I. 2008/1586, Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111, art. 2](#); (3.12.2012) by [S.I. 2012/2905, art. 4](#); (3.12.2012) by [2012 c. 10, Sch. 14 para. 17](#); [S.I. 2012/2906, art. 2\(1\)](#))

#### Marginal Citations

- M40** 1955 c. 18.  
**M41** 1955 c. 19.  
**M42** 1957 c. 53.  
**M43** 2000 c. 14.  
**M44** 1993 c. 10.  
**M45** [S.I. 1995/755 \(N.I. 2\)](#).  
**M46** 1971 c. 38.  
**M47** [S.I. 1972/1265 \(N.I. 14\)](#).  
**M48** 1996 c. 56.  
**M49** [S.I. 1992/3204 \(N.I. 20\)](#).  
**M50** [S.I. 1986/595 \(N.I. 4\)](#).  
**M51** [S.I. 1992/3204 \(N.I. 20\)](#).

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**M52** 1999 c. 14.

**M53** S.I. 1995/755 (N.I. 2).

**M54** 1957 c. 53.

**M55** 1955 c. 18.

**M56** 1955 c. 19.

## PART III

### DEALING WITH OFFENDERS

#### CHAPTER I

##### COMMUNITY SENTENCES

###### *Renaming certain community orders*

#### **43 Probation orders renamed community rehabilitation orders.**

- (1) An order under subsection (1) of section 41 of the Powers of Criminal Courts (Sentencing) Act 2000 (probation orders), whenever made, is to be referred to as a community rehabilitation order.
- (2) References in any enactment, instrument or document to a community rehabilitation order include (where the context allows) an order under any provision corresponding to that subsection which is repealed by that Act.
- (3) Accordingly—
  - (a) in subsection (2) of that section, for “ “probation order” ” there is substituted “ “community rehabilitation order” ”, but
  - (b) paragraph 1(3) of Schedule 11 to that Act (general transitional provisions) does not apply to that subsection as amended by this.
- (4) References in any enactment, instrument or document to a probation order—
  - (a) are to an order under any provision corresponding to section 41(1) of that Act which is repealed by that Act, and
  - (b) include (where the context allows) an order under that subsection.
- (5) In section 163 of the Powers of Criminal Courts (Sentencing) Act 2000 (general definitions), at the appropriate place there is inserted—
 

“ “community rehabilitation order” has the meaning given by section 43 of the Criminal Justice and Court Services Act 2000”.

#### **44 Community service orders renamed community punishment orders.**

- (1) An order under subsection (1) of section 46 of the Powers of Criminal Courts (Sentencing) Act 2000 (community service orders), whenever made, is to be referred to as a community punishment order.

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- (2) References in any enactment, instrument or document to a community punishment order include (where the context allows) an order under any provision corresponding to that subsection which is repealed by that Act.
- (3) Accordingly—
  - (a) in subsection (2) of that section, for “ “community service order” ” there is substituted “ “community punishment order” ”, but
  - (b) paragraph 1(3) of Schedule 11 to that Act (general transitional provisions) does not apply to that subsection as amended by this.
- (4) References in any enactment, instrument or document to a community service order—
  - (a) are to an order under any provision corresponding to section 46(1) of that Act which is repealed by that Act, and
  - (b) include (where the context allows) an order under that subsection.
- (5) In section 163 of the <sup>M57</sup>Powers of Criminal Courts (Sentencing) Act 2000 (general definitions), in the definition of “community service order”—
  - (a) for “service” there is substituted “punishment ”,
  - (b) for the words from “means” to the first mention of “above” there is substituted “ has the meaning given by section 44 of the Criminal Justice and Court Services Act 2000 ”,
 and that definition is moved to follow the definition of “community order”.

#### Marginal Citations

M57 2000 c. 6.

#### 45 Combination orders renamed community punishment and rehabilitation orders.

- (1) An order under subsection (1) of section 51 of the Powers of Criminal Courts (Sentencing) Act 2000 (combination orders), whenever made, is to be referred to as a community punishment and rehabilitation order.
- (2) References in any enactment, instrument or document to a community punishment and rehabilitation order include (where the context allows) an order under any provision corresponding to that subsection which is repealed by that Act.
- (3) Accordingly—
  - (a) in subsection (2) of that section, for “ “combination order” ” there is substituted “ “community punishment and rehabilitation order” ”, but
  - (b) paragraph 1(3) of Schedule 11 to that Act (general transitional provisions) does not apply to that subsection as amended by this.
- (4) References in any enactment, instrument or document to a combination order—
  - (a) are to an order under any provision corresponding to section 51(1) of that Act which is repealed by that Act, and
  - (b) include (where the context allows) an order under that subsection.
- (5) In section 163 of the Powers of Criminal Courts (Sentencing) Act 2000 (general definitions), at the appropriate place there is inserted—



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““community punishment and rehabilitation order” has the meaning given by section 45 of the Criminal Justice and Court Services Act 2000”.

### *New community orders*

## **46 Exclusion orders.**

After section 40 of the <sup>M58</sup>Powers of Criminal Courts (Sentencing) Act 2000 there is inserted—

### *“ Exclusion orders*

#### **40A Exclusion orders.**

- (1) Where a person is convicted of an offence, the court by or before which he is convicted may (subject to sections 34 to 36 above) make an order prohibiting him from entering a place specified in the order for a period so specified of not more than two years.
- (2) An order under subsection (1) above is in this Act referred to as an “exclusion order”.
- (3) An exclusion order—
  - (a) may provide for the prohibition to operate only during the periods specified in the order;
  - (b) may specify different places for different periods or days.
- (4) In relation to an offender aged under 16 on conviction, subsection (1) above shall have effect as if the reference to two years were a reference to three months.
- (5) The requirements in an exclusion order shall, as far as practicable, be such as to avoid—
  - (a) any conflict with the offender’s religious beliefs or with the requirements of any other community order to which he may be subject; and
  - (b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment.
- (6) An exclusion order shall include provision for making a person responsible for monitoring the offender’s whereabouts during the periods when the prohibition operates; and a person who is made so responsible shall be of a description specified in an order made by the Secretary of State.
- (7) An exclusion order shall specify the petty sessions area in which the offender resides or will reside.
- (8) A court shall not make an exclusion order unless the court has been notified by the Secretary of State that arrangements for monitoring the offender’s whereabouts are available in the area in which the place proposed to be specified in the order is situated and the notice has not been withdrawn.

