
Changes to legislation: Domestic Violence, Crime and Victims Act 2004 is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 1

Section 21

MODIFICATION OF SECTIONS 17 TO 20 FOR NORTHERN IRELAND

1 For section 18 substitute—

“18 Procedure for applications under section 17

- (1) An application under section 17 must be determined—
 - (a) at a preparatory hearing (within the meaning of the 1988 Order), or
 - (b) at a hearing specified in, or for which provision is made by, Crown Court rules.
- (2) The parties to a hearing mentioned in subsection (1) at which an application under section 17 is to be determined must be given an opportunity to make representations with respect to the application.
- (3) Article 6(1) of the 1988 Order (which sets out the purposes of preparatory hearings) is to have effect as if the purposes there mentioned included the purpose of determining an application under section 17.
- (4) Article 8(11) of the 1988 Order (appeal to Court of Appeal) is to have effect as if it also provided for an appeal to the Court of Appeal to lie from the determination by a judge of an application under section 17.
- (5) In this section “the 1988 Order” means the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988.

18A Appeals in respect of hearings under section 18(1)(b)

- (1) An appeal shall lie to the Court of Appeal from the refusal by a judge at a hearing mentioned in section 18(1)(b) of an application under section 17 or from an order of a judge at such a hearing under section 17(2) which is made on the determination of such an application.
- (2) Such an appeal may be brought only with the leave of the judge or the Court of Appeal.
- (3) An order or a refusal of an application from which an appeal under this section lies is not to take effect—
 - (a) before the expiration of the period for bringing an appeal under this section, or
 - (b) if such an appeal is brought, before the appeal is finally disposed of or abandoned.
- (4) On the termination of the hearing of an appeal under this section, the Court of Appeal may—
 - (a) where the appeal is from an order, confirm or revoke the order, or

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- (b) where the appeal is from a refusal of an application, confirm the refusal or make the order which is the subject of the application.
- (5) In section 31(1) of the Criminal Appeal (Northern Ireland) Act 1980 (right of appeal to House of Lords) for “Act or” substitute “ Act, section 18A of the Domestic Violence, Crime and Victims Act 2004, ”.
- (6) In section 35 of that Act (bail) after “appeal under” insert “ section 18A of the Domestic Violence, Crime and Victims Act 2004, ”.
- (7) The [^{F1}Department of Justice] may make an order containing provision, in relation to proceedings before the Court of Appeal under this section, which corresponds to any provision, in relation to appeals or other proceedings before that court, which is contained in the Criminal Appeal (Northern Ireland) Act 1980 (subject to any specified modifications).
- (8) ^{F2}.....

18B Reporting restrictions

- (1) Sections 41 and 42 of the Criminal Procedure and Investigations Act 1996 are to apply in relation to—
 - (a) a hearing of the kind mentioned in section 18(1)(b), and
 - (b) any appeal or application for leave to appeal relating to such a hearing,
 as they apply in relation to a ruling under section 40 of that Act, but subject to the following modifications.
- (2) Section 41(2) of that Act is to have effect as if for paragraphs (a) to (d) there were substituted—
 - “(a) a hearing of the kind mentioned in section 18(1)(b) of the Domestic Violence, Crime and Victims Act 2004;
 - (b) any appeal or application for leave to appeal relating to such a hearing.”
- (3) Section 41(3) of that Act is to have effect as if—
 - (a) for “(2)” there were substituted “ (2)(a) or an application to that judge for leave to appeal to the Court of Appeal ”, and
 - (b) after “matter”, in the second place where it occurs, there were inserted “ or application ”.
- (4) Section 41 of that Act is to have effect as if after subsection (3) there were inserted—
 - “(3A) The Court of Appeal may order that subsection (1) shall not apply, or shall not apply to a specified extent, to a report of—
 - (a) an appeal to that Court, or
 - (b) an application to that Court for leave to appeal.
 - (3B) The House of Lords may order that subsection (1) shall not apply, or shall not apply to a specified extent, to a report of—
 - (a) an appeal to that House, or
 - (b) an application to that House for leave to appeal.”

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(5) Section 41(4) of that Act is to have effect as if for “(3) the judge” there were substituted “ (3), (3A) or (3B), the judge, the Court of Appeal or the House of Lords ”.

(6) Section 41(5) of that Act is to have effect as if for “(3) the judge” there were substituted “ (3), (3A) or (3B), the judge, the Court of Appeal or the House of Lords ”.”

Textual Amendments

F1 Sch. 1 para. 1: in s. 18A (as it applies to Northern Ireland), words in subsection (7) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 12, **Sch. 14 para. 86(2)** (with arts. 28-31); S.I. 2010/977, art. 1(2)

F2 Sch. 1 para. 1: in s. 18A (as it applies to Northern Ireland), subsection (8) omitted (12.4.2010) by virtue of The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 12, **Sch. 14 para. 86(2)** (with arts. 28-31); S.I. 2010/977, art. 1(2)

- 2 In section 19(3) after “enactment” insert “ (including any provision of Northern Ireland legislation) ”.
- 3 In section 19(4)(b) for the words from “section” to “etc)” substitute “ section 16(1) of the Criminal Appeal (Northern Ireland) Act 1980 (notice of appeal or application for leave) ”.
- 4 In section 19(5) for “section 18(2) of the Criminal Appeal Act 1968” substitute “ section 16(1) of the Criminal Appeal (Northern Ireland) Act 1980 ”.
- 5 For section 19(7) substitute—
“(7) Nothing in this section or section 17, 18, 18A, 18B or 20 affects the requirement under Article 49A of the Mental Health (Northern Ireland) Order 1986 that any question, finding or verdict mentioned in that Article be determined, made or returned by a jury.”
- 6 For section 20(2) substitute—
“(2) Without limiting subsection (1), rules of court may in particular make provision—
(a) for time limits within which applications under section 17 must be made or within which other things in connection with that section or sections 18 to 19 must be done;
(b) in relation to hearings of the kind mentioned in section 18(1)(b).”
- 7 In section 20(3)—
(a) after “section” insert “ or section 18(1)(b) ”;
(b) after “enactment” insert “ (including any provision of Northern Ireland legislation) ”.

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SCHEDULE 2

Section 24

SUPERVISION ORDERS ON FINDING OF INSANITY OR UNFITNESS TO PLEAD ETC

The following is the Schedule inserted before Schedule 2 to the Criminal Procedure (Insanity) Act 1964 (c. 84)—

“SCHEDULE 1A

Section 5A

SUPERVISION ORDERS

PART 1

PRELIMINARY

- 1 (1) In this Schedule “supervision order” means an order which requires the person in respect of whom it is made (“the supervised person”) to be under the supervision of a social worker or an officer of a local probation board (“the supervising officer”) for a period specified in the order of not more than two years.
- (2) A supervision order may, in accordance with paragraph 4 or 5 below, require the supervised person to submit, during the whole of that period or such part of it as may be specified in the order, to treatment by or under the direction of a registered medical practitioner.
- (3) The Secretary of State may by order direct that sub-paragraph (1) above shall be amended by substituting, for the period for the time being specified there, such period as may be specified in the order.
- (4) An order under sub-paragraph (3) above may make in paragraph 11(2) below any amendment which the Secretary of State thinks necessary in consequence of any substitution made by the order.
- (5) The power of the Secretary of State to make orders under sub-paragraph (3) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

PART 2

MAKING AND EFFECT OF ORDERS

Circumstances in which orders may be made

- 2 (1) The court shall not make a supervision order unless it is satisfied that, having regard to all the circumstances of the case, the making of such an order is the most suitable means of dealing with the accused or appellant.
- (2) The court shall not make a supervision order unless it is also satisfied—
 - (a) that the supervising officer intended to be specified in the order is willing to undertake the supervision; and
 - (b) that arrangements have been made for the treatment intended to be specified in the order.

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Making of orders and general requirements

- 3 (1) A supervision order shall either—
- (a) specify the local social services authority area in which the supervised person resides or will reside, and require him to be under the supervision of a social worker of the local social services authority for that area; or
 - (b) specify the local justice area in which that person resides or will reside, and require him to be under the supervision of an officer of a local probation board appointed for or assigned to that area.
- (2) Before making such an order, the court shall explain to the supervised person in ordinary language—
- (a) the effect of the order (including any requirements proposed to be included in the order in accordance with paragraph 4, 5 or 8 below); and
 - (b) that a magistrates' court has power under paragraphs 9 to 11 below to review the order on the application either of the supervised person or of the supervising officer.
- (3) After making such an order, the court shall forthwith give copies of the order to an officer of a local probation board assigned to the court, and he shall give a copy—
- (a) to the supervised person; and
 - (b) to the supervising officer.
- (4) After making such an order, the court shall also send to the designated officer for the local justice area in which the supervised person resides or will reside (“the local justice area concerned”)—
- (a) a copy of the order; and
 - (b) such documents and information relating to the case as it considers likely to be of assistance to a court acting for that area in the exercise of its functions in relation to the order.
- (5) Where such an order is made, the supervised person shall keep in touch with the supervising officer in accordance with such instructions as he may from time to time be given by that officer and shall notify him of any change of address.

Requirements as to medical treatment

- 4 (1) A supervision order may, if the court is satisfied as mentioned in sub-paragraph (2) below, include a requirement that the supervised person shall submit, during the whole of the period specified in the order or during such part of that period as may be so specified, to treatment by or under the direction of a registered medical practitioner with a view to the improvement of his mental condition.
- (2) The court may impose such a requirement only if satisfied on the written or oral evidence of two or more registered medical practitioners, at least one of whom is duly registered, that the mental condition of the supervised person—
- (a) is such as requires and may be susceptible to treatment; but
 - (b) is not such as to warrant the making of a hospital order within the meaning of the Mental Health Act 1983.
- (3) The treatment required under this paragraph by any such order shall be such one of the following kinds of treatment as may be specified in the order, that is to say—

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- (a) treatment as a non-resident patient at such institution or place as may be specified in the order; and
- (b) treatment by or under the direction of such registered medical practitioner as may be so specified;

but the nature of the treatment shall not be specified in the order except as mentioned in paragraph (a) or (b) above.

