



Criminal Justice Act 2003

2003 CHAPTER 44

PART 13

MISCELLANEOUS

Detention of suspected terrorists

306 Limit on period of detention without charge of suspected terrorists

- (1) Schedule 8 to the Terrorism Act 2000 (c. 11) (detention) is amended as follows.
- (2) At the beginning of paragraph 29(3) (duration of warrants of further detention) there is inserted “Subject to paragraph 36(3A),”.
- (3) In sub-paragraph (3) of paragraph 36 (extension of warrants)—
 - (a) at the beginning there is inserted “Subject to sub-paragraph (3A),”, and
 - (b) for the words from “beginning” onwards there is substituted “beginning with the relevant time”.
- (4) After that sub-paragraph there is inserted—

“(3A) Where the period specified in a warrant of further detention—

 - (a) ends at the end of the period of seven days beginning with the relevant time, or
 - (b) by virtue of a previous extension (or further extension) under this sub-paragraph, ends after the end of that period,

the specified period may, on an application under this paragraph, be extended or further extended to a period ending not later than the end of the period of fourteen days beginning with the relevant time.
- (3B) In this paragraph “the relevant time”, in relation to a person, means—
 - (a) the time of his arrest under section 41, or

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- (b) if he was being detained under Schedule 7 when he was arrested under section 41, the time when his examination under that Schedule began.”

Enforcement of legislation on endangered species

307 Enforcement of regulations implementing Community legislation on endangered species

- (1) In this section—
- “the 1972 Act” means the European Communities Act 1972 (c. 68);
- “relevant Community instrument” means—
- (a) Council Regulation 338/97/EC on the protection of species of wild fauna and flora by regulating the trade therein, and
- (b) Commission Regulation 1808/01/EC on the implementation of the Council Regulation mentioned in paragraph (a).
- (2) Regulations made under section 2(2) of the 1972 Act for the purpose of implementing any relevant Community instrument may, notwithstanding paragraph 1(1)(d) of Schedule 2 to the 1972 Act, create offences punishable on conviction on indictment with imprisonment for a term not exceeding five years.
- (3) In relation to Scotland and Northern Ireland, regulations made under section 2(2) of the 1972 Act for the purpose of implementing any relevant Community instrument may, notwithstanding paragraph 1(1)(d) of Schedule 2 to the 1972 Act, create offences punishable on summary conviction with imprisonment for a term not exceeding six months.
- (4) In Scotland, a constable may arrest without a warrant a person—
- (a) who has committed or attempted to commit an offence under regulations made under section 2(2) of the 1972 Act for the purpose of implementing any relevant Community instrument, or
- (b) whom he has reasonable grounds for suspecting to have committed or to have attempted to commit such an offence.
- (5) Until the coming into force of paragraph 3 of Schedule 27 (which amends paragraph 1 of Schedule 2 to the 1972 Act), subsection (3) has effect—
- (a) with the omission of the words “in relation to Scotland and Northern Ireland”, and
- (b) as if, in relation to England and Wales, the definition of “relevant Community instrument” also included Council Directive 92/43/EEC on the conservation of natural habitats and wild fauna and flora as amended by the Act of Accession to the European Union of Austria, Finland and Sweden and by Council Directive 97/62/EC.
- (6) Any reference in this section to a Community instrument is to be read—
- (a) as a reference to that instrument as amended from time to time, and
- (b) where any provision of that instrument has been repealed, as including a reference to any instrument that re-enacts the repealed provision (with or without amendment).

Miscellaneous provisions about criminal proceedings

308 Non-appearance of defendant: plea of guilty

In section 12 of the Magistrates' Courts Act 1980 (c. 43) (non-appearance of accused: plea of guilty) subsection (1)(a)(i) (which excludes offences punishable with imprisonment for term exceeding 3 months) is omitted.

309 Preparatory hearings for serious offences not involving fraud

In section 29 of the Criminal Procedure and Investigations Act 1996 (c. 25) (power to order preparatory hearings) in subsection (1) (preparatory hearing may be held in complex or lengthy trial) after “complexity” there is inserted “a case of such seriousness”.