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*Status: Point in time view as at 06/04/2007. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Criminal Justice and Court Services Act 2000 is up to date with all changes known to be in force on or before 21 July 2023. 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)*

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- (9) Before making an exclusion order in respect of an offender who on conviction is under 16, the court shall obtain and consider information about his family circumstances and the likely effect of such an order on those circumstances.
- (10) Before making an exclusion order, the court shall explain to the offender in ordinary language—
- (a) the effect of the order (including any additional requirements proposed to be included in the order in accordance with section 36B above (electronic monitoring));
  - (b) the consequences which may follow (under Part II of Schedule 3 to this Act) if he fails to comply with any of the requirements of the order; and
  - (c) that the court has power (under Parts III and IV of that Schedule) to review the order on the application of the offender, the responsible officer or any affected person.
- (11) The court by which an exclusion order is made shall—
- (a) give a copy of the order to the offender and the responsible officer; and
  - (b) give to any affected person any information relating to the order which the court considers it appropriate for him to have.
- (12) In this section, “place” includes an area.
- (13) For the purposes of this Act, a person is an affected person in relation to an exclusion order if—
- (a) a requirement under section 36B(1) above is included in the order by virtue of his consent; or
  - (b) a prohibition is included in the order for the purpose (or partly for the purpose) of protecting him from being approached by the offender.
- (14) In this Act, “responsible officer”, in relation to an offender subject to an exclusion order, means the person who is responsible for monitoring the offender’s whereabouts during the periods when the prohibition operates.

#### **40B Breach, revocation and amendment of exclusion orders.**

Schedule 3 to this Act (which makes provision for dealing with failures to comply with the requirements of certain community orders, for revoking such orders with or without the substitution of other sentences and for amending such orders) shall have effect so far as relating to exclusion orders.

#### **40C Exclusion orders: supplementary.**

- (1) The Secretary of State may make rules for regulating—
- (a) the monitoring of the whereabouts of persons who are subject to exclusion orders; and
  - (b) without prejudice to the generality of paragraph (a) above, the functions of persons who are responsible officers in relation to offenders subject to exclusion orders.
- (2) The Secretary of State may by order direct that section 40A(5) above shall have effect with such additional restrictions as may be specified in the order.”

*Status: Point in time view as at 06/04/2007. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Criminal Justice and Court Services Act 2000 is up to date with all changes known to be in force on or before 21 July 2023. 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)*

#### Commencement Information

**I1** S. 46 in force at 2.9.2004 by [S.I. 2004/2171](#), [art. 2](#)

#### Marginal Citations

**M58** [2000 c. 6](#).

### <sup>F33</sup> **47 Drug abstinence orders.**

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#### Textual Amendments

**F33** Ss. 47-51 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 44\(4\)\(t\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), [art. 2](#); and as amended: (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [Sch. 1 paras. 48\(s\)](#), [50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111](#), [art. 2](#); (3.12.2012) by [S.I. 2012/2905](#), [art. 4](#); (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); [S.I. 2012/2906](#), [art. 2\(1\)](#))

#### Commencement Information

**I2** S. 47 wholly in force at 2.7.2001; s. 47 not in force at Royal Assent see s. 80; s. 47 in force for specified purposes at 20.6.2001 and 2.7.2001 insofar as not already in force by [S.I. 2001/2232](#), [art. 2\(a\)](#)

### *Miscellaneous*

### <sup>F33</sup> **48 Pre-sentence drug testing.**

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#### Textual Amendments

**F33** Ss. 47-51 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 44\(4\)\(t\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), [art. 2](#); and as amended: (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [Sch. 1 paras. 48\(s\)](#), [50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111](#), [art. 2](#); (3.12.2012) by [S.I. 2012/2905](#), [art. 4](#); (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); [S.I. 2012/2906](#), [art. 2\(1\)](#))

#### Commencement Information

**I3** S. 48 wholly in force at 2.7.2001; s. 48 not in force at Royal Assent see s. 80; s. 48 in force for specified purposes at 20.6.2001 and 2.7.2001 insofar as not already in force by [S.I. 2001/2232](#), [art. 2\(b\)](#)

### <sup>F33</sup> **49 Community sentences: drug abstinence requirements.**

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*Status: Point in time view as at 06/04/2007. This version of this Act contains provisions that are prospective.*  
**Changes to legislation:** Criminal Justice and Court Services Act 2000 is up to date with all changes known to be in force on or before 21 July 2023. 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)

#### Textual Amendments

**F33** Ss. 47-51 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 44\(4\)\(t\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l))

#### Commencement Information

**I4** S. 49 wholly in force at 2.7.2001; s. 49 not in force at Royal Assent see s. 80; s. 49 in force for specified purposes at 20.6.2001 and 2.7.2001 insofar as not already in force by [S.I. 2001/2232](#), [art. 2\(c\)](#)

### <sup>F33</sup>50 Community sentences: curfew requirements.

#### Textual Amendments

**F33** Ss. 47-51 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 44\(4\)\(t\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l))

#### Commencement Information

**I5** S. 50 wholly in force at 2.7.2001; s. 50 not in force at Royal Assent see s. 80; s. 50 in force for specified purposes at 20.6.2001 and 2.7.2001 insofar as not already in force by [S.I. 2001/2232](#), [art. 2\(d\)](#)

PROSPECTIVE

### <sup>F33</sup>51 Community sentences: exclusion requirements.

#### Textual Amendments

**F33** Ss. 47-51 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 44\(4\)\(t\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l))

### 52 Community sentences: electronic monitoring of requirements.

After section 36A of the <sup>M59</sup>Powers of Criminal Courts (Sentencing) Act 2000 there is inserted—

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### **“36B Electronic monitoring of requirements in community orders.**