Requirements as to medical treatment

- 5 (1) This paragraph applies where the court is satisfied on the written or oral evidence of two or more registered medical practitioners that—
- (a) because of his medical condition, other than his mental condition, the supervised person is likely to pose a risk to himself or others; and
 - (b) the condition may be susceptible to treatment.
- (2) The supervision order may (whether or not it includes a requirement under paragraph 4 above) include a requirement that the supervised person shall submit, during the whole of the period specified in the order or during such part of that period as may be so specified, to treatment by or under the direction of a registered medical practitioner with a view to the improvement of the condition.
- (3) The treatment required under this paragraph by any such order shall be such one of the following kinds of treatment as may be specified in the order, that is to say—
- (a) treatment as a non-resident patient at such institution or place as may be specified in the order; and
 - (b) treatment by or under the direction of such registered medical practitioner as may be so specified;
- but the nature of the treatment shall not be specified in the order except as mentioned in paragraph (a) or (b) above.

Requirements as to medical treatment

- 6 (1) Where the medical practitioner by whom or under whose direction the supervised person is being treated in pursuance of a requirement under paragraph 4 or 5 above is of the opinion that part of the treatment can be better or more conveniently given in or at an institution or place which—
- (a) is not specified in the order, and
 - (b) is one in or at which the treatment of the supervised person will be given by or under the direction of a registered medical practitioner,
- he may, with the consent of the supervised person, make arrangements for him to be treated accordingly.
- (2) Such arrangements may provide for the supervised person to receive part of his treatment as a resident patient in an institution or place of any description.
- (3) Where any such arrangements are made for the treatment of a supervised person—
- (a) the medical practitioner by whom the arrangements are made shall give notice in writing to the supervising officer, specifying the institution or place in or at which the treatment is to be carried out; and
 - (b) the treatment provided for by the arrangements shall be deemed to be treatment to which he is required to submit in pursuance of the supervision order.

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Requirements as to medical treatment

- 7 While the supervised person is under treatment as a resident patient in pursuance of arrangements under paragraph 6 above, the supervising officer shall carry out the supervision to such extent only as may be necessary for the purpose of the revocation or amendment of the order.

Requirements as to residence

- 8 (1) Subject to sub-paragraph (2) below, a supervision order may include requirements as to the residence of the supervised person.
- (2) Before making such an order containing any such requirement, the court shall consider the home surroundings of the supervised person.

PART 3

REVOCATION AND AMENDMENT OF ORDERS

Revocation of order

- 9 (1) Where a supervision order is in force in respect of any person and, on the application of the supervised person or the supervising officer, it appears to a magistrates' court acting for the local justice area concerned that, having regard to circumstances which have arisen since the order was made, it would be in the interests of the health or welfare of the supervised person that the order should be revoked, the court may revoke the order.
- (2) The court by which a supervision order was made may of its own motion revoke the order if, having regard to circumstances which have arisen since the order was made, it considers that it would be inappropriate for the order to continue.

Amendment of order by reason of change of residence

- 10 (1) This paragraph applies where, at any time while a supervision order is in force in respect of any person, a magistrates' court acting for the local justice area concerned is satisfied that the supervised person proposes to change, or has changed, his residence from the area specified in the order to another local social services authority area or local justice area.
- (2) Subject to sub-paragraph (3) below, the court may, and on the application of the supervising officer shall, amend the supervision order by substituting the other area for the area specified in the order.
- (3) The court shall not amend under this paragraph a supervision order which contains requirements which, in the opinion of the court, cannot be complied with unless the supervised person continues to reside in the area specified in the order unless, in accordance with paragraph 11 below, it either—
- (a) cancels those requirements; or
 - (b) substitutes for those requirements other requirements which can be complied with if the supervised person ceases to reside in that area.

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Amendment of requirements of order

- 11 (1) Without prejudice to the provisions of paragraph 10 above, but subject to sub-paragraph (2) below, a magistrates' court for the local justice area concerned may, on the application of the supervised person or the supervising officer, by order amend a supervision order—
- (a) by cancelling any of the requirements of the order; or
 - (b) by inserting in the order (either in addition to or in substitution for any such requirement) any requirement which the court could include if it were the court by which the order was made and were then making it.
- (2) The power of a magistrates' court under sub-paragraph (1) above shall not include power to amend an order by extending the period specified in it beyond the end of two years from the day of the original order.

Amendment of requirements in pursuance of medical report

- 12 (1) Where the medical practitioner by whom or under whose direction the supervised person is being treated for his mental condition in pursuance of any requirement of a supervision order—
- (a) is of the opinion mentioned in sub-paragraph (2) below, or
 - (b) is for any reason unwilling to continue to treat or direct the treatment of the supervised person,
- he shall make a report in writing to that effect to the supervising officer and that officer shall apply under paragraph 11 above to a magistrates' court for the local justice area concerned for the variation or cancellation of the requirement.
- (2) The opinion referred to in sub-paragraph (1) above is—
- (a) that the treatment of the supervised person should be continued beyond the period specified in the supervision order;
 - (b) that the supervised person needs different treatment, being treatment of a kind to which he could be required to submit in pursuance of such an order;
 - (c) that the supervised person is not susceptible to treatment; or
 - (d) that the supervised person does not require further treatment.

Supplemental

- 13 (1) On the making under paragraph 9 above of an order revoking a supervision order, the designated officer for the local justice area concerned, or (as the case may be) the Crown Court, shall forthwith give copies of the revoking order to the supervising officer.
- (2) A supervising officer to whom in accordance with sub-paragraph (1) above copies of a revoking order are given shall give a copy to the supervised person and to the person in charge of any institution in which the supervised person is residing.

Supplemental

- 14 (1) On the making under paragraph 10 or 11 above of any order amending a supervision order, the designated officer for the local justice area concerned shall forthwith—
- (a) if the order amends the supervision order otherwise than by substituting a new area or a new place for the one specified in the supervision order, give copies of the amending order to the supervising officer;

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- (b) if the order amends the supervision order in the manner excepted by paragraph (a) above, send to the designated officer for the new local justice area concerned—
 - (i) copies of the amending order; and
 - (ii) such documents and information relating to the case as he considers likely to be of assistance to a court acting for that area in exercising its functions in relation to the order;and in a case falling within paragraph (b) above, the designated officer for that area shall give copies of the amending order to the supervising officer.
- (2) Where the designated officer for the court making the order is also the designated officer for the new local justice area—
 - (a) sub-paragraph (1)(b) above does not apply; but
 - (b) the designated officers shall give copies of the amending order to the supervising officer.
- (3) Where in accordance with sub-paragraph (1) or (2) above copies of an order are given to the supervising officer, he shall give a copy to the supervised person and to the person in charge of any institution in which the supervised person is or was residing.”

SCHEDULE 3

Section 26

UNFITNESS TO STAND TRIAL AND INSANITY: COURTS-MARTIAL ETC

Army Act 1955 (3 & 4 Eliz. 2 c. 18) and Air Force Act 1955 (3 & 4 Eliz. 2 c. 19)

1 F3

Textual Amendments

F3 Sch. 3 paras. 1-5 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(2), 383(2), [Sch. 17](#); S.I. 2009/812, [art. 3](#); S.I. 2009/1167, [art. 4](#) (and see transitional provisions in S.I. 2009/1059)

2 F4

Textual Amendments

F4 Sch. 3 paras. 1-5 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(2), 383(2), [Sch. 17](#); S.I. 2009/812, [art. 3](#); S.I. 2009/1167, [art. 4](#) (and see transitional provisions in S.I. 2009/1059)

Naval Discipline Act 1957 (c. 53)

3 F5

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Textual Amendments

F5 Sch. 3 paras. 1-5 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(2), 383(2), [Sch. 17](#); S.I. 2009/812, [art. 3](#); S.I. 2009/1167, [art. 4](#) (and see transitional provisions in S.I. 2009/1059)

4 **F6**

Textual Amendments

F6 Sch. 3 paras. 1-5 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(2), 383(2), [Sch. 17](#); S.I. 2009/812, [art. 3](#); S.I. 2009/1167, [art. 4](#) (and see transitional provisions in S.I. 2009/1059)

5 **F7**

Textual Amendments

F7 Sch. 3 paras. 1-5 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(2), 383(2), [Sch. 17](#); S.I. 2009/812, [art. 3](#); S.I. 2009/1167, [art. 4](#) (and see transitional provisions in S.I. 2009/1059)

Courts-Martial (Appeals) Act 1968 (c. 20)

6 The Courts-Martial (Appeals) Act 1968 is amended as follows.

7 For section 16 substitute—

“16 Substitution of finding of insanity or findings of unfitness to stand trial etc.

(1) This section applies where, on an appeal against conviction, the Appeal Court, on the written or oral evidence of two or more registered medical practitioners at least one of whom is duly approved, are of opinion—

- (a) that the proper finding would have been one of not guilty by reason of insanity; or
- (b) that the case is not one where there should have been a finding of not guilty, but that there should have been findings that the accused was unfit to stand trial and that he did the act or made the omission charged against him.

(2) The Appeal Court shall make in respect of the appellant—

- (a) a hospital order (with or without a restriction order);
- (b) a supervision order; or
- (c) an order for his absolute discharge.

(3) Where—

- (a) the offence to which the appeal relates is an offence the sentence for which is fixed by law, and
- (b) the Appeal Court have power to make a hospital order,

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the Appeal Court shall make a hospital order with a restriction order (whether or not they would have power to make a restriction order apart from this subsection).

- (4) The provisions of, or made under, the sections specified below shall apply (with any necessary modifications) in relation to the Appeal Court as they apply in relation to a court-martial.

The sections are—

- (c) where the relevant Service Act is the Army Act, sections 116B to 116D of that Act;
 - (d) where the relevant Service Act is the Air Force Act, sections 116B to 116D of that Act;
 - (e) where the relevant Service Act is the Naval Discipline Act, sections 63B to 63D of that Act.
- (5) Where the Appeal Court make an interim hospital order by virtue of this section—
- (a) the power of renewing or terminating it and of dealing with the appellant on its termination shall be exercisable by a judicial officer and not by the Appeal Court; and
 - (b) section 38(7) of the Mental Health Act 1983 (absconding offenders) shall have effect as if the reference to the court that made the order were a reference to a judicial officer.
- (6) Where the Appeal Court make a supervision order by virtue of this section, any power of revoking or amending it shall be exercisable by a judicial officer and not by the Appeal Court.”