310 Preparatory hearings to deal with severance and joinder of charges

- (1) In section 7(1) of the Criminal Justice Act 1987 (c. 38) (which sets out the purposes of preparatory hearings in fraud cases) after paragraph (d) there is inserted “or
(e) considering questions as to the severance or joinder of charges.”
- (2) In section 9(3) of that Act (determinations as to the admissibility of evidence etc) after paragraph (c) there is inserted “and
(d) any question as to the severance or joinder of charges.”
- (3) In section 9(11) of that Act (appeals against orders or rulings under section 9(3)(b) or (c)) for “or (c)” there is substituted “(c) or (d)”.
- (4) In section 29(2) of the Criminal Procedure and Investigations Act 1996 (purposes of preparatory hearings in non-fraud cases) after paragraph (d) there is inserted—
“(e) considering questions as to the severance or joinder of charges.”
- (5) In section 31(3) of that Act (rulings as to the admissibility of evidence etc) after paragraph (b) there is inserted—
“(c) any question as to the severance or joinder of charges.”

311 Reporting restrictions for preparatory hearings

- (1) The Criminal Justice Act 1987 is amended as follows.
- (2) In paragraphs (a) and (b) of section 11(1) (restrictions on reporting) for “Great Britain” there is substituted “the United Kingdom”.
- (3) In section 11A (offences in connection with reporting) after subsection (3) there is inserted—
“(3A) Proceedings for an offence under this section shall not be instituted in Northern Ireland otherwise than by or with the consent of the Attorney General for Northern Ireland.”
- (4) In section 17(3) (extent) after “sections 2 and 3;” there is inserted “sections 11 and 11A;”.
- (5) The Criminal Procedure and Investigations Act 1996 (c. 25) is amended as follows.

- (6) In paragraphs (a) and (b) of section 37(1) (restrictions on reporting) for “Great Britain” there is substituted “the United Kingdom”.
- (7) In section 38 (offences in connection with reporting) after subsection (3) there is inserted—
 - “(3A) Proceedings for an offence under this section shall not be instituted in Northern Ireland otherwise than by or with the consent of the Attorney General for Northern Ireland.”
- (8) In paragraphs (a) and (b) of section 41(1) (restrictions on reporting) for “Great Britain” there is substituted “the United Kingdom”.
- (9) In section 79(3) (extent) after “Parts III” there is inserted “(other than sections 37 and 38)”.
- (10) In Schedule 4 (modifications for Northern Ireland) paragraph 16 is omitted.

312 Awards of costs

- (1) The Prosecution of Offences Act 1985 (c. 23) is amended as follows.
- (2) In section 16(4A) (defence costs on an appeal under section 9(11) of Criminal Justice Act 1987 (c. 38) may be met out of central funds) after “1987” there is inserted “or section 35(1) of the Criminal Procedure and Investigations Act 1996”.
- (3) In section 18(2) (award of costs against accused in case of dismissal of appeal under section 9(11) of the Criminal Justice Act 1987 etc) after paragraph (c) there is inserted “or
 - (d) an appeal or application for leave to appeal under section 35(1) of the Criminal Procedure and Investigations Act 1996.”

313 Extension of investigations by Criminal Cases Review Commission in England and Wales

- (1) Section 23A of the Criminal Appeal Act 1968 (c. 19) (power to order investigations by Criminal Cases Review Commission) is amended as follows.
- (2) In subsection (1) after “conviction” there is inserted “or an application for leave to appeal against conviction,”.
- (3) In paragraph (a) of that subsection—
 - (a) at the beginning there is inserted “in the case of an appeal,”, and
 - (b) for “case”, in both places where it occurs, there is substituted “appeal”.
- (4) After paragraph (a) of that subsection there is inserted—
 - “(aa) in the case of an application for leave to appeal, the matter is relevant to the determination of the application and ought, if possible, to be resolved before the application is determined;”.
- (5) After that subsection there is inserted—
 - “(1A) A direction under subsection (1) above may not be given by a single judge, notwithstanding that, in the case of an application for leave to appeal, the

application may be determined by a single judge as provided for by section 31 of this Act.”

(6) After subsection (4) there is inserted—

“(5) In this section “respondent” includes a person who will be a respondent if leave to appeal is granted.”