- (1) Subject to subsections (2) to (4) below, a community order may include requirements for securing the electronic monitoring of the offender’s compliance with any other requirements imposed by the order.
- (2) A court shall not include in a community order a requirement under subsection (1) above unless the court—
  - (a) has been notified by the Secretary of State that electronic monitoring arrangements are available in the relevant areas specified in subsections (7) to (10) below; and
  - (b) is satisfied that the necessary provision can be made under those arrangements.
- (3) Where—
  - (a) it is proposed to include in an exclusion order a requirement for securing electronic monitoring in accordance with this section; but
  - (b) there is a person (other than the offender) without whose co-operation it will not be practicable to secure the monitoring,
 the requirement shall not be included in the order without that person’s consent.
- (4) Where—
  - (a) it is proposed to include in a community rehabilitation order or a community punishment and rehabilitation order a requirement for securing the electronic monitoring of the offender’s compliance with a requirement such as is mentioned in paragraph 8(1) of Schedule 2 to this Act; but
  - (b) there is a person (other than the offender) without whose co-operation it will not be practicable to secure the monitoring,
 the requirement shall not be included in the order without that person’s consent.
- (5) An order which includes requirements under subsection (1) above shall include provision for making a person responsible for the monitoring; and a person who is made so responsible shall be of a description specified in an order made by the Secretary of State.
- (6) The Secretary of State may make rules for regulating—
  - (a) the electronic monitoring of compliance with requirements included in a community order; and
  - (b) without prejudice to the generality of paragraph (a) above, the functions of persons made responsible for securing the electronic monitoring of compliance with requirements included in the order.
- (7) In the case of a curfew order or an exclusion order, the relevant area is the area in which the place proposed to be specified in the order is situated.
 

In this subsection, “place”, in relation to an exclusion order, has the same meaning as in section 40A below.
- (8) In the case of a community rehabilitation order or a community punishment and rehabilitation order, the relevant areas are each of the following—
  - (a) where it is proposed to include in the order a requirement for securing compliance with a requirement such as is mentioned in sub-

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- paragraph (1) of paragraph 7 of Schedule 2 to this Act, the area mentioned in sub-paragraph (5) of that paragraph;
- (b) where it is proposed to include in the order a requirement for securing compliance with a requirement such as is mentioned in sub-paragraph (1) of paragraph 8 of that Schedule, the area mentioned in sub-paragraph (5) of that paragraph;
- (c) where it is proposed to include in the order a requirement for securing compliance with any other requirement, the area proposed to be specified under section 41(3) below.
- (9) In the case of a community punishment order, a drug treatment and testing order, a drug abstinence order, a supervision order or an action plan order, the relevant area is the petty sessions area proposed to be specified in the order.
- (10) In the case of an attendance centre order, the relevant area is the petty sessions area in which the attendance centre proposed to be specified in the order is situated.”

#### Commencement Information

- I6** S. 52 partly in force; s. 52 not in force at Royal Assent see s. 80; s. 52 in force for specified purposes at 20.6.2001 and 2.7.2001 by [S.I. 2001/2232](#), [art. 2\(e\)](#)
- I7** S. 52 in force at 2.9.2004 for specified purposes by [S.I. 2004/2171](#), [art. 2](#)

#### Marginal Citations

- M59** [2000 c. 6](#).

PROSPECTIVE

#### <sup>F34</sup>**53 Breach of community orders: warning and punishment.**

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#### Textual Amendments

- F34** Ss. 53-55 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 44\(4\)\(t\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [Sch. 1 paras. 48\(s\)](#), [50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(l))

#### <sup>F34</sup>**54 Breach of community orders: failure to answer summons.**

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#### Textual Amendments

- F34** Ss. 53-55 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 44\(4\)\(t\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#),

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art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

### F34 55 Regulation of community orders.

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#### Textual Amendments

**F34** Ss. 53-55 repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 37 Pt. 7; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(t) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

## CHAPTER II

### MISCELLANEOUS

#### *Young offenders: reprimands and warnings*

### 56 Reprimands and warnings.

- (1) In section 65 of the <sup>M60</sup>Crime and Disorder Act 1998 (reprimands and warnings)—
- (a) for subsection (5)(a) there is substituted—
    - “(a) where the offender is under the age of 17, give any reprimand or warning in the presence of an appropriate adult; and”,
  - (b) in subsection (6), after paragraph (a) there is inserted—
    - “(aa) the places where reprimands and warnings may be given”.
- (2) In section 34 of the <sup>M61</sup>Police and Criminal Evidence Act 1984 (limitations on police detention), for subsection (5)(b) there is substituted—
- “(b) that, in respect of any such matter, proceedings may be taken against him or he may be reprimanded or warned under section 65 of the <sup>M62</sup>Crime and Disorder Act 1998”.

#### Marginal Citations

**M60** 1998 c. 37.

**M61** 1984 c. 60.

**M62** 1998 c. 37.

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*Police powers: drugs*

**57 Testing persons in police detention.**

- (1) The <sup>M63</sup>Police and Criminal Evidence Act 1984 is amended in accordance with subsections (2) to (4).
- (2) After section 63A there is inserted—

**“63B Testing for presence of Class A drugs.**

- (1) A sample of urine or a non-intimate sample may be taken from a person in police detention for the purpose of ascertaining whether he has any specified Class A drug in his body if the following conditions are met.
- (2) The first condition is—
- (a) that the person concerned has been charged with a trigger offence; or
  - (b) that the person concerned has been charged with an offence and a police officer of at least the rank of inspector, who has reasonable grounds for suspecting that the misuse by that person of any specified Class A drug caused or contributed to the offence, has authorised the sample to be taken.
- (3) The second condition is that the person concerned has attained the age of 18.
- (4) The third condition is that a police officer has requested the person concerned to give the sample.
- (5) Before requesting the person concerned to give a sample, an officer must—
- (a) warn him that if, when so requested, he fails without good cause to do so he may be liable to prosecution, and
  - (b) in a case within subsection (2)(b) above, inform him of the giving of the authorisation and of the grounds in question.
- (6) A sample may be taken under this section only by a person prescribed by regulations made by the Secretary of State by statutory instrument.