8 In section 21 (appeal against finding of not guilty by reason of insanity), in
subsection (1), after “except” insert “ section 8(2) and ”.

9 F8

Textual Amendments
F8 Sch. 3 para. 9 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(2), 383(2), [Sch. 17](#); S.I. 2009/812, [art. 3](#); S.I. 2009/1167, [art. 4](#) (and see transitional provisions in S.I. 2009/1059)

10 F9

Textual Amendments
F9 Sch. 3 para. 10 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(2), 383(2), [Sch. 17](#); S.I. 2009/812, [art. 3](#); S.I. 2009/1167, [art. 4](#) (and see transitional provisions in S.I. 2009/1059)

11 (1) Section 24 (appeal against finding of unfitness to stand trial) is amended as follows.

(2) In subsection (1)—

- (a) for “his trial” substitute “ trial and to have done the act or made the omission charged against him ”;

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(b) for “the finding” substitute “ either or both of those findings ”.

(3) In subsection (2), after “except” insert “ section 8(2) and ”.

12 For section 25 substitute—

“25 Disposal of appeal under s. 24

(1) This section applies to appeals under section 24 of this Act.

(2) Where the Appeal Court allow an appeal against a finding that the appellant is unfit to stand trial—

- (a) the appellant may be tried accordingly for the offence with which he was charged; and
- (b) the Court may make such orders as appear to them necessary or expedient pending any such trial for the custody, release or continued detention of the appellant.

(3) Where, otherwise than in a case falling within subsection (2) above, the Appeal Court allow an appeal against a finding that the appellant did the act or made the omission charged against him, the Court shall, in addition to quashing the finding, direct a finding of not guilty to be recorded (but not a finding of not guilty by reason of insanity).”

13 After that section insert—

“Appeal against order made in cases of insanity or unfitness to stand trial
Right of appeal against hospital order etc.

25A Right of appeal against hospital order etc.

(1) A person in whose case a court-martial—

- (a) makes a hospital order or interim hospital order by virtue of the relevant Service Act, or
 - (b) makes a supervision order under the relevant Service Act,
- may appeal to the Appeal Court against the order.

(2) An appeal under this section lies only with the leave of the Appeal Court.
Disposal of appeal under s. 25A

25B Disposal of appeal under s. 25A

(1) If on an appeal under section 25A of this Act the Appeal Court consider that the appellant should be dealt with differently from the way in which the court below dealt with him—

- (a) they may quash any order which is the subject of the appeal; and
- (b) they may make such order, whether by substitution for the original order or by variation of or addition to it, as they think appropriate for the case and as the court below had power to make.

(2) The fact that an appeal is pending against an interim hospital order under the Mental Health Act 1983 shall not affect the power of the court below to renew or terminate the order or deal with the appellant on its termination.

Changes to legislation: Domestic Violence, Crime and Victims Act 2004 is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (3) Where the Appeal Court make an interim hospital order by virtue of this section—
 - (a) the power of renewing or terminating it and of dealing with the appellant on its termination shall be exercisable by a judicial officer and not by the Appeal Court; and
 - (b) section 38(7) of the said Act of 1983 (absconding offenders) shall have effect as if the reference to the court that made the order were a reference to a judicial officer.
- (4) The fact that an appeal is pending against a supervision order under the relevant Service Act shall not affect any power conferred on any other court to revoke or amend the order.
- (5) Where the Appeal Court make a supervision order by virtue of this section, any power of revoking or amending it shall be exercisable by a judicial officer and not by the Appeal Court.”

- 14 (1) Section 57 (interpretation) is amended as follows.
- (2) In subsection (1) insert at the relevant places—

““duly approved” means approved for the purposes of section 12 of the Mental Health Act 1983 by the Secretary of State as having special experience in the diagnosis and treatment of mental disorder (within the meaning of that Act);”;

““hospital order” has the meaning given in section 37 of the Mental Health Act 1983;”;

““interim hospital order” has the meaning given in section 38 of that Act;”;

““judicial officer” has the same meaning as in the relevant Service Act;”;

““restriction order” has the meaning given to it by section 41 of the Mental Health Act 1983;”;

““supervision order” means an order which requires the person in respect of whom it is made to be under the supervision of another person for a period specified in the order of not more than two years.”

- (3) ^{F10}

Textual Amendments

F10 Sch. 3 para. 14(3) repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(2), 383(2), [Sch. 17](#); S.I. 2009/812, [art. 3](#); S.I. 2009/1167, [art. 4](#) (and see transitional provisions in S.I. 2009/1059)

Changes to legislation: Domestic Violence, Crime and Victims Act 2004 is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Textual Amendments

F11 Sch. 3 para. 15 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(2), 383(2), [Sch. 17](#); S.I. 2009/812, [art. 3](#); S.I. 2009/1167, [art. 4](#) (and see transitional provisions in S.I. 2009/1059)

SCHEDULE 4

Section 27

POWERS OF AUTHORISED OFFICERS EXECUTING WARRANTS

The following is the Schedule inserted after Schedule 4 to the Magistrates' Courts Act 1980 (c. 43)—

“SCHEDULE 4A

Section 125BA

POWERS OF AUTHORISED OFFICERS EXECUTING WARRANTS

Meaning of “authorised officer” etc

1 In this Schedule—

“authorised officer”, in relation to a warrant, means a person who is entitled to execute the warrant by virtue of—

- (a) section 125A of this Act (civilian enforcement officers); or
- (b) section 125B of this Act (approved enforcement agencies);

“premises” includes any place and, in particular, includes—

- (a) any vehicle, vessel, aircraft or hovercraft;
- (b) any offshore installation within the meaning of the Mineral Workings (Offshore Installations) Act 1971; and
- (c) any tent or movable structure.

Entry to execute warrant of arrest etc

2 (1) An authorised officer may enter and search any premises for the purpose of executing a warrant of arrest, commitment or detention issued in proceedings for or in connection with any criminal offence.

(2) The power may be exercised—

- (a) only to the extent that it is reasonably required for that purpose; and
- (b) only if the officer has reasonable grounds for believing that the person whom he is seeking is on the premises.

(3) In relation to premises consisting of two or more separate dwellings, the power is limited to entering and searching—

- (a) any parts of the premises which the occupiers of any dwelling comprised in the premises use in common with the occupiers of any other such dwelling; and
- (b) any such dwelling in which the officer has reasonable grounds for believing that the person whom he is seeking may be.

Changes to legislation: Domestic Violence, Crime and Victims Act 2004 is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Entry to levy distress

- 3 (1) An authorised officer may enter and search any premises for the purpose of executing a warrant of distress issued under section 76 of this Act for default in paying a sum adjudged to be paid by a conviction.
- (2) The power may be exercised only to the extent that it is reasonably required for that purpose.

Searching arrested persons

- 4 (1) This paragraph applies where a person is arrested in pursuance of a warrant of arrest, commitment or detention issued in proceedings for or in connection with any criminal offence.
- (2) An authorised officer may search the arrested person, if he has reasonable grounds for believing that the arrested person may present a danger to himself or others.
- (3) An authorised officer may also search the arrested person for anything which he might use to assist him to escape from lawful custody.
- (4) The power conferred by sub-paragraph (3) above may be exercised—
- (a) only if the officer has reasonable grounds for believing that the arrested person may have concealed on him anything of a kind mentioned in that sub-paragraph; and
 - (b) only to the extent that it is reasonably required for the purpose of discovering any such thing.
- (5) The powers conferred by this paragraph to search a person are not to be read as authorising the officer to require a person to remove any of his clothing in public other than an outer coat, a jacket or gloves; but they do authorise the search of a person's mouth.
- (6) An officer searching a person under sub-paragraph (2) above may seize and retain anything he finds, if the officer has reasonable grounds for believing that the person searched might use it to cause physical injury to himself or to any other person.
- (7) An officer searching a person under sub-paragraph (3) above may seize and retain anything he finds, if he has reasonable grounds for believing that the person might use it to assist him to escape from lawful custody.

Use of force

- 5 An authorised officer may use reasonable force, if necessary, in the exercise of a power conferred on him by this Schedule.”

SCHEDULE 5

Section 29

PROCEDURE ON BREACH OF COMMUNITY PENALTY ETC

Interpretation

- 1 In this Schedule—

Changes to legislation: *Domestic Violence, Crime and Victims Act 2004 is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

“the Sentencing Act” means the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6);

“the 2003 Act” means the Criminal Justice Act 2003 (c. 44).

Detention and training orders

F12₂

Textual Amendments

F12 Sch. 5 para. 2 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2 (see also [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), ss. 1, 5(2)(3))

Suspended sentence supervision orders

3 (1) Section 123 of the Sentencing Act (breach of requirement of suspended sentence supervision order) is amended as follows.

(2) In subsection (1) (issue of summons or warrant by justice of the peace) omit the words “acting for the [F13]local justice area] for the time being specified in the order”.

(3) For subsection (2) substitute—

“(2) Any summons or warrant issued under this section shall direct the offender to appear or be brought—

(a) before a magistrates' court for the [F14]local justice area] in which the offender resides; or

(b) if it is not known where the offender resides, before a magistrates' court [F15]acting in the local justice area] for the time being specified in the suspended sentence supervision order.”

(4) After subsection (4) insert—

“(5) Where a magistrates' court dealing with an offender under this section would not otherwise have the power to amend the suspended sentence supervision order under section 124(3) below (amendment by reason of change of residence), that provision has effect as if the reference to a magistrates' court [F16]acting in the local justice area] for the time being specified in the suspended sentence supervision order were a reference to the court dealing with the offender.”