314 Extension of investigations by Criminal Cases Review Commission in Northern Ireland

(1) Section 25A of the Criminal Appeal (Northern Ireland) Act 1980 (c. 47) (power to order investigations by Criminal Cases Review Commission) is amended as follows.

(2) In subsection (1) after “conviction” there is inserted “or an application for leave to appeal against conviction,”.

(3) In paragraph (a) of that subsection—

(a) at the beginning there is inserted “in the case of an appeal,”, and

(b) for “case”, in both places where it occurs, there is substituted “appeal”.

(4) After paragraph (a) of that subsection there is inserted—

“(aa) in the case of an application for leave to appeal, the matter is relevant to the determination of the application and ought, if possible, to be resolved before the application is determined;”.

(5) After that subsection there is inserted—

“(1A) A direction under subsection (1) above may not be given by a single judge, notwithstanding that, in the case of an application for leave to appeal, the application may be determined by a single judge as provided for by section 45 below.”

(6) After subsection (4) there is inserted—

“(5) In this section “respondent” includes a person who will be a respondent if leave to appeal is granted.”

315 Appeals following reference by Criminal Cases Review Commission

(1) Section 14 of the Criminal Appeal Act 1995 (c. 35) (further provision about references by Criminal Cases Review Commission) is amended as follows.

(2) After subsection (4) there is inserted—

“(4A) Subject to subsection (4B), where a reference under section 9 or 10 is treated as an appeal against any conviction, verdict, finding or sentence, the appeal may not be on any ground which is not related to any reason given by the Commission for making the reference.

(4B) The Court of Appeal may give leave for an appeal mentioned in subsection (4A) to be on a ground relating to the conviction, verdict, finding or sentence which is not related to any reason given by the Commission for making the reference.”

(3) In subsection (5) for “any of sections 9 to” there is substituted “section 11 or”.

Status: This is the original version (as it was originally enacted).

316 Power to substitute conviction of alternative offence on appeal in England and Wales

- (1) The Criminal Appeal Act 1968 (c. 19) is amended as follows.
- (2) In section 3 (power to substitute conviction of alternative offence) in subsection (1) after “an offence” there is inserted “to which he did not plead guilty”.
- (3) After section 3 there is inserted—

“3A Power to substitute conviction of alternative offence after guilty plea

- (1) This section applies on an appeal against conviction where—
 - (a) an appellant has been convicted of an offence to which he pleaded guilty,
 - (b) if he had not so pleaded, he could on the indictment have pleaded, or been found, guilty of some other offence, and
 - (c) it appears to the Court of Appeal that the plea of guilty indicates an admission by the appellant of facts which prove him guilty of the other offence.
- (2) The Court of Appeal may, instead of allowing or dismissing the appeal, substitute for the appellant’s plea of guilty a plea of guilty of the other offence and pass such sentence in substitution for the sentence passed at the trial as may be authorised by law for the other offence, not being a sentence of greater severity.”

317 Power to substitute conviction of alternative offence on appeal in Northern Ireland

- (1) The Criminal Appeal (Northern Ireland) Act 1980 (c. 47) is amended as follows.
- (2) In section 3 (power to substitute conviction of alternative offence) in subsection (1) after “an offence” there is inserted “to which he did not plead guilty”.
- (3) After section 3 there is inserted—

“3A Power to substitute conviction of alternative offence after guilty plea

- (1) This section applies where—
 - (a) an appellant has been convicted of an offence to which he pleaded guilty,
 - (b) if he had not so pleaded, he could on the indictment have pleaded, or been found, guilty of some other offence, and
 - (c) it appears to the Court of Appeal that the plea of guilty indicates an admission by the appellant of facts which prove him guilty of that other offence.
- (2) The Court may, instead of allowing or dismissing the appeal, substitute for the appellant’s plea of guilty a plea of guilty of that other offence and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law by the plea so substituted.”