No regulations shall be made under this subsection unless a draft has been laid before, and approved by resolution of, each House of Parliament.

- (7) Information obtained from a sample taken under this section may be disclosed—
- (a) for the purpose of informing any decision about granting bail in criminal proceedings (within the meaning of the <sup>M64</sup>Bail Act 1976) to the person concerned;
  - (b) where the person concerned is in police detention or is remanded in or committed to custody by an order of a court or has been granted such bail, for the purpose of informing any decision about his supervision;
  - (c) where the person concerned is convicted of an offence, for the purpose of informing any decision about the appropriate sentence to be passed by a court and any decision about his supervision or release;
  - (d) for the purpose of ensuring that appropriate advice and treatment is made available to the person concerned.



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- (8) A person who fails without good cause to give any sample which may be taken from him under this section shall be guilty of an offence.

**63C Testing for presence of Class A drugs: supplementary.**

- (1) A person guilty of an offence under section 63B above shall be liable on summary conviction to imprisonment for a term not exceeding three months, or to a fine not exceeding level 4 on the standard scale, or to both.
- (2) A police officer may give an authorisation under section 63B above orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.
- (3) If a sample is taken under section 63B above by virtue of an authorisation, the authorisation and the grounds for the suspicion shall be recorded as soon as is practicable after the sample is taken.
- (4) If the sample is taken from a person detained at a police station, the matters required to be recorded by subsection (3) above shall be recorded in his custody record.
- (5) Subsections (11) and (12) of section 62 above apply for the purposes of section 63B above as they do for the purposes of that section; and section 63B above does not prejudice the generality of sections 62 and 63 above.

- (6) In section 63B above—

“Class A drug” and “misuse” have the same meanings as in the <sup>M65</sup>Misuse of Drugs Act 1971;

“specified” (in relation to a Class A drug) and “trigger offence” have the same meanings as in Part III of the Criminal Justice and Court Services Act 2000.”

- (3) In section 38 (duties of custody officer after charge)—

- (a) in subsection (1)(a), after sub-paragraph (iii) there is inserted—

“(iiia) in the case of a person who has attained the age of 18, the custody officer has reasonable grounds for believing that the detention of the person is necessary to enable a sample to be taken from him under section 63B below”;

- (b) at the end of subsection (2) there is inserted “ but may not authorise a person to be kept in police detention by virtue of subsection (1)(a)(iiia) after the end of the period of six hours beginning when he was charged with the offence ”.

- (4) At the end of section 66 (codes of practice) there is inserted—

“(2) Codes shall (in particular) include provision in connection with the exercise by police officers of powers under section 63B above.”

<sup>F35</sup>(5) .....

**Textual Amendments**

**F35** S. 57(5) repealed (1.12.2005) by [Drugs Act 2005 \(c. 17\)](#), s. 24(3), Sch. 1 para. 5, [Sch. 2](#); S.I. 2005/3053, art. 2(1)(f)

*Status: Point in time view as at 06/04/2007. This version of this Act contains provisions that are prospective.*  
*Changes to legislation: Criminal Justice and Court Services Act 2000 is up to date with all changes known to be in force on or before 21 July 2023. 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)*

#### Commencement Information

- I8** S. 57 partly in force; s. 57 not in force at Royal Assent, see s. 80; s. 57 in force for specified purposes at 20.6.2001, 2.7.2001, 20.5.2002, 2.9.2002 and 1.4.2003 by [S.I. 2001/2232](#), [art. 2\(f\)](#), [S.I. 2001/1149](#), [art. 2](#), [S.I. 2002/1862](#), [art. 2](#) and [S.I. 2003/709](#), [art. 2](#)
- I9** S. 57 in force at 1.4.2004 for specified purposes by [S.I. 2004/780](#), [art. 2](#)
- I10** S. 57 in force at 1.4.2005 for specified purposes by [S.I. 2005/596](#), [art. 2](#)
- I11** S. 57 in force at 1.12.2005 in so far as not already in force by [S.I. 2005/3054](#), [art. 2](#)

#### Marginal Citations

- M63** 1984 c. 60.  
**M64** 1976 c. 63.  
**M65** 1971 c. 38.

### Bail

#### 58 Right to bail: relevance of drug misuse.

In section 4 of the <sup>M66</sup>Bail Act 1976 (general right to bail), after subsection (8) there is inserted—

“(9) In taking any decisions required by Part I or II of Schedule 1 to this Act, the considerations to which the court is to have regard include, so far as relevant, any misuse of controlled drugs by the defendant (“controlled drugs” and “misuse” having the same meanings as in the <sup>M67</sup>Misuse of Drugs Act 1971).”

#### Commencement Information

- I12** S. 58 wholly in force at 2.7.2001; s. 58 not in force at Royal Assent see s. 80; s. 58 in force for specified purposes at 20.6.2001 and 2.7.2001 insofar as not already in force by [S.I. 2001/2232](#), [art. 2\(g\)](#)

#### Marginal Citations

- M66** 1976 c. 63.  
**M67** 1971 c. 38.

### Detention

PROSPECTIVE

#### 59 Remand centres.

In section 43(1) of the <sup>M68</sup>Prison Act 1952 (places of detention provided by Secretary of State), paragraph (a) (remand centres) is to cease to have effect.

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### Marginal Citations

M68 1952 c. 52.