Textual Amendments

F13 Words in Sch. 5 para. 3(2) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), arts, 1, 2, {Sch. para. 113(b)(i)}

F14 Words in Sch. 5 para. 3(3) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), arts, 1, 2, {Sch. para. 113(b)(ii)}

F15 Words in Sch. 5 para. 3(3) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), arts, 1, 2, {Sch. para. 113(b)(ii)}

Changes to legislation: *Domestic Violence, Crime and Victims Act 2004* is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

F16 Words in Sch. 5 para. 3(4) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), arts, 1, 2, {Sch. para. 113(b)(iii)}

Community orders under the Sentencing Act

- 4 (1) Schedule 3 to the Sentencing Act (breach, revocation and amendment of certain community orders), as it has effect on the day on which this Act is passed, is amended as follows.
- (2) In paragraph 3(1) (issue of summons or warrant by justice of the peace) omit the words “ [F17 acting in the local justice area] concerned”.
- (3) In paragraph 3(2) (court before which offender to appear or be brought), for paragraph (c) substitute—
- “(c) in the case of a relevant order which is not an order to which paragraph (a) or (b) applies, before a magistrates' court [F17 acting in the local justice area] in which the offender resides or, if it is not known where he resides, before a magistrates' court [F17 acting in the local justice area] concerned.”
- (4) In paragraph 4 (powers of magistrates' court to deal with breach), after sub-paragraph (3) insert—
- “(3A) Where a magistrates' court dealing with an offender under sub-paragraph (1) (a), (b) or (c) above would not otherwise have the power to amend the relevant order under paragraph 18 below (amendment by reason of change of residence), that paragraph has effect as if the reference to a magistrates' court [F17 acting in the local justice area] concerned were a reference to the court dealing with the offender.”

Textual Amendments

F17 Words in Sch. 5 para. 4 substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), arts, 1, 2, {Sch. para. 113(c)}

Curfew orders and exclusion orders

- 5 (1) Schedule 3 to the Sentencing Act (breach, revocation and amendment of curfew orders and exclusion orders), as substituted by paragraph 125 of Schedule 32 to the 2003 Act, is amended as follows.
- (2) In paragraph 3(1) (issue of summons or warrant by justice of the peace) omit the words “ [F18 acting in the local justice area] concerned”.
- (3) In paragraph 3(2) (court before which offender to appear or be brought), for paragraph (b) substitute—
- “(b) in the case of a relevant order which is not an order to which paragraph (a) above applies, before a magistrates' court [F18 acting in the local justice area] in which the offender resides or, if it is not known where he resides, before a magistrates' court [F18 acting in the local justice area] concerned.”

Changes to legislation: *Domestic Violence, Crime and Victims Act 2004 is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (4) In paragraph 4 (powers of magistrates' court to deal with breach), after sub-paragraph (4) insert—

“(4A) Where a magistrates' court dealing with an offender under sub-paragraph (2) (a) or (b) above would not otherwise have the power to amend the relevant order under paragraph 15 below (amendment by reason of change of residence), that paragraph has effect as if the reference to a magistrates' court [^{F18}acting in the local justice area] concerned were a reference to the court dealing with the offender.”

Textual Amendments

F18 Words in Sch. 5 para. 5 substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), arts, 1, 2, {Sch. para. 113(c)}

Attendance centre orders

- 6 (1) Schedule 5 to the Sentencing Act (breach, revocation and amendment of attendance centre orders) is amended as follows.

- (2) In paragraph 1(1) (issue of summons or warrant by justice of the peace), omit the words—

- (a) “acting for a relevant [^{F19}local justice area]”;
- (b) “before a magistrates' court [^{F20}acting in the area]”;
- (c) “requiring him to be brought before such a court”.

- (3) For paragraph 1(2) substitute—

“(2) Any summons or warrant issued under this paragraph shall direct the offender to appear or be brought—

- (a) before a magistrates' court [^{F21}acting in the local justice area] in which the offender resides; or
- (b) if it is not known where the offender resides, before a magistrates' court [^{F21}acting in the local justice area] in which is situated the attendance centre which the offender is required to attend by the order or by virtue of an order under paragraph 5(1)(b) below.”

- (4) In paragraph 2 (powers of magistrates' court to deal with breach), after sub-paragraph (5) insert—

“(5A) Where a magistrates' court dealing with an offender under sub-paragraph (1) (a) above would not otherwise have the power to amend the order under paragraph 5(1)(b) below (substitution of different attendance centre), that paragraph has effect as if references to an appropriate magistrates' court were references to the court dealing with the offender.”

Textual Amendments

F19 Words in Sch. 5 para. 6(2) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), arts, 1, 2, {Sch. para. 113(d)(i)}

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- F20** Words in Sch. 5 para. 6(2) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), arts, 1, 2, {Sch. para. 113(d)(i)}
- F21** Words in Sch. 5 para. 6(3) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), arts, 1, 2, {Sch. para. 113(d)(ii)}

Community orders under the 2003 Act

F227

Textual Amendments

- F22** Sch. 5 paras. 7-9 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 (see also [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), ss. 1, 5(2)(3))

Suspended sentence orders under the 2003 Act

F228

Textual Amendments

- F22** Sch. 5 paras. 7-9 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 (see also [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), ss. 1, 5(2)(3))

F229

Textual Amendments

- F22** Sch. 5 paras. 7-9 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 (see also [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), ss. 1, 5(2)(3))

Local justice areas

- 10 The power conferred by section 109(5)(b) of the Courts Act 2003 (c. 39) to amend or repeal any enactment, other than one contained in an Act passed in a later session, includes power to amend any such enactment as amended by this Schedule, but only for the purpose of making consequential provision in connection with the establishment of local justice areas under section 8 of that Act.

.....

Changes to legislation: Domestic Violence, Crime and Victims Act 2004 is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Textual Amendments

F23 Sch. 6 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), s. 151(1), [Sch. 10 para. 40\(2\)](#); S.I. 2012/2906, art. 2(h)

SCHEDULE 7

Section 47

INVESTIGATIONS BY PARLIAMENTARY COMMISSIONER

- 1 The Parliamentary Commissioner Act 1967 (c. 13) is amended as follows.
- 2 (1) Section 5 (matters subject to investigation) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) Subsection (1C) of this section applies if—
- (a) a written complaint is duly made to a member of the House of Commons by a member of the public who claims that a person has failed to perform a relevant duty owed by him to the member of the public, and
- (b) the complaint is referred to the Commissioner, with the consent of the person who made it, by a member of the House of Commons with a request to conduct an investigation into it.
- (1B) For the purposes of subsection (1A) of this section a relevant duty is a duty imposed by any of these—
- (a) a code of practice issued under section 32 of the Domestic Violence, Crime and Victims Act 2004 (code of practice for victims), or
- (b) sections 35 to 44 of that Act (duties of local probation boards in connection with victims of sexual or violent offences).
- (1C) If this subsection applies, the Commissioner may investigate the complaint.”
- (3) In subsection (3) for “investigation under this Act” substitute “ investigation under subsection (1) of this section ”.
- (4) After subsection (4) insert—
- “(4A) Without prejudice to subsection (2) of this section, the Commissioner shall not conduct an investigation pursuant to a complaint under subsection (1A) of this section in respect of—
- (a) action taken by or with the authority of the Secretary of State for the purposes of protecting the security of the State, including action so taken with respect to passports, or
- (b) any action or matter described in any of paragraphs 1 to 4 and 6A to 11 of Schedule 3 to this Act.
- (4B) Her Majesty may by Order in Council amend subsection (4A) of this section so as to exclude from paragraph (a) or (b) of that subsection such actions or matters as may be described in the Order.

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- (4C) Any statutory instrument made by virtue of subsection (4B) of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.”
- 3 (1) Section 7 (procedure in respect of investigations) is amended as follows.
- (2) In subsection (1) after “complaint under” insert “ section 5(1) of ”.
- (3) After subsection (1) insert—
- “(1A) Where the Commissioner proposes to conduct an investigation pursuant to a complaint under section 5(1A) of this Act, he shall give the person to whom the complaint relates an opportunity to comment on any allegations contained in the complaint.”
- (4) In subsection (2) for “such investigation” substitute “ investigation under this Act ”.
- (5) In subsection (4)—
- (a) after “authority concerned” insert “ or the person to whom the complaint relates ”;
- (b) for “that department or authority” substitute “ that department, authority or person ”.
- 4 (1) Section 8 (evidence) is amended as follows.
- (2) In subsection (1) after “investigation under” insert “ section 5(1) of ”.
- (3) After subsection (1) insert—
- “(1A) For the purposes of an investigation pursuant to a complaint under section 5(1A) of this Act the Commissioner may require any person who in his opinion is able to furnish information or produce documents relevant to the investigation to furnish any such information or produce any such document.”
- (4) In subsection (2) for “such investigation” substitute “ investigation under this Act ”.
- 5 (1) Section 10 (reports by Commissioner) is amended as follows.
- (2) In subsection (2), after “investigation under” insert “ section 5(1) of ”.
- (3) After subsection (2) insert—
- “(2A) In any case where the Commissioner conducts an investigation pursuant to a complaint under section 5(1A) of this Act, he shall also send a report of the results of the investigation to the person to whom the complaint relates.”
- (4) In subsection (3) after “investigation under” insert “ section 5(1) of ”.
- (5) After subsection (3) insert—
- “(3A) If, after conducting an investigation pursuant to a complaint under section 5(1A) of this Act, it appears to the Commissioner that—
- (a) the person to whom the complaint relates has failed to perform a relevant duty owed by him to the person aggrieved, and
- (b) the failure has not been, or will not be, remedied,
- the Commissioner may, if he thinks fit, lay before each House of Parliament a special report upon the case.

Changes to legislation: Domestic Violence, Crime and Victims Act 2004 is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(3B) For the purposes of subsection (3A) of this section “relevant duty” has the meaning given by section 5(1B) of this Act.”

(6) In subsection (5)(d) after “subsection (2)” insert “ or (2A) ”.

6 In section 12(1) (interpretation) for the definition of “person aggrieved” substitute—

““person aggrieved”—

- (a) in relation to a complaint under section 5(1) of this Act, means the person who claims or is alleged to have sustained such injustice as is mentioned in section 5(1)(a) of this Act;
- (b) in relation to a complaint under section 5(1A) of this Act, means the person to whom the duty referred to in section 5(1A)(a) of this Act is or is alleged to be owed;”.