318 Substitution of conviction on different charge on appeal from court-martial

- (1) The Courts-Martial (Appeals) Act 1968 (c. 20) is amended as follows.
- (2) In section 14 (substitution of conviction on different charge) in subsection (1) after “an offence” there is inserted “to which he did not plead guilty”.
- (3) After section 14 there is inserted—

“14A Substitution of conviction on different charge after guilty plea

- (1) This section applies where—
 - (a) an appellant has been convicted of an offence to which he pleaded guilty,
 - (b) if he had not so pleaded, he could lawfully have pleaded, or been found, guilty of some other offence, and
 - (c) it appears to the Appeal Court on an appeal against conviction that the plea of guilty indicates an admission by the appellant of facts which prove him guilty of that other offence.
- (2) The Appeal Court may, instead of allowing or dismissing the appeal, substitute for the appellant’s plea of guilty a plea of guilty of the other offence, and may pass on the appellant, in substitution for the sentence passed on him by the court-martial, such sentence as they think proper, being a sentence warranted by the relevant Service Act for that other offence, but not a sentence of greater severity.”

319 Appeals against sentences in England and Wales

- (1) The Criminal Appeal Act 1968 (c. 19) is amended as follows.
- (2) In section 10 (appeal against sentence in certain cases) for subsection (3) there is substituted—
 - “(3) An offender dealt with for an offence before the Crown Court in a proceeding to which subsection (2) of this section applies may appeal to the Court of Appeal against any sentence passed on him for the offence by the Crown Court.”
- (3) In section 11 (supplementary provisions as to appeal against sentence) after subsection (6) there is inserted—
 - “(7) For the purposes of this section, any two or more sentences are to be treated as passed in the same proceeding if—
 - (a) they are passed on the same day; or
 - (b) they are passed on different days but the court in passing any one of them states that it is treating that one together with the other or others as substantially one sentence.”

Status: This is the original version (as it was originally enacted).

Outraging public decency

320 Offence of outraging public decency triable either way

(1) After paragraph 1 of Schedule 1 to the Magistrates' Courts Act 1980 (c. 43) (offences triable either way by virtue of section 17) there is inserted—

“1A An offence at common law of outraging public decency.”

(2) This section does not apply in relation to any offence committed before the commencement of this section.

Jury service

321 Jury service

Schedule 33 (jury service) shall have effect.

Individual support orders

322 Individual support orders

After section 1A of the Crime and Disorder Act 1998 (c. 37) there is inserted—

“1AA Individual support orders

- (1) Where a court makes an anti-social behaviour order in respect of a defendant who is a child or young person when that order is made, it must consider whether the individual support conditions are fulfilled.
- (2) If it is satisfied that those conditions are fulfilled, the court must make an order under this section (“an individual support order”) which—
 - (a) requires the defendant to comply, for a period not exceeding six months, with such requirements as are specified in the order; and
 - (b) requires the defendant to comply with any directions given by the responsible officer with a view to the implementation of the requirements under paragraph (a) above.
- (3) The individual support conditions are—
 - (a) that an individual support order would be desirable in the interests of preventing any repetition of the kind of behaviour which led to the making of the anti-social behaviour order;
 - (b) that the defendant is not already subject to an individual support order; and
 - (c) that the court has been notified by the Secretary of State that arrangements for implementing individual support orders are available in the area in which it appears to it that the defendant resides or will reside and the notice has not been withdrawn.
- (4) If the court is not satisfied that the individual support conditions are fulfilled, it shall state in open court that it is not so satisfied and why it is not.

- (5) The requirements that may be specified under subsection (2)(a) above are those that the court considers desirable in the interests of preventing any repetition of the kind of behaviour which led to the making of the anti-social behaviour order.
- (6) Requirements included in an individual support order, or directions given under such an order by a responsible officer, may require the defendant to do all or any of the following things—
- (a) to participate in activities specified in the requirements or directions at a time or times so specified;
 - (b) to present himself to a person or persons so specified at a place or places and at a time or times so specified;
 - (c) to comply with any arrangements for his education so specified.
- (7) But requirements included in, or directions given under, such an order may not require the defendant to attend (whether at the same place or at different places) on more than two days in any week; and “week” here means a period of seven days beginning with a Sunday.
- (8) Requirements included in, and directions given under, an individual support order shall, as far as practicable, be such as to avoid—
- (a) any conflict with the defendant’s religious beliefs; and
 - (b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment.
- (9) Before making an individual support order, the court shall obtain from a social worker of a local authority social services department or a member of a youth offending team any information which it considers necessary in order—
- (a) to determine whether the individual support conditions are fulfilled, or
 - (b) to determine what requirements should be imposed by an individual support order if made,
- and shall consider that information.
- (10) In this section and section 1AB below “responsible officer”, in relation to an individual support order, means one of the following who is specified in the order, namely—
- (a) a social worker of a local authority social services department;
 - (b) a person nominated by a person appointed as chief education officer under section 532 of the Education Act 1996 (c. 56);
 - (c) a member of a youth offending team.