## 60 Life sentences: tariffs.

- (1) After section 82 of the <sup>M69</sup>Powers of Criminal Courts (Sentencing) Act 2000 there is inserted—

### *“ Life sentences*

#### **82A Determination of tariffs.**

- (1) This section applies if a court passes a life sentence in circumstances where—
- (a) the sentence is not fixed by law; or
  - (b) the offender was aged under 18 when he committed the offence.
- (2) The court shall, unless it makes an order under subsection (4) below, order that the provisions of section 28(5) to (8) of the <sup>M70</sup>Crime (Sentences) Act 1997 (referred to in this section as the “early release provisions”) shall apply to the offender as soon as he has served the part of his sentence which is specified in the order.
- (3) The part of his sentence shall be such as the court considers appropriate taking into account—
- (a) the seriousness of the offence, or of the combination of the offence and one or more offences associated with it;
  - (b) the effect of any direction which it would have given under section 87 below (crediting periods of remand in custody) if it had sentenced him to a term of imprisonment; and
  - (c) the early release provisions as compared with sections 33(2) and 35(1) of the <sup>M71</sup>Criminal Justice Act 1991.
- (4) If the court is of the opinion that, because of the seriousness of the offence or of the combination of the offence and one or more offences associated with it, no order should be made under subsection (2) above, the court shall order that, subject to subsection (5) below, the early release provisions shall not apply to the offender.
- (5) If, in a case where an order under subsection (4) above is in force, the offender was aged under 18 when he committed the offence, the Secretary of State shall at the appropriate stage direct that the early release provisions shall apply to the offender as soon as he has served the part of his sentence which is specified in the direction.
- (6) The appropriate stage, for the purposes of subsection (5) above, is when the Secretary of State has formed the opinion, having regard to any factors determined by him to be relevant for the purpose, that it is appropriate for him to give the direction.
- (7) In this section—
- “court” includes a court-martial;

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“life sentence” has the same meaning as in Chapter II of Part II of the <sup>M72</sup>Crime (Sentences) Act 1997.

(8) So far as this section relates to sentences passed by a court-martial, section 167(1) below does not apply.”

(2) In section 90 of the <sup>M73</sup>Powers of Criminal Courts (Sentencing) Act 2000 (offenders who commit murder when under 18: duty to detain at Her Majesty’s pleasure), after “murder” there is inserted “ or any other offence the sentence for which is fixed by law as life imprisonment ”; and, in the sidenote, after “murder” there is inserted “ etc. ”.

(3) This section has effect in relation to sentences passed after the coming into force of this section.

(4) In relation to any time before the coming into force of section 87 of the <sup>M74</sup>Powers of Criminal Courts (Sentencing) Act 2000, section 82A of that Act shall have effect as if, in paragraph (b) of subsection (3), for “of any direction which it would have given under section 87 below (crediting periods of remand in custody)” there were substituted “ which section 67 of the <sup>M75</sup>Criminal <sup>M76</sup> Justice Act 1967 would have had ”.

#### Extent Information

**E9** S. 60 extends to U.K., see s. 81(1)(2)(b)

#### Marginal Citations

**M69** 2000 c. 6.

**M70** 1997 c. 43.

**M71** 1991 c. 53.

**M72** 1997 c. 43.

**M73** 2000 c. 6.

**M74** 2000 c. 6.

**M75** 2000 c. 6.

**M76** 1967 c. 80.

PROSPECTIVE

#### **61 Abolition of sentences of detention in a young offender institution, custody for life, etc.**

(1) No court is to pass a sentence of detention in a young offender institution or a sentence of custody for life, and no court is to make a custodial order except in relation to a person who is aged at least 17 but under 18.

(2) No court is to commit a person to be detained under section 108 of the Powers of Criminal Courts (Sentencing) Act 2000 (detention of persons aged at least 18 but under 21 for default or contempt) or make an order fixing a term of detention under that section.

(3) A person who—

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- (a) has been sentenced (before the coming into force of this section) to a term of detention in a young offender institution, to custody for life or to a custodial order, and
- (b) is aged at least 18 but under 21,
- may be detained in a young offender institution, or in a prison, determined by the Secretary of State.
- (4) A person—
- (a) who has been committed (before the coming into force of this section) to be detained under section 108 of the Powers of Criminal Courts (Sentencing) Act 2000 or in respect of whom an order fixing a term of detention under that section has been made (before the coming into force of this section), and
- (b) who is aged under 21,
- may be detained in a young offender institution, or in a prison, determined by the Secretary of State.
- (5) A person who has been sentenced to imprisonment and is aged under 21 may be detained—
- (a) in a prison, or
- (b) in a young offender institution in which one or more persons mentioned in subsection (3) or (4) are detained,
- determined by the Secretary of State.
- (6) A determination of the Secretary of State under this section may be made in respect of an individual or any description of individuals.
- <sup>F36</sup>(7) .....
- (8) In this section—
- “court” includes a court-martial and a Standing Civilian Court,
- “custodial order” means an order under—
- (a) section 71AA of, or paragraph 10 of Schedule 5A to, the <sup>M77</sup>Army Act 1955,
- (b) section 71AA of, or paragraph 10 of Schedule 5A to, the <sup>M78</sup>Air Force Act 1955,
- (c) section 43AA of, or paragraph 10 of Schedule 4A to, the <sup>M79</sup>Naval Discipline Act 1957.
- (9) On the coming into force of this section—
- (a) paragraph (b) of the definition of “qualifying sentence” in section 30(1), and
- (b) paragraph (b) of the definition of “relevant sentence” in section 69(7),
- are omitted.

#### Extent Information

**E10** S. 61 extends to U.K., see s. 81(1)(2)(c)

#### Textual Amendments

**F36** S. 61(7) repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with ss. 413(4)(5), 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

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### Marginal Citations

**M77** 1955 c. 18.

**M78** 1955 c. 19.

**M79** 1957 c. 53.

### *Release of prisoners on licence etc.*

## **62 Release on licence etc: conditions as to monitoring.**

(1) This section applies where a sentence of imprisonment has been imposed on a person and, by virtue of any enactment—

- (a) the Secretary of State is required to, or may, release the person from prison, and
- (b) the release is required to be, or may be, subject to conditions (whether conditions of a licence or any other conditions, however expressed).

(2) The conditions may include—

- (a) conditions for securing the electronic monitoring of his compliance with any other conditions of his release,
- (b) conditions for securing the electronic monitoring of his whereabouts (otherwise than for the purpose of securing his compliance with other conditions of his release).

[<sup>F37</sup>(3) In relation to a prisoner released under section 246 of the Criminal Justice Act 2003 (power to release prisoners on licence before required to do so), the monitoring referred to in subsection (2)(a) does not include the monitoring of his compliance with conditions imposed under section 253 of that Act (curfew condition).]