F24F24 SCHEDULE 8

Textual Amendments

F24 Sch. 8 repealed (immediately before 1.2.2010) by Coroners and Justice Act 2009 (c. 25), ss. 142(6), 178, 182(5), Sch. 23 Pt. 5 (with s. 180); S.I. 2010/145, art. 2(1)

F24

SCHEDULE 9

Section 53

AUTHORITIES WITHIN COMMISSIONER’S REMIT

Government departments

[^{F25}1VA. The Department for Business and Trade.]

Textual Amendments

F25 Sch. 9 para. 1VA substituted (3.5.2023) by The Secretaries of State for Energy Security and Net Zero, for Science, Innovation and Technology, for Business and Trade, and for Culture, Media and Sport and the Transfer of Functions (National Security and Investment Act 2021 etc) Order 2023 (S.I. 2023/424), art. 1(2), Sch. para. 11(a) (with art. 17)

^{F26}1WA

Changes to legislation: Domestic Violence, Crime and Victims Act 2004 is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Textual Amendments

F26 Sch. 9 para. 1WA omitted (9.11.2016) by virtue of The Secretaries of State for Business, Energy and Industrial Strategy, for International Trade and for Exiting the European Union and the Transfer of Functions (Education and Skills) Order 2016 (S.I. 2016/992), art. 1(2), **Sch. para. 9(b)** (with art. 13)

[^{F27}1XA ^{F28}

Textual Amendments

F27 Sch. 9 paras. 1XA, 1YA inserted (12.12.2007) by The Secretaries of State for Children, Schools and Families, for Innovation, Universities and Skills and for Business, Enterprise and Regulatory Reform Order 2007 (S.I. 2007/3224), arts. 1(2), 15, **Sch. para. 10(a)**

F28 Sch. 9 para. 1XA omitted (13.11.2009) by virtue of The Secretary of State for Business, Innovation and Skills Order 2009 (S.I. 2009/2748), arts. 1(2), 8, **Sch. para. 7(b)** (with art. 7)

1YA ^{F29}

Textual Amendments

F27 Sch. 9 paras. 1XA, 1YA inserted (12.12.2007) by The Secretaries of State for Children, Schools and Families, for Innovation, Universities and Skills and for Business, Enterprise and Regulatory Reform Order 2007 (S.I. 2007/3224), arts. 1(2), 15, **Sch. para. 10(a)**

F29 Sch. 9 para. 1YA omitted (18.8.2010) by virtue of The Secretary of State for Education Order 2010 (S.I. 2010/1836), arts. 1(2), 6, **Sch. para. 3(a)**

^{F30}1ZA

Textual Amendments

F30 Sch. 9 para. 1ZA omitted (11.4.2018) by virtue of The Secretaries of State for Health and Social Care and for Housing, Communities and Local Government and Transfer of Functions (Commonhold Land) Order 2018 (S.I. 2018/378), art. 1(2), **Sch. para. 12(a)** (with art. 14)

[^{F31}1ZB The Department for Education.]

Textual Amendments

F31 Sch. 9 para. 1ZB inserted (18.8.2010) by The Secretary of State for Education Order 2010 (S.I. 2010/1836), arts. 1(2), 6, **Sch. para. 3(b)**

[^{F32}1ZC The Department for Energy Security and Net Zero.]

Textual Amendments

F32 Sch. 9 para. 1ZC inserted (3.5.2023) by The Secretaries of State for Energy Security and Net Zero, for Science, Innovation and Technology, for Business and Trade, and for Culture, Media and Sport and the Transfer of Functions (National Security and Investment Act 2021 etc) Order 2023 (S.I. 2023/424), art. 1(2), **Sch. para. 11(b)** (with art. 17)

Changes to legislation: Domestic Violence, Crime and Victims Act 2004 is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

1 F33

Textual Amendments

F33 Sch. 9 para. 1 omitted (22.8.2007) by virtue of The Secretary of State for Justice Order 2007 (S.I. 2007/2128), arts. 1(2), 8, **Sch. para. 10(5)(a)**

2 F34

Textual Amendments

F34 Sch. 9 para. 2 omitted (12.12.2007) by virtue of The Secretaries of State for Children, Schools and Families, for Innovation, Universities and Skills and for Business, Enterprise and Regulatory Reform Order 2007 (S.I. 2007/3224), arts.1(2), 15, **Sch. para. 10(b)**

3 The Department of Health [^{F35}and Social Care].

Textual Amendments

F35 Words in Sch. 9 para. 3 inserted (11.4.2018) by The Secretaries of State for Health and Social Care and for Housing, Communities and Local Government and Transfer of Functions (Commonhold Land) Order 2018 (S.I. 2018/378), art. 1(2), **Sch. para. 12(b)** (with art. 14)

[^{F36}3A F37

Textual Amendments

F36 Sch. 9 para. 3A inserted (12.12.2007) by The Secretaries of State for Children, Schools and Families, for Innovation, Universities and Skills and for Business, Enterprise and Regulatory Reform Order 2007 (S.I. 2007/3224), arts. 1(2), 15, **Sch. para. 10(c)**

F37 Sch. 9 para. 3A omitted (13.11.2009) by virtue of The Secretary of State for Business, Innovation and Skills Order 2009 (S.I. 2009/2748), arts. 1(2), 8, **Sch. para. 7(c)** (with art. 7)

4 F38

Textual Amendments

F38 Sch. 9 para. 4 omitted (12.12.2007) by virtue of The Secretaries of State for Children, Schools and Families, for Innovation, Universities and Skills and for Business, Enterprise and Regulatory Reform Order 2007 (S.I. 2007/3224), arts.1(2), 15, **Sch. para. 10(b)**

[^{F39}4A The Department for Science, Innovation and Technology.]

Textual Amendments

F39 Sch. 9 para. 4A inserted (3.5.2023) by The Secretaries of State for Energy Security and Net Zero, for Science, Innovation and Technology, for Business and Trade, and for Culture, Media and Sport and the Transfer of Functions (National Security and Investment Act 2021 etc) Order 2023 (S.I. 2023/424), art. 1(2), **Sch. para. 11(c)** (with art. 17)

Changes to legislation: *Domestic Violence, Crime and Victims Act 2004 is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- 5 The Department for Transport.
- 6 The Department for Work and Pensions.
- 7 The Foreign and Commonwealth Office.
- 8 The Home Office.
- [^{F40}8A The Ministry of Justice.]

Textual Amendments

F40 Sch. 9 para. 8A inserted (22.8.2007) by virtue of [The Secretary of State for Justice Order 2007 \(S.I. 2007/2128\)](#), arts. 1(2), 8, **Sch. para. 10(5)(b)**

- [^{F41}8B. The Department for Levelling Up, Housing and Communities.]

Textual Amendments

F41 Sch. 9 para. 8B substituted (8.12.2021) by [The Transfer of Functions \(Secretary of State for Levelling Up, Housing and Communities\) Order 2021 \(S.I. 2021/1265\)](#), art. 1(2), **Sch. 2 para. 16** (with art. 12)

- 9 ^{F42}

Textual Amendments

F42 Sch. 9 para. 9 repealed (immediately before 1.2.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 178, 182(5), [Sch. 23 Pt. 5](#) (with s. 180); [S.I. 2010/145](#), **art. 2(1)(c)(iv)**

Customs and Excise

- 10 The Commissioners of Customs and Excise.

Police forces etc

- 11 A police force for a police area in England or Wales.
- 12 The Serious Fraud Office.
- [^{F43}13 The [^{F44}National Crime Agency] .]

Textual Amendments

F43 Sch. 9 para. 13 substituted (1.4.2006) for Sch. 9 paras. 13, 14 by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 59, 178(8), **Sch. 4 para. 200**; [S.I. 2006/378](#), **art. 4(1)**, Sch. para. 10 (subject to art. 4(2)-(7))

F44 Words in [Sch. 9 para. 13](#) substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), **Sch. 8 para. 186**; [S.I. 2013/1682](#), art. 3(v)

- ^{F45}14

- 15 The force of constables appointed under section 53 of the [British Transport Commission Act 1949 \(c. xxix\)](#).

Changes to legislation: Domestic Violence, Crime and Victims Act 2004 is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

16 The Ministry of Defence Police.

Criminal injuries compensation

17 The [^{F46}Persons exercising functions relating to the carrying on of the business of the First-tier Tribunal in respect of appeals under the Criminal Injuries Compensation Scheme by virtue of section 5(1) of the Criminal Injuries Compensation Act 1995].

Textual Amendments

F46 Words in [Sch. 9 para. 17](#) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), arts. 1(1), 9(1), [Sch. 3 para. 215](#)

18 The Criminal Injuries Compensation Authority.

Health and safety

19 ^{F47}

Textual Amendments

F47 [Sch. 9 para. 19](#) omitted (1.4.2008) by virtue of [The Legislative Reform \(Health and Safety Executive\) Order 2008 \(S.I. 2008/960\)](#), arts. 1, 22, [Sch. 3](#)

20 The Health and Safety Executive.

[^{F48}20A. The Office for Nuclear Regulation.]

Textual Amendments

F48 [Sch. 9 para. 20A](#) inserted (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), art. 1(2), [Sch. 2 para. 23](#) (with [Sch. 4](#))

Legal services

^{F49}21

Textual Amendments

F49 [Sch. 9 para. 21](#) omitted (1.4.2013) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 5 para. 66](#); [S.I. 2013/453](#), art. 3(h) (with savings and transitional provisions in [S.I. 2013/534](#), art. 6)

Court administration

22 Persons exercising functions relating to the carrying on of the business of a court.

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Criminal justice system

- 23 The Criminal Cases Review Commission.
- 24 The Crown Prosecution Service.
- 25 A local probation board established under section 4 of the Criminal Justice and Court Services Act 2000 (c. 43).
- [^{F50}25A A provider of probation services.]

Textual Amendments

F50 Sch. 9 para. 25A inserted (1.4.2008) by The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), arts. 1, 3, Sch. 1 para. 20(14)

- 26 The Parole Board.
- 27 The Prison Service.
- 28 The Youth Justice Board for England and Wales.
- 29 A youth offending team established under section 39 of the Crime and Disorder Act 1998 (c. 37).

Maritime and coastguards

- 30 The Maritime and Coastguard Agency.