1AB Individual support orders: explanation, breach, amendment etc

- (1) Before making an individual support order, the court shall explain to the defendant in ordinary language—
- (a) the effect of the order and of the requirements proposed to be included in it;
 - (b) the consequences which may follow (under subsection (3) below) if he fails to comply with any of those requirements; and

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- (c) that the court has power (under subsection (6) below) to review the order on the application either of the defendant or of the responsible officer.
- (2) The power of the Secretary of State under section 174(4) of the Criminal Justice Act 2003 includes power by order to—
 - (a) prescribe cases in which subsection (1) above does not apply; and
 - (b) prescribe cases in which the explanation referred to in that subsection may be made in the absence of the defendant, or may be provided in written form.
- (3) If the person in respect of whom an individual support order is made fails without reasonable excuse to comply with any requirement included in the order, he is guilty of an offence and liable on summary conviction to a fine not exceeding—
 - (a) if he is aged 14 or over at the date of his conviction, £1,000;
 - (b) if he is aged under 14 then, £250.
- (4) No referral order under section 16(2) or (3) of the Powers of Criminal Courts (Sentencing) Act 2000 (referral of young offenders to youth offender panels) may be made in respect of an offence under subsection (3) above.
- (5) If the anti-social behaviour order as a result of which an individual support order was made ceases to have effect, the individual support order (if it has not previously ceased to have effect) ceases to have effect when the anti-social behaviour order does.
- (6) On an application made by complaint by—
 - (a) the person subject to an individual support order, or
 - (b) the responsible officer,
 the court which made the individual support order may vary or discharge it by a further order.
- (7) If the anti-social behaviour order as a result of which an individual support order was made is varied, the court varying the anti-social behaviour order may by a further order vary or discharge the individual support order.”

323 Individual support orders: consequential amendments

- (1) The Crime and Disorder Act 1998 (c. 37) is amended as mentioned in subsections (2) to (5).
- (2) In section 4 of that Act (appeals against orders)—
 - (a) in subsection (1) after “an anti-social behaviour order” there is inserted “, an individual support order”, and
 - (b) in subsection (3) after “1(8)” there is inserted “, 1AB(6)”.
- (3) In section 18(1) of that Act (interpretation of Chapter 1)—
 - (a) after the definition of “curfew notice” there is inserted—
 - ““individual support order” has the meaning given by section 1AA(2) above;”, and
 - (b) in the definition of “responsible officer”, before paragraph (a) there is inserted—

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- “(za) in relation to an individual support order, has the meaning given by section 1AA(10) above;”.
- (4) In section 18(4) of that Act (cases where social worker or member of a youth offending team to give supervision or directions)—
- (a) after “directions under” there is inserted “an individual support order or”, and
 - (b) for “the child or, as the case may be, the parent” there is substituted “the child, defendant or parent, as the case may be,”.
- (5) In section 38 of that Act (local provision of youth justice services), in subsection (4) (f) after “in relation to” there is inserted “individual support orders,”.
- (6) In section 143(2) (provisions in which sums may be altered) of the Magistrates' Courts Act 1980 (c. 43), after paragraph (d) there is inserted—
- “(da) section 1AB(3) of the Crime and Disorder Act 1998 (failure to comply with individual support order);”.

Parenting orders and referral orders

324 Parenting orders and referral orders

Schedule 34 (parenting orders and referral orders) shall have effect.