(4) The Secretary of State may make rules about the conditions that may be imposed by virtue of this section.

(5) In this section, “sentence of imprisonment” includes—

- (a) a detention and training order,
- (b) a sentence of detention in a young offender institution,
- (c) a sentence of detention under section 90 of the <sup>M80</sup>Powers of Criminal Courts (Sentencing) Act 2000 (detention at Her Majesty’s pleasure),
- (d) a sentence of detention under section 91 of that Act (detention of offenders under 18 convicted of certain serious offences),
- (e) a sentence of custody for life under section 93 or 94 of that Act, [<sup>F38</sup>, and
- (f) a sentence of detention under section 226 or 228 of the Criminal Justice Act 2003]

and “prison” shall be construed accordingly.

### Textual Amendments

**F37** S. 62(3) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 32 para. 136\(2\)](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 42\(36\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l))

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**F38** S. 62(5)(f) and word inserted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 32 para. 136\(3\)](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 42\(36\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l))

#### Marginal Citations

**M80** [2000 c. 6](#).

### **F39** 63 Supervision of young offenders after release.

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#### Textual Amendments

**F39** S. 63 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 44\(4\)\(t\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l))

### **64** Release on licence etc: drug testing requirements.

- (1) This section applies where—
  - (a) the Secretary of State releases from prison a person aged 18 or over on whom a sentence of imprisonment has been imposed for a trigger offence, and
  - (b) the release is subject to conditions (whether conditions of a licence or any other conditions, however expressed).
- (2) For the purpose of determining whether the person is complying with any of the conditions, they may include the following requirement.
- (3) The requirement is that the person must 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 he has any specified Class A drug in his body.
- (4) The function of giving such an instruction is to be exercised in accordance with guidance given from time to time by the Secretary of State; and regulations made by the Secretary of State may regulate the provision of samples in pursuance of such an instruction.
- (5) In this section, “sentence of imprisonment” includes—
  - (a) a detention and training order,
  - (b) a sentence of detention in a young offender institution,
  - (c) a sentence of detention under section 90 of the Powers of Criminal Courts (Sentencing) Act 2000 (detention at Her Majesty’s pleasure),
  - (d) a sentence of detention under section 91 of that Act (detention of offenders under 18 convicted of certain serious offences),
  - (e) a sentence of custody for life under section 93 or 94 of that Act,
 and “prison” shall be construed accordingly.

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#### Commencement Information

- I13** S. 64 wholly in force at 2.7.2001; s. 64 not in force at Royal Assent see s. 80; s. 64 in force for specified purposes at 20.6.2001 and 2.7.2001 insofar as not already in force by [S.I. 2001/2232](#), [art. 2\(i\)](#)

#### 65 Short-term prisoners: release subject to curfew conditions.

In section 34A of the <sup>M81</sup>Criminal Justice Act 1991 (power to release short-term prisoners on licence), after subsection (2)(d) there is inserted—

“(da) the prisoner is subject to the notification requirements of Part I of the <sup>M82</sup>Sex Offenders Act 1997;”.

#### Marginal Citations

**M81** 1991 c. 53.

**M82** 1997 c. 51.

#### *Sexual or violent offenders*

#### <sup>F40</sup>66 Amendments of the Sex Offenders Act 1997.

.....

#### Textual Amendments

- F40** S. 66 repealed (1.5.2004) by [Sexual Offences Act 2003 \(c. 42\)](#), s. 141, Sch. 6 para. 44(2), [Sch. 7](#); [S.I. 2004/874](#), [art. 2](#)

#### <sup>F41</sup>67 Arrangements for assessing etc. risks posed by certain offenders.

.....

#### Textual Amendments

- F41** S. 67 repealed (5.4.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 12](#); [S.I. 2004/829](#), [art. 2\(1\)\(2\)\(1\)\(v\)](#) (with [art. 2\(5\)](#))

#### <sup>F42</sup>68 Section 67: interpretation.

.....

#### Textual Amendments

- F42** S. 68 repealed (5.4.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 12](#); [S.I. 2004/829](#), [art. 2\(1\)\(2\)\(1\)\(v\)](#)



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**F43 69 Duties of local probation boards in connection with victims of certain offences.**

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**Textual Amendments**

**F43** S. 69 repealed (1.7.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), s. 60, Sch. 10 para. 55, Sch. 11; S.I. 2005/1705, art. 2(d)(f)

**CHAPTER III**

**SUPPLEMENTARY**

**70 Interpretation, etc.**

- (1) In this Part—
- “Class A drug” has the same meaning as in the <sup>M83</sup>Misuse of Drugs Act 1971,
- “specified”, in relation to a Class A drug, means specified by an order made by the Secretary of State,
- “trigger offence” has the meaning given by Schedule 6.
- (2) The Secretary of State may by order amend Schedule 6 so as to add, modify or omit any description of offence.
- (3) In this Part (except in section 69), references to release include temporary release.
- (4) In section 163 of the <sup>M84</sup>Powers of Criminal Courts (Sentencing) Act 2000 (general definitions), at the appropriate places there are inserted—
- ““specified Class A drug” has the same meaning as in Part III of the Criminal Justice and Court Services Act 2000”,
- ““trigger offence” has the same meaning as in Part III of the Criminal Justice and Court Services Act 2000”.
- (5) Section 53 does not apply in relation to [<sup>F44</sup>a curfew order, an exclusion order, a community rehabilitation order, a community punishment order, a community punishment and rehabilitation order, a drug treatment and testing order, a drug abstinence order, an attendance centre order, a supervision order or an action plan order] made before that section comes into force.