SCHEDULE 10

Section 58(1)

MINOR AND CONSEQUENTIAL AMENDMENTS

Colonial Prisoners Removal Act 1884 (c. 31)

- 1 In section 10 of the Colonial Prisoners Removal Act 1884 (application of Act to removal of criminal lunatics), in subsection (3), in paragraph (a) for the words from “give” to the end substitute “ by warrant direct that he is to be detained in such hospital, within the meaning given by section 145(1) of the Mental Health Act 1983, as may be specified in the direction; and any such direction shall have the same effect as a hospital order under section 37 of that Act together with a restriction order under section 41 of that Act, made without limitation of time; ”.

Children and Young Persons Act 1933 (c. 12)

- 2 In Schedule 1 to the Children and Young Persons Act 1933 (offences against children and young persons with respect to which special provisions of the Act apply), after “Infanticide” insert— “ An offence under section 5 of the Domestic Violence, Crime and Victims Act 2004, in respect of a child or young person. ”

Criminal Procedure (Insanity) Act 1964 (c. 84)

- 3 In section 8(2) of the Criminal Procedure (Insanity) Act 1964 (interpretation), after the definition of “duly approved” insert—

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““local probation board” means a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000;”.

Criminal Appeal Act 1968 (c. 19)

- 4 In section 15 of the Criminal Appeal Act 1968 (right of appeal against finding of disability), in subsection (1), for the words “the jury has returned” substitute “ there have been ”.
- 5 In section 37 of that Act (detention of defendant on appeal by the Crown to House of Lords), in subsection (4), for paragraph (b) substitute—
“(b) a hospital order made by virtue of section 5(2)(a) of the Criminal Procedure (Insanity) Act 1964 (powers to deal with persons not guilty by reason of insanity or unfit to plead etc);”.
- 6 In section 51 of that Act (interpretation), in subsection (2A), for “6, 14 or 14A” substitute “ 6 or 14 ”.

Children and Young Persons Act (Northern Ireland) 1968 (c. 34 (N.I.))

- 7 In Schedule 1 to the Children and Young Persons Act (Northern Ireland) 1968 (offences against children and young persons with respect to which special provisions of the Act apply), after “Infanticide” insert— “ An offence under section 5 of the Domestic Violence, Crime and Victims Act 2004, in respect of a child or young person. ”

Juries Act 1974 (c. 23)

- 8 (1) Section 11 of the Juries Act 1974 (ballot and swearing of jurors) is amended as follows.
- (2) In subsection (5) omit paragraph (b).
- (3) In subsection (6) omit “, (b)”.

Rehabilitation of Offenders Act 1974 (c. 53)

- 9 In section 1(3) of the Rehabilitation of Offenders Act 1974 (meaning of “sentence” for the purposes of that Act), after “other than” insert—
“(za) a surcharge imposed under section 161A of the Criminal Justice Act 2003;”.

Magistrates' Courts Act 1980 (c. 43)

- 10 In section 108 of the Magistrates' Courts Act 1980 (right of appeal to Crown Court), after subsection (3) insert—
“(4) Subsection (3)(d) above does not prevent an appeal against a surcharge imposed under section 161A of the Criminal Justice Act 2003.”
- 11 In section 139 of that Act (disposal of sums adjudged to be paid by conviction)—
(a) after paragraph (a) insert—

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- “(aa) in the second place in payment to the fund mentioned in paragraph (c) below of surcharges imposed under section 161A of the Criminal Justice Act 2003;”;
- (b) in paragraph (b), for “second” substitute “ third ”.

Criminal Appeal (Northern Ireland) Act 1980 (c. 47)

- 12 In section 13A of the Criminal Appeal (Northern Ireland) Act 1980 (appeal against finding of unfitness to be tried), in subsection (1), for “the jury has returned” substitute “ there has been ”.

PROSPECTIVE

- 13 In section 19(1A)(a) of that Act (legal aid), after “appeal under” insert “ section 18A of the Domestic Violence, Crime and Victims Act 2004, ”.

Supreme Court Act 1981 (c. 54)

- 14 In section 55 of the Supreme Court Act 1981 (constitution of criminal division of Court of Appeal), in subsection (4)(a)(iii) omit the words “of a jury”.

PROSPECTIVE

- 15 In section 81 of that Act (power of Crown Court to grant bail), in subsection (1A), for “or 15” substitute “ , 15 or 16A ”.

Criminal Justice Act 1982 (c. 48)

- 16 In Schedule 1 to the Criminal Justice Act 1982 (offences excluded from early release provisions), in Part 2, after the entry relating to the Sexual Offences Act 2003 (c. 42) insert—

“Domestic Violence, Crime and Victims Act 2004

Section 5 (causing or allowing the death of a child or vulnerable adult).”

Representation of the People Act 1983 (c. 2)

- 17 In section 3A of the Representation of the People Act 1983 (disenfranchisement of offenders detained in mental hospitals), for subsection (5) substitute—

“(5) As respects any part of the United Kingdom, this section applies to any person in respect of whom a hospital order has been made by virtue of—

- (a) section 116A of the Army Act 1955 or the Air Force Act 1955 or section 63A of the Naval Discipline Act 1957, or
- (b) section 16 or 23 of the Courts-Martial (Appeals) Act 1968.”

Changes to legislation: Domestic Violence, Crime and Victims Act 2004 is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Mental Health Act 1983 (c. 20)

- 18 In section 47 of the Mental Health Act 1983 (removal to hospital of persons serving sentences of imprisonment, etc), in subsection (5)(a), for the words “under any enactment to which section 46 applies” substitute “made in consequence of a finding of insanity or unfitness to stand trial”.
- 19 In section 69 of that Act (application to tribunals concerning patients subject to hospital orders etc), in subsection (2)(a)—
- (a) for “below,” substitute “below or”;
 - (b) omit “or section 5(1) of the Criminal Procedure (Insanity) Act 1964”.
- 20 In section 71 of that Act (references by Home Secretary concerning restricted patients) omit subsections (5) and (6).
- 21 In section 79 of that Act (interpretation of Part 5), in subsection (1)—
- (a) for paragraph (a) substitute—
 - “(a) is treated by virtue of any enactment as subject to a hospital order and a restriction order; or”;
 - (b) omit paragraph (b).
- 22 In section 84 of that Act (removal to England and Wales of offenders found insane in Channel Islands and Isle of Man), in subsection (2), for the words from “had been” to the end substitute “were subject to a hospital order together with a restriction order, made without limitation of time”.
- 23 (1) Schedule 5 to that Act (transitional and saving provisions) is amended as follows.
- (2) For paragraph 21 substitute—
- “21 Any direction to which section 71(4) of the Mental Health Act 1959 applied immediately before the commencement of this Act shall have the same effect as a hospital order together with a restriction order, made without limitation of time.”
- (3) In paragraph 37(2), for “direction under section 46 of this Act” substitute “hospital order together with a restriction order, made without limitation of time”.

Police and Criminal Evidence Act 1984 (c. 60)

24 ^{F51}

Textual Amendments

F51 Sch. 10 para. 24 repealed (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 174, 178(8), [Sch. 17 Pt. 2](#); [S.I. 2005/3495](#), art. 2(u)(lviii)

Prosecution of Offences Act 1985 (c. 23)

- 25 In section 16 of the Prosecution of Offences Act 1985 (defence costs), in subsection (4) (power of Court of Appeal to make defendant’s costs order), after paragraph (c) insert “or
- (d) allows, to any extent, an appeal under section 16A of that Act (appeal against order made in cases of insanity or unfitness to plead);”.

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Coroners Act 1988 (c. 13)

- 26 In section 16 of the Coroners Act 1988 (adjournment of inquest in event of criminal proceedings), in subsection (1)(a), after sub-paragraph (iii) insert—
“(iv) an offence under section 5 of the Domestic Violence, Crime and Victims Act 2004 (causing or allowing the death of a child or vulnerable adult); or”.
- 27 In section 17 of that Act (coroner to be informed of result of criminal proceedings), in subsections (1) and (2), at the end of paragraph (c) insert “; or
(d) an offence under section 5 of the Domestic Violence, Crime and Victims Act 2004 (causing or allowing the death of a child or vulnerable adult),”.

PROSPECTIVE

Criminal Justice Act 1988 (c. 33)

- 28 In section 41 of the Criminal Justice Act 1988 (power of Crown Court to deal with summary offence where person committed for either way offence), after subsection (4) insert—
“(4A) The committal of a person under this section in respect of an offence to which section 40 above applies shall not prevent him being found guilty of that offence under section 6(3) of the Criminal Law Act 1967 (alternative verdicts on trial on indictment); but where he is convicted under that provision of such an offence, the functions of the Crown Court under this section in relation to the offence shall cease.”

Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12))

- 29 ^{F52}

Textual Amendments

F52 Sch. 10 para. 29 repealed (1.3.2007) by [The Police and Criminal Evidence \(Amendment\) \(Northern Ireland\) Order 2007 \(S.I. 2007/288\) \(N.I. 2\)](#), arts. 1(2), 41(2), [Sch. 2](#)

Criminal Justice Act 1991 (c. 53)

- 30 In section 24 of the Criminal Justice Act 1991 (recovery of fines etc by deductions from income support), after subsection (3) insert—
“(3A) This section applies in relation to a surcharge imposed under section 161A of the Criminal Justice Act 2003 as if any reference in subsection (1) or (3) above to a fine included a reference to a surcharge.”

Criminal Appeal Act 1995 (c. 35)

- 31 In section 9 of the Criminal Appeal Act 1995 (references by Criminal Cases Review Commission to Court of Appeal), in subsection (6), for the words “a jury in England and Wales has returned” substitute “ in England and Wales there have been ”.

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- 32 In section 10 of that Act (which makes equivalent provision for Northern Ireland), in subsection (7), for the words “a jury in Northern Ireland has returned” substitute “in Northern Ireland there has been”.

Law Reform (Year and a Day Rule) Act 1996 (c. 19)

- 33 In section 2 of the Law Reform (Year and a Day Rule) Act 1996 (restriction on institution of proceedings for fatal offence), in subsection (3), at the end of paragraph (b) insert “, or
- (c) an offence under section 5 of the Domestic Violence, Crime and Victims Act 2004 (causing or allowing the death of a child or vulnerable adult).”