Assessing etc. risks posed by sexual or violent offenders

325 Arrangements for assessing etc risks posed by certain offenders

- (1) In this section—
- “relevant sexual or violent offender” has the meaning given by section 327; “responsible authority”, in relation to any area, means the chief officer of police, the local probation board for that area and the Minister of the Crown exercising functions in relation to prisons, acting jointly.
- (2) The responsible authority for each area must establish arrangements for the purpose of assessing and managing the risks posed in that area by—
- (a) relevant sexual and violent offenders, and
 - (b) other persons who, by reason of offences committed by them (wherever committed), are considered by the responsible authority to be persons who may cause serious harm to the public.
- (3) In establishing those arrangements, the responsible authority must act in co-operation with the persons specified in subsection (6); and it is the duty of those persons to co-operate in the establishment by the responsible authority of those arrangements, to the extent that such co-operation is compatible with the exercise by those persons of their functions under any other enactment.
- (4) Co-operation under subsection (3) may include the exchange of information.
- (5) The responsible authority for each area (“the relevant area”) and the persons specified in subsection (6) must together draw up a memorandum setting out the ways in which they are to co-operate.
- (6) The persons referred to in subsections (3) and (5) are—

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- (a) every youth offending team established for an area any part of which falls within the relevant area,
 - (b) the Ministers of the Crown exercising functions in relation to social security, child support, war pensions, employment and training,
 - (c) every local education authority any part of whose area falls within the relevant area,
 - (d) every local housing authority or social services authority any part of whose area falls within the relevant area,
 - (e) every registered social landlord which provides or manages residential accommodation in the relevant area in which persons falling within subsection (2)(a) or (b) reside or may reside,
 - (f) every Health Authority or Strategic Health Authority any part of whose area falls within the relevant area,
 - (g) every Primary Care Trust or Local Health Board any part of whose area falls within the relevant area,
 - (h) every NHS trust any part of whose area falls within the relevant area, and
 - (i) every person who is designated by the Secretary of State by order for the purposes of this paragraph as a provider of electronic monitoring services.
- (7) The Secretary of State may by order amend subsection (6) by adding or removing any person or description of person.
- (8) The Secretary of State may issue guidance to responsible authorities on the discharge of the functions conferred by this section and section 326.
- (9) In this section—
- “local education authority” has the same meaning as in the Education Act 1996 (c. 56);
 - “local housing authority” has the same meaning as in the Housing Act 1985 (c. 68);
 - “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 (c. 26);
 - “NHS trust” has the same meaning as in the National Health Service Act 1977 (c. 49);
 - “prison” has the same meaning as in the Prison Act 1952 (c. 52);
 - “registered social landlord” has the same meaning as in Part 1 of the Housing Act 1996 (c. 52);
 - “social services authority” means a local authority for the purposes of the Local Authority Social Services Act 1970 (c. 42).

326 Review of arrangements

- (1) The responsible authority for each area must keep the arrangements established by it under section 325 under review with a view to monitoring their effectiveness and making any changes to them that appear necessary or expedient.
- (2) The responsible authority for any area must exercise their functions under subsection (1) in consultation with persons appointed by the Secretary of State as lay advisers in relation to that authority.
- (3) The Secretary of State must appoint two lay advisers under subsection (2) in relation to each responsible authority.

- (4) The responsible authority must pay to or in respect of the persons so appointed such allowances as the Secretary of State may determine.
- (5) As soon as practicable after the end of each period of 12 months beginning with 1st April, the responsible authority for each area must—
 - (a) prepare a report on the discharge by it during that period of the functions conferred by section 325 and this section, and
 - (b) publish the report in that area.
- (6) The report must include—
 - (a) details of the arrangements established by the responsible authority, and
 - (b) information of such descriptions as the Secretary of State has notified to the responsible authority that he wishes to be included in the report.