**Textual Amendments**

**F44** Words in s. 70(5) substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 32 para. 138; S.I. 2005/950, art. 2(1), Sch. 1 para. 42(36) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

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#### Commencement Information

- I14** S. 70 wholly in force at 2.7.2001; s. 70 not in force at Royal Assent see s. 80; s. 70 in force for specified purposes at 20.6.2001 and 2.7.2001 insofar as not already in force by [S.I. 2001/2232](#), [art. 2\(j\)](#)

#### Marginal Citations

**M83** 1971 c. 38.

**M84** 2000 c. 6.

## PART IV

### GENERAL AND SUPPLEMENTARY

#### CHAPTER I

##### GENERAL

#### 71 Access to driver licensing records.

- (1) The Secretary of State may make any information held by him for the purposes of Part III of the <sup>M85</sup>Road Traffic Act 1988 available to the [<sup>F45</sup>National Policing Improvement Agency] for use by constables [<sup>F46</sup>and members of the staff of the Serious Organised Crime Agency].
- (2) In respect of any information made available to the [<sup>F47</sup>National Policing Improvement Agency] under subsection (1), the Secretary of State may by regulations—
  - (a) determine the purposes for which constables [<sup>F48</sup>and members of the staff of the Serious Organised Crime Agency] may be given access to the information,
  - (b) determine the circumstances in which any of the information to which they have been given access may be further disclosed by them.
- (3) Before making any regulations applying in respect of constables in police forces in Scotland, the Secretary of State must, to the extent to which the regulations will so apply, consult the Scottish Ministers.
- (4) In this section [<sup>F49</sup>—
 

“constables” includes —

  - (a) persons employed by a police authority under section 15(1) of the Police Act 1996 who are under the direction and control of the chief officer of police of the police force maintained by that authority,
  - (b) persons employed by a police authority under section 9(1) of the Police (Scotland) Act 1967 who are under the direction and control of the chief constable of the police force maintained for the authority's area,
  - (c) police support staff (within the meaning of the Police (Northern Ireland) Act 2000), and
  - (d) persons employed by the British Transport Police Authority under section 27(1) of the Railways and Transport Safety Act 2003 who are under the direction and control of the Chief Constable of the British Transport Police Force],

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“information” means information held in any form.

- (5) Section 105(2)(b) of that Act (power by regulations to make particulars with respect to persons who are disqualified etc. available for use by the police) is to cease to have effect.

#### Textual Amendments

- F45** Words in s. 71(1) substituted (1.4.2007) by [Police and Justice Act 2006 \(c. 48\), s. 53\(1\), Sch. 1 para. 75\(2\)](#); S.I. 2007/709, art. 3(a) (with art. 6)
- F46** Words in s. 71(1) inserted (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\), s. 178\(8\), Sch. 4 para. 161](#); S.I. 2006/378, art. 4(1), Sch. para. 10
- F47** Words in s. 71(2) substituted (1.4.2007) by [Police and Justice Act 2006 \(c. 48\), s. 53\(1\), Sch. 1 para. 75\(3\)](#); S.I. 2007/709, art. 3(a) (with art. 6)
- F48** Words in s. 71(2)(a) inserted (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\), s. 178\(8\), Sch. 4 para. 161](#); S.I. 2006/378, art. 4(1), Sch. para. 10
- F49** Words in s. 71(4) inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\), ss. 123\(1\), 178\(8\)](#); S.I. 2005/1521, art. 3(1)(k)

#### Commencement Information

- I15** S. 71 partly in force; s. 71 not in force at Royal Assent see s. 80; s. 71(1)-(4) in force at 29.10.2001 by [S.I. 2001/3385, art. 2](#)

#### Marginal Citations

- M85** 1988 c. 52.

## 72 Failure to secure regular attendance at school.

- (1) In section 444 of the <sup>M86</sup>Education Act 1996 (failure to secure regular attendance at school)—

- (a) after subsection (1) there is inserted—

“(1A) If in the circumstances mentioned in subsection (1) the parent knows that his child is failing to attend regularly at the school and fails without reasonable justification to cause him to do so, he is guilty of an offence.”,

- (b) in subsection (8), for “this section” there is substituted “ subsection (1) ”,

- (c) after that subsection there is inserted—

“(8A) A person guilty of an offence under subsection (1A) is liable on summary conviction—

- (a) to a fine not exceeding level 4 on the standard scale, or  
(b) to imprisonment for a term not exceeding three months,  
or both.

(8B) If, on the trial of an offence under subsection (1A), the court finds the defendant not guilty of that offence but is satisfied that he is guilty of an offence under subsection (1), the court may find him guilty of that offence.”

- (2) This section does not apply to an offence committed before the section comes into force.

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#### Marginal Citations

**M86** 1996 c. 56.

### 73 Parenting orders: responsible officer.

In section 8(8) of the <sup>M87</sup>Crime and Disorder Act 1998 (parenting orders: persons who may be specified as the responsible officer), after paragraph (b) there is inserted—

“(bb) a person nominated by a person appointed as chief education officer under section 532 of the <sup>M88</sup>Education Act 1996”.

#### Marginal Citations

**M87** 1998 c. 37.

**M88** 1996 c. 56.

### 74 Amendments.

Schedule 7 (which makes minor and consequential amendments) is to have effect.

#### Commencement Information

**I16** S. 74 partly in force; s. 74 not in force at Royal Assent see s. 80; s. 74 in force for specified purposes at 20.6.2001 and 2.7.2001 by S.I. 2001/2232, art. 2(k)

**I17** S. 74 in force at 2.9.2004 for specified purposes by S.I. 2004/2171, art. 2

PROSPECTIVE

### 75 Repeals.

The enactments specified in Schedule 8 are repealed to the extent specified.

## CHAPTER II

### SUPPLEMENTARY

### 76 Subordinate legislation.

- (1) This section applies to any power conferred by this Act on <sup>F50</sup>... the Secretary of State to make regulations, rules or an order.
- (2) The power, unless it is a power to make an order under section 19, 20 or 23, shall be exercisable by statutory instrument.
- (3) The power may be exercised so as to make different provision for different purposes or different areas.
- (4) The power includes power to make—

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- (a) any supplementary, incidental or consequential provision, and
  - (b) any transitory, transitional or saving provision,
- which the Minister exercising the power considers necessary or expedient.
- (5) An order—
- (a) making any provision by virtue of section 10, 26(2), 36(15), 57(5) or 70(2), or
  - (b) making any provision by virtue of section 77(2) which adds to, replaces or omits any part of the text of an Act,
- may only be made if a draft of the statutory instrument containing the order has been laid before and approved by resolution of each House of Parliament.
- (6) Any other statutory instrument made in exercise of a power to which this section applies shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) Subsection (6) does not apply to a statutory instrument containing an order—
- (a) revoking an order made by virtue of section 10, or
  - (b) made by virtue only of section 80.