Family Law Act 1996 (c. 27)

- 34 (1) Section 36 of the Family Law Act 1996 (one cohabitant or former cohabitant with no existing right to occupy) is amended as follows.
- (2) In subsection (1)(c), for the words from “live together as” to the end substitute “cohabit or a home in which they at any time cohabited or intended to cohabit”.
- (3) In subsection (6)(f), for “lived together as husband and wife” substitute “cohabited”.
- 35 In section 38 of that Act (neither cohabitant or former cohabitant entitled to occupy), in subsection (1)(a), for “live or lived together as husband and wife” substitute “cohabit or cohabited”.
- 36 (1) Section 42 of that Act (non-molestation orders) is amended as follows.
- (2) After subsection (4) insert—
- “(4A) A court considering whether to make an occupation order shall also consider whether to exercise the power conferred by subsection (2)(b).
- (4B) In this Part “the applicant”, in relation to a non-molestation order, includes (where the context permits) the person for whose benefit such an order would be or is made in exercise of the power conferred by subsection (2)(b).”
- (3) In subsection (5)(a) omit the words from “or” to “made”.
- 37 (1) Section 46 of that Act (undertakings) is amended as follows.
- (2) In subsection (3), after “under subsection (1)” insert “instead of making an occupation order”.
- (3) After that subsection insert—
- “(3A) The court shall not accept an undertaking under subsection (1) instead of making a non-molestation order in any case where it appears to the court that—
- (a) the respondent has used or threatened violence against the applicant or a relevant child; and
- (b) for the protection of the applicant or child it is necessary to make a non-molestation order so that any breach may be punishable under section 42A.”

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- (4) In subsection (4), for “it were an order of the court” substitute “ the court had made an occupation order or a non-molestation order in terms corresponding to those of the undertaking ”.
- 38 (1) Section 47 of that Act (arrest for breach of occupation order or non-molestation order) is amended as follows.
- (2) Omit subsection (1).
- (3) In subsections (2) and (4), for “a relevant order” substitute “ an occupation order ”.
- (4) In subsections (3) and (5), for “the relevant order” substitute “ the occupation order ”.
- (5) In subsection (8), for the words up to the end of paragraph (b) substitute—
- “If the court—
- (a) has made a non-molestation order, or
- (b) has made an occupation order but has not attached a power of arrest under subsection (2) or (3) to any provision of the order, or has attached that power only to certain provisions of the order,”.
- 39 In section 49 of that Act (variation and discharge of orders), in subsection (4) omit “or non-molestation order”.
- 40 In section 62 of that Act (definitions), in subsection (1)(b), for “ “former cohabitants” is to be read accordingly, but” substitute “ “cohabit” and “former cohabitants” are to be read accordingly, but the latter expression ”.
- 41 (1) In section 63 of that Act (interpretation of Part 4), subsection (1) is amended as follows.
- (2) At the beginning of the definition of “cohabitant” and “former cohabitant” insert
- , ”.
- (3) In the definition of “relative”—
- (a) for “or nephew” in paragraph (b) substitute “ , nephew or first cousin ”;
- (b) for “is living or has lived with another person as husband and wife” substitute “ is cohabiting or has cohabited with another person ”.
- 42 (1) Schedule 7 to that Act (transfer of certain tenancies on divorce etc or on separation of cohabitants) is amended as follows.
- (2) In paragraph 3(2), for “to live together as husband and wife” substitute “ to cohabit ”.
- (3) In paragraph 4(b), for “lived together as husband and wife” substitute “ cohabited ”.

Protection from Harassment Act 1997 (c. 40)

F53 43

Textual Amendments

F53 Sch. 10 para. 43 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 (see also [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), [ss. 1, 5\(2\)\(3\)](#))

Changes to legislation: Domestic Violence, Crime and Victims Act 2004 is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- 44 In section 7 of that Act (interpretation), in subsection (1), for “sections 1 to 5” substitute “ sections 1 to 5A ”.

Crime (Sentences) Act 1997 (c. 43)

- 45 (1) Section 47 of the Crime (Sentences) Act 1997 (power to specify hospital units) is amended as follows.
- (2) Omit subsections (1)(d) and (2)(c).
- (3) For subsection (4) substitute—
- “(4) A reference in this section to section 37 or 41 of the 1983 Act includes a reference to that section as it applies by virtue of—
- (a) section 5 of the Criminal Procedure (Insanity) Act 1964,
- (b) section 6 or 14 of the Criminal Appeal Act 1968,
- (c) section 116A of the Army Act 1955 or the Air Force Act 1955 or section 63A of the Naval Discipline Act 1957, or
- (d) section 16 or 23 of the Courts-Martial (Appeals) Act 1968.”

^{F54}46

Textual Amendments

F54 Sch. 10 para. 46 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 16 para. 18](#); S.I. 2012/2906, art. 2(n)

Protection from Harassment (Northern Ireland) Order 1997 (S.I. 1997/1180 (N.I. 9))

- 47 (1) Article 7 of the Protection from Harassment (Northern Ireland) Order 1997 (power to make restraining order where defendant convicted of offence under Article 4 or 6 of that Act) is amended as follows.
- (2) In the heading, at the end insert “ **on conviction** ”.
- (3) In paragraph (2) omit “further”.

Crime and Disorder Act 1998 (c. 37)

- 48 In section 32 of the Crime and Disorder Act 1998 (racially or religiously aggravated harassment etc) omit subsection (7) (which is superseded by provision made by section 12(1) above).

Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)

^{F55}49

Textual Amendments

F55 Sch. 10 paras. 49-52 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 (see also [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), ss. 1, 5(2)(3))

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F55 50

Textual Amendments

F55 Sch. 10 paras. 49-52 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 (see also [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), [ss. 1](#), 5(2)(3))

F55 51

Textual Amendments

F55 Sch. 10 paras. 49-52 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 (see also [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), [ss. 1](#), 5(2)(3))

F55 52

Textual Amendments

F55 Sch. 10 paras. 49-52 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 (see also [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), [ss. 1](#), 5(2)(3))

53 In section 142(1) of that Act (power of Crown Court to order search of persons before it)—

(a) before paragraph (a) insert—

“(za) the Crown Court orders a person to pay a surcharge under section 161A of the Criminal Justice Act 2003,”;

(b) in paragraph (d), for “or compensation” substitute “ , compensation or surcharge ”.

Criminal Justice and Court Services Act 2000 (c. 43)

54 The Criminal Justice and Court Services Act 2000 is amended as follows.

55 Section 69 (duties in connection with victims of certain offences) (which is superseded by section 35 of this Act) is repealed.

56 In Schedule 4 (offences against children for the purposes of disqualification orders), in paragraph 3, after paragraph (sa) insert—

“(sb) he commits an offence under section 5 of the Domestic Violence, Crime and Victims Act 2004 (causing or allowing the death of a child or vulnerable adult) in respect of a child.”

Sexual Offences Act 2003 (c. 42)

57 (1) Section 133 of the Sexual Offences Act 2003 (general interpretation of Part 2) is amended as follows.

(2) In subsection (1)—

(a) in the definition of “admitted to a hospital”, for paragraph (c) substitute—

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- “(c) section 46 of the Mental Health Act 1983, section 69 of the Mental Health (Scotland) Act 1984 or Article 52 of the Mental Health (Northern Ireland) Order 1986;”;
 - (b) in the definition of “detained in a hospital”, for paragraph (c) substitute—
 - “(c) section 46 of the Mental Health Act 1983, section 69 of the Mental Health (Scotland) Act 1984 or Article 52 of the Mental Health (Northern Ireland) Order 1986;”;
 - (c) in the definition of “restriction order”, for paragraph (c) substitute—
 - “(c) a direction under section 46 of the Mental Health Act 1983, section 69 of the Mental Health (Scotland) Act 1984 or Article 52 of the Mental Health (Northern Ireland) Order 1986;”.
- (3) After that subsection insert—
- “(1A) A reference to a provision specified in paragraph (a) of the definition of “admitted to a hospital”, “detained in a hospital” or “restriction order” includes a reference to the provision as it applies by virtue of—
- (a) section 5 of the Criminal Procedure (Insanity) Act 1964,
 - (b) section 6 or 14 of the Criminal Appeal Act 1968,
 - (c) section 116A of the Army Act 1955 or the Air Force Act 1955 or section 63A of the Naval Discipline Act 1957, or
 - (d) section 16 or 23 of the Courts-Martial (Appeals) Act 1968.”
- 58 In section 135 of that Act (interpretation: mentally disordered offenders), omit subsection (4)(c).
- 59 (1) Schedule 5 to that Act (other offences for the purposes of sexual offences prevention orders) is amended as follows.
- (2) After paragraph 63 insert—
- “63A An offence under section 5 of the Domestic Violence, Crime and Victims Act 2004 (causing or allowing the death of a child or vulnerable adult).”
- (3) After paragraph 171 insert—
- “171A An offence under section 5 of the Domestic Violence, Crime and Victims Act 2004 (causing or allowing the death of a child or vulnerable adult).”
- (4) In paragraph 172, for “63” substitute “ 63A ”.

Criminal Justice Act 2003 (c. 44)

- 60 In section 48 of the Criminal Justice Act 2003 (c. 44) (further provisions about trial without a jury), in subsection (6), for paragraphs (a) and (b) substitute “ the requirement under section 4A of the Criminal Procedure (Insanity) Act 1964 that any question, finding or verdict mentioned in that section be determined, made or returned by a jury ”.
- 61 In section 50 of that Act (application of Part 7 to Northern Ireland), in subsection (13), for paragraphs (a) to (c) substitute—
- “(a) for “section 4A of the Criminal Procedure (Insanity) Act 1964” substitute “ Article 49A of the Mental Health (Northern Ireland) Order 1986 ”, and

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(b) for “that section” substitute “ that Article ”.”

62 In section 74 of that Act (interpretation of Part 9), after subsection (6) insert—

“(7) In its application to a trial on indictment in respect of which an order under section 17(2) of the Domestic Violence, Crime and Victims Act 2004 has been made, this Part is to have effect with such modifications as the Secretary of State may by order specify.”