327 Section 325: interpretation

- (1) For the purposes of section 325, a person is a relevant sexual or violent offender if he falls within one or more of subsections (2) to (5).
- (2) A person falls within this subsection if he is subject to the notification requirements of Part 2 of the Sexual Offences Act 2003 (c. 42).
- (3) A person falls within this subsection if—
 - (a) he is convicted by a court in England or Wales of murder or an offence specified in Schedule 15, and
 - (b) one of the following sentences is imposed on him in respect of the conviction—
 - (i) a sentence of imprisonment for a term of 12 months or more,
 - (ii) a sentence of detention in a young offender institution for a term of 12 months or more,
 - (iii) a sentence of detention during Her Majesty's pleasure,
 - (iv) a sentence of detention for public protection under section 226,
 - (v) a sentence of detention for a period of 12 months or more under section 91 of the Sentencing Act (offenders under 18 convicted of certain serious offences),
 - (vi) a sentence of detention under section 228,
 - (vii) a detention and training order for a term of 12 months or more, or
 - (viii) a hospital or guardianship order within the meaning of the Mental Health Act 1983 (c. 20).
- (4) A person falls within this subsection if—
 - (a) he is found not guilty by a court in England and Wales of murder or an offence specified in Schedule 15 by reason of insanity or to be under a disability and to have done the act charged against him in respect of such an offence, and
 - (b) one of the following orders is made in respect of the act charged against him as the offence—
 - (i) an order that he be admitted to hospital, or
 - (ii) a guardianship order within the meaning of the Mental Health Act 1983.
- (5) A person falls within this subsection if—

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- (a) the first condition set out in section 28(2) or 29(2) of the Criminal Justice and Court Services Act 2000 (c. 43) or the second condition set out in section 28(3) or 29(3) of that Act is satisfied in his case, or
 - (b) an order under section 29A of that Act has been made in respect of him.
- (6) In this section “court” does not include a service court, as defined by section 305(1).

Criminal record certificates

328 Criminal record certificates: amendments of Part 5 of Police Act 1997

Schedule 35 (which contains amendments of Part 5 of the Police Act 1997 (c. 50)) shall have effect.

Civil proceedings brought by offenders

329 Civil proceedings for trespass to the person brought by offender

- (1) This section applies where—
- (a) a person (“the claimant”) claims that another person (“the defendant”) did an act amounting to trespass to the claimant’s person, and
 - (b) the claimant has been convicted in the United Kingdom of an imprisonable offence committed on the same occasion as that on which the act is alleged to have been done.
- (2) Civil proceedings relating to the claim may be brought only with the permission of the court.
- (3) The court may give permission for the proceedings to be brought only if there is evidence that either—
- (a) the condition in subsection (5) is not met, or
 - (b) in all the circumstances, the defendant’s act was grossly disproportionate.
- (4) If the court gives permission and the proceedings are brought, it is a defence for the defendant to prove both—
- (a) that the condition in subsection (5) is met, and
 - (b) that, in all the circumstances, his act was not grossly disproportionate.
- (5) The condition referred to in subsection (3)(a) and (4)(a) is that the defendant did the act only because—
- (a) he believed that the claimant—
 - (i) was about to commit an offence,
 - (ii) was in the course of committing an offence, or
 - (iii) had committed an offence immediately beforehand; and
 - (b) he believed that the act was necessary to—
 - (i) defend himself or another person,
 - (ii) protect or recover property,
 - (iii) prevent the commission or continuation of an offence, or
 - (iv) apprehend, or secure the conviction, of the claimant after he had committed an offence;

or was necessary to assist in achieving any of those things.

(6) Subsection (4) is without prejudice to any other defence.

(7) Where—

- (a) in service disciplinary proceedings, as defined by section 305(1), a person has been found guilty of an offence under section 70 of the [Army Act 1955 \(3 & 4 Eliz. 2 c. 18\)](#), section 70 of the [Air Force Act 1955 \(3 & 4 Eliz. 2 c. 19\)](#) or section 42 of the [Naval Discipline Act 1957 \(c. 53\)](#), and
- (b) the corresponding civil offence (within the meaning of that Act) was an imprisonable offence,

he is to be treated for the purposes of this section as having been convicted in the United Kingdom of the corresponding civil offence.

(8) In this section—

- (a) the reference to trespass to the person is a reference to—
 - (i) assault,
 - (ii) battery, or
 - (iii) false imprisonment;
- (b) references to a defendant's belief are to his honest belief, whether or not the belief was also reasonable;
- (c) “court” means the High Court or a county court; and
- (d) “imprisonable offence” means an offence which, in the case of a person aged 18 or over, is punishable by imprisonment.