#### Textual Amendments

**F50** Words in s. 76(1) repealed (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 18 Pt. 2](#); S.I. 2006/1014, art. 2(a), Sch. 1 para. 30(b)

## 77 Supplementary and consequential provision, etc.

- (1) <sup>F51</sup>... the Secretary of State may by order make—
- (a) any supplementary, incidental or consequential provision,
  - (b) any transitory, transitional or saving provision,
- which he considers necessary or expedient for the purposes of, in consequence of or for giving full effect to any provision of this Act.
- (2) The provision which may be made under subsection (1) includes provision amending or repealing any enactment, instrument or document.

#### Textual Amendments

**F51** Words in s. 77(1) repealed (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 18 Pt. 2](#); S.I. 2006/1014, art. 2(a), Sch. 1 para. 30(b)

## 78 General interpretation.

- (1) In this Act—
- <sup>F52</sup> ...
- “enactment” includes an enactment contained in subordinate legislation,
  - “functions” includes powers and duties,
  - “local probation board” has the meaning given by section 4,
  - “subordinate legislation” has the same meaning as in the <sup>M89</sup> Interpretation Act 1978.

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(2) In this Act, “enactment” means an enactment whenever passed or made; but in this Part it means—

- (a) an Act passed before, or in the same Session as, this Act, and
- (b) subordinate legislation made before the passing of this Act.

#### Textual Amendments

**F52** Words in s. 78(1) repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 44\(4\)\(t\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l))

#### Marginal Citations

**M89** [1978 c. 30](#).

## 79 Expenses.

There shall be paid out of money provided by Parliament—

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

## 80 Commencement.

- (1) This Act shall come into force on such day as the Lord Chancellor or the Secretary of State may by order appoint.
- (2) Different days may be appointed under this section for different purposes and different areas.
- (3) Subsection (1) does not apply to—
  - (a) sections 19 to 22,
  - (b) section 60,
  - (c) this Chapter,
  - (d) in Schedule 7, paragraphs 15(1)(e) and (2), 18(3)(c)(i) and (4), 22(1)(e) and (2), 25(3)(c)(i) and (4), 29(1)(e) and (2), 32(3)(c)(i) and (4), 135 to 138, 142, 144 to 148 and 203(3) and (4),
  - (e) the repeals mentioned in the note to Schedule 8.

#### Subordinate Legislation Made

**P1** [S. 80](#) power partly exercised: 1.3.2001 appointed for specified provision by [S.I. 2001/340](#), [art. 2](#)  
[S. 80](#) power partly exercised: 1.3.2001 appointed for specified provision by [S.I. 2001/562](#), [art. 2](#)  
[S. 80](#) power partly exercised: 1.4.2001 appointed for specified provisions by [S.I. 2001/919](#), [art. 2](#)  
[S. 80](#) partly exercised: 2.9.2002 appointed for specified provisions by [S.I. 2002/1862](#), [art. 2](#)  
[S. 80](#) power partly exercised: different dates appointed for specified provisions by [S.I. 2001/1651](#), [art. 2](#)  
[S. 80](#) power partly exercised: 31.5.2001 appointed for specified provisions by [S.I. 2001/166](#), [art. 3](#)

*Status: Point in time view as at 06/04/2007. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Criminal Justice and Court Services Act 2000 is up to date with all changes known to be in force on or before 21 July 2023. 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)*

S. 80 power partly exercised: different dates appointed for specified provisions by S.I. 2001/2232, **art. 2**

S. 80 power partly exercised: 29.10.2001 appointed for specified provisions by S.I. 2001/3385, **art. 2**

S. 80 power partly exercised: 20.5.2002 appointed for specified provisions by S.I.2002/1149, **art. 2**

## 81 Extent.

- (1) Subject to the following provisions, this Act extends to England and Wales only.
- (2) Subsection (1) does not apply to—
  - (a) sections 26 to 33, so far as they relate to the making of orders by, or orders made by, courts-martial or the Courts-Martial Appeal Court,
  - (b) section 60, and paragraphs 135 to 138, 142 and 144 to 148 of Schedule 7, so far as they relate to sentences passed by a court-martial,
  - (c) section 61 so far as it relates to sentences passed by a court-martial or a Standing Civilian Court,
  - (d) section 66 and Schedule 5,
  - (e) section 71,
  - (f) this Chapter,
  - (g) paragraphs 17 and 19 of Schedule 2,
  - (h) any amendment by Schedule 7 of the <sup>M90</sup>Army Act 1955, the <sup>M91</sup>Air Force Act 1955 or the <sup>M92</sup>Naval Discipline Act 1957,
  - (i) paragraph 159 of Schedule 7.
- (3) Sections 35, 36 and 41 extend to England and Wales and Northern Ireland.
- (4) Section 40 extends to Northern Ireland only.
- (5) The amendment or repeal by Schedule 7 or 8 of an enactment extending to Scotland or Northern Ireland extends also to Scotland or, as the case may be, Northern Ireland.
- (6) For the purposes of the <sup>M93</sup>Scotland Act 1998, any provision of section 66 and Schedule 5 and, so far as relating to those provisions and extending to Scotland, any provision of this Chapter is to be taken to be a pre-commencement enactment within the meaning of that Act.

### Marginal Citations

**M90** 1955 c. 18.

**M91** 1955 c. 19.

**M92** 1957 c. 53.

**M93** 1998 c. 46.

## 82 Short title.

This Act may be cited as the Criminal Justice and Court Services Act 2000.

**Status:**

Point in time view as at 06/04/2007. This version of this Act contains provisions that are prospective.

**Changes to legislation:**

Criminal Justice and Court Services Act 2000 is up to date with all changes known to be in force on or before 21 July 2023. 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.