^{F56}63

Textual Amendments

F56 Sch. 10 para. 63 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 (see also [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), [ss. 1](#), 5(2)(3))

^{F57}64

Textual Amendments

F57 Sch. 10 para. 64 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with ss. 413(5), 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2 (see also [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), [ss. 1](#), 5(2)(3))

65 In Schedule 15 to that Act (specified offences for the purposes of Chapter 5 of Part 12 of that Act), in Part 1 (specified violent offences), after paragraph 63 insert—

“63A An offence under section 5 of the Domestic Violence, Crime and Victims Act 2004 (causing or allowing the death of a child or vulnerable adult).”

66 In Schedule 17 to that Act (Northern Ireland offences specified for the purposes of section 229(4)), in Part 1 (specified violent offences), after paragraph 60 insert—

“60A An offence under section 5 of the Domestic Violence, Crime and Victims Act 2004 (causing or allowing the death of a child or vulnerable adult).”

SCHEDULE 11

Section 58(2)

REPEALS

Commencement Information

II Sch. 11 partly in force; Sch. 11 not in force at Royal Assent see s. 60; Sch. 11 in force for certain purposes at 21.3.2005 and 31.3.2005 by [S.I. 2005/579](#), [arts. 2\(e\)](#), 3(i); Sch. 11 in force for certain purposes at 1.7.2005 by [S.I. 2005/1705](#), [art. 2\(f\)](#); Sch. 11 in force for certain purposes at 5.12.2005 by [S.I. 2005/3196](#), [art. 2\(e\)](#); Sch. 11 in force for certain purposes at 1.7.2007 by [S.I. 2007/1845](#), [art. 2\(d\)](#); Sch. 11 in force for certain purposes at 30.9.2009 by [S.I. 2009/2501](#), [art. 2\(e\)](#) and [S.I. 2009/2616](#), [art. 2\(d\)](#)

Short title and chapter

Extent of repeal

Changes to legislation: Domestic Violence, Crime and Victims Act 2004 is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Criminal Procedure (Insanity) Act 1964 (c. 84)	Section 7. In section 8— (a) the proviso to subsection (3); (b) in subsection (4), the words from “, except” to “courts-martial,”. Schedule 2.
Criminal Appeal Act 1968 (c. 19)	Section 14A.
Courts-Martial (Appeals) Act 1968 (c. 20)	In Schedule 3, paragraph 3(b).
Juries Act 1974 (c. 23)	In section 11, paragraph (b) of subsection (5) and “(b)” in subsection (6). In Schedule 1, paragraph 4(2).
[^{F58} Senior Courts Act 1981](c. 54)	In section 55(4)(a)(iii), the words “of a jury”.
Mental Health Act 1983 (c. 20)	In section 69(2)(a), the words “or section 5(1) of the Criminal Procedure (Insanity) Act 1964”. Section 71(5) and (6). Section 79(1)(b).
Prosecution of Offences Act 1985 (c. 23)	In section 16(4), the word “or” preceding paragraph (c).
Coroners Act 1988 (c. 13)	In section 16(1)(a), the word “or” preceding sub-paragraph (iii). In section 17, in subsections (1) and (2) the word “or” preceding paragraph (c).
Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25)	Sections 3 and 5. In section 6 (a) the definition of “local probation board” in subsection (1); (b) subsection (2). Schedules 1 and 2.
Law Reform (Year and a Day Rule) Act 1996 (c. 19)	In section 2(3), the word “or” preceding paragraph (b).
Family Law Act 1996 (c. 27)	Section 41. In section 42(5)(a), the words from “or” to “made”. Section 47(1). In section 49(4), the words “or non-molestation order”.
Armed Forces Act 1996 (c. 46)	Section 8. Schedule 2.
Protection from Harassment Act 1997 (c. 40)	In section 5, the words “under section 2 or 4” in subsection (1) and the word “further” in subsection (2).
Crime (Sentences) Act 1997 (c. 43)	In section 47 (a) in subsection (1), paragraph (d) and the word “or” preceding it;

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	(b) in subsection (2), paragraph (c) and the word “and” preceding it.
Protection from Harassment (Northern Ireland) Order 1997 (S.I.1997/1180(N.I.9))	In Article 7, the words “under Article 4 or 6” in paragraph (1) and the word “further” in paragraph (2).
Crime and Disorder Act 1998 (c. 37)	Section 32(7).
Access to Justice Act 1999 (c. 22)	In Schedule 13, paragraph 163.
Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)	In Schedule 9, paragraph 133.
Care Standards Act 2000 (c. 14)	In Schedule 4, paragraph 16.
Criminal Justice and Court Services Act 2000 (c. 43)	Section 69. In Schedule 7, paragraphs 99 to 102.
Sexual Offences Act 2003 (c. 42)	Section 135(4)(c).
F59	F59
...	...

Textual Amendments

- F58** Sch. 11: words substituted (1.10.2009) wherever they occur in Act by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 59, 148, [Sch. 11 para. 1\(2\)](#); S.I. 2009/1604, [art. 2\(d\)](#)
- F59** Words in [Sch. 11](#) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 40\(3\)](#); S.I. 2012/2906, [art. 2\(h\)](#)

SCHEDULE 12

Section 59

TRANSITIONAL AND TRANSITORY PROVISIONS

- 1 (1) Section 1 and paragraphs 37 to 39 of Schedule 10 apply only in relation to conduct occurring on or after the commencement of that section.
- (2) In relation to an offence committed before [^{F60}2 May 2022], the reference to [^{F61}the general limit in a magistrates’ court] in subsection (5)(b) of section 42A of the Family Law Act 1996 (inserted by section 1 of this Act) is to be read as a reference to six months.

Textual Amendments

- F60** Words in [Sch. 12 para. 1\(2\)](#) substituted (28.4.2022) by [The Criminal Justice Act 2003 \(Commencement No. 33\) and Sentencing Act 2020 \(Commencement No. 2\) Regulations 2022 \(S.I. 2022/500\)](#), regs. 1(2), 5(1), [Sch. Pt. 1](#)
- F61** Words in [Sch. 12 para. 1\(2\)](#) substituted (7.2.2023 at 12.00 p.m.) by [The Judicial Review and Courts Act 2022 \(Magistrates’ Court Sentencing Powers\) Regulations 2023 \(S.I. 2023/149\)](#), regs. 1(2), 2(1), [Sch. Pt. 1](#)

- 2 In section 5, the reference in subsection (1)(a) to an unlawful act does not include an act that (or so much of an act as) occurs before the commencement of that section.

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PROSPECTIVE

- 3 (1) This paragraph has effect, in relation to any time before the commencement of the repeal (by paragraph 51 of Schedule 3 to the Criminal Justice Act 2003) of section 6 of the Magistrates' Courts Act 1980 (c. 43), where—
- (a) a magistrates' court is considering under subsection (1) of that section whether to commit a person (“the accused”) for trial for an offence of murder or manslaughter, and
 - (b) the accused is charged in the same proceedings with an offence under section 5 above in respect of the same death.
- (2) If there is sufficient evidence to put the accused on trial by jury for the offence under section 5, there is deemed to be sufficient evidence to put him on trial by jury for the offence of murder or manslaughter.
- 4 Section 10 applies only in relation to offences committed on or after the commencement of that section.

Commencement Information

I2 Sch. 12 para. 4 partly in force; para. 4 not in force at Royal Assent see s. 60; para. 4 in force for certain purposes at 1.7.2005 by [S.I. 2005/1705](#), [art. 2\(h\)](#)

- 5 (1) Section 12(1) and paragraphs 43(3) and 48 of Schedule 10 do not apply where the conviction occurs before the commencement of those provisions.
- (2) Section 12(2) applies only in relation to applications made on or after the commencement of that provision.
- (3) Section 12(4) and paragraphs 43(2) and 44 of Schedule 10 do not apply where the acquittal (or, where subsection (5) of the inserted section 5A applies, the allowing of the appeal) occurs before the commencement of those provisions.
- 6 (1) Section 13(1) and paragraph 47(3) of Schedule 10 do not apply where the conviction occurs before the commencement of those provisions.
- (2) Section 13(2) applies only in relation to applications made on or after the commencement of that provision.
- (3) Section 13(4) and paragraph 47(2) of Schedule 10 do not apply where the acquittal (or, where paragraph (5) of the inserted Article 7A applies, the allowing of the appeal) occurs before the commencement of those provisions.

F627

Textual Amendments

F62 Sch. 12 para. 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 (see also [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), [ss. 1, 5\(2\)\(3\)](#))

- 8 (1) The provisions mentioned in sub-paragraph (2) do not apply—
- (a) in relation to proceedings before the Crown Court or a court-martial, where the accused was arraigned before the commencement of those provisions;

Changes to legislation: *Domestic Violence, Crime and Victims Act 2004 is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(b) in relation to proceedings before the Court of Appeal or the Courts-Martial Appeal Court, where the hearing of the appeal began before that commencement.

(2) The provisions are—

- (a) sections 22 and 23;
- (b) section 24 and Schedule 2;
- (c) section 26 and Schedule 3;
- (d) paragraphs 5, 6, 8, 17 to 21, 45, 60 and 61 of Schedule 10

9 The Schedule inserted by Schedule 2 has effect in relation to any time before the commencement of sections 8 and 37 of the Courts Act 2003 (c. 39)—

- (a) as if a reference to a local justice area were to a petty sessions area;
- (b) as if a reference to a designated officer were to a justices' chief executive.

PROSPECTIVE

10 Each entry in Schedule 11 applies in the same way as the provision of this Act to which it corresponds.

Changes to legislation:

Domestic Violence, Crime and Victims Act 2004 is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to :

- s. 9(4)(a) words omitted by [2012 c. 7 Sch. 14 para. 95](#)
- s. 15 omitted by [2022 c. 32 Sch. 11 para. 39\(1\)\(a\)](#)
- Sch. 10 para. 26 repealed by [2009 c. 25 Sch. 23 Pt. 1](#)
- Sch. 10 para. 27 repealed by [2009 c. 25 Sch. 23 Pt. 1](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 9 para. 26A inserted by [2015 c. 2 Sch. 3 para. 12](#)