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**Changes to legislation:** Criminal Justice and Immigration Act 2008, SCHEDULE 26 is up to date with all changes known to be in force on or before 06 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

## SCHEDULES

### SCHEDULE 26

Section 148

#### MINOR AND CONSEQUENTIAL AMENDMENTS

VALID FROM 14/07/2008

#### PART 1

#### FINE DEFAULTERS

PROSPECTIVE

#### *Magistrates' Courts Act 1980 (c. 43)*

- 1 In section 81(3) of the Magistrates' Courts Act 1980 (enforcement of fines imposed on young offenders) for paragraph (a) substitute—
- “(a) a youth default order under section 39 of the Criminal Justice and Immigration Act 2008; or”.

#### *Criminal Justice Act 2003 (c. 44)*

- 2 (1) The Criminal Justice Act 2003 is amended as follows.
- (2) In section 221(2) (provision of attendance centres) after paragraph (b) insert—
- “(c) default orders under section 300 of this Act, or
- (d) youth default orders under section 39 of the Criminal Justice and Immigration Act 2008.”
- (3) In section 300 (power to impose unpaid work requirement or curfew requirement on fine defaulter)—
- (a) in subsection (1)—
- (i) for “16” substitute “ 18 ”, and
- (ii) omit paragraph (b), and
- (b) in subsection (2), omit from “or, as the case may be” to “young offender”.
- (4) In Schedule 31 (modifications of community order provisions for purposes of default order) after paragraph 3 insert—

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*“Attendance centre requirement*

- 3A In its application to a default order, section 214(2) (attendance centre requirement) is modified by the substitution for “not be less than 12 or more than 36” of “be—
- (a) not less than 12, and
  - (b) in the case of an amount in default which is specified in the first column of the following Table, not more than the number of hours set out opposite that amount in the second column.

TABLE

<i>Amount</i>	<i>Number of hours</i>
An amount not exceeding £200	18 hours
An amount exceeding £200 but not exceeding £500	21 hours
An amount exceeding £500 but not exceeding £1,000	24 hours
An amount exceeding £1,000 but not exceeding £2,500	30 hours
An amount exceeding £2,500	36 hours”.

- (5) In paragraph 4(5)(a) of that Schedule (modifications of community order provisions for purposes of default order) omit “, (5)”.
- (6) In paragraph 5 of that Schedule, for “or 3” substitute “, 3 or 3A ”.

**PART 2**

OTHER AMENDMENTS

VALID FROM 14/07/2008

*Prison Act 1952 (c. 52)*

- 3 In section 43(1)(aa) of the Prison Act 1952 (provision by Secretary of State of young offender institutions), at the end insert “ or other persons who may be lawfully detained there ”.

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VALID FROM 14/07/2008

*Criminal Justice Act 1961 (c. 39)*

- 4 In section 38(3)(c) of the Criminal Justice Act 1961 (construction of references to imprisonment or detention in case of children and young persons) after “in accordance with” insert “ a determination of the Secretary of State or of a person authorised by him, in accordance with arrangements made by the Secretary of State or in accordance with ”.

VALID FROM 03/11/2008

*Children and Young Persons Act 1969 (c. 54)*

- 5 (1) Section 23AA of the Children and Young Persons Act 1969 (electronic monitoring of remand conditions) is amended as follows.
- (2) In subsection (4)—
- (a) paragraph (a) is omitted; and
  - (b) in paragraph (b), for “those arrangements” substitute “ arrangements currently available in each local justice area which is a relevant area ”.
- (3) In subsection (8) for “Subsections (8) to (10) of section 3AA” substitute “ Subsections (4) to (7) of section 3AC ”.

VALID FROM 14/07/2008

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

- 6 In section 13A(3) of the Criminal Appeal (Northern Ireland) Act 1980 (grounds for allowing appeal against finding of unfitness to be tried), in paragraph (a) for “the finding” substitute “ a finding ”.

VALID FROM 14/07/2008

*Wildlife and Countryside Act 1981 (c. 69)*

- 7 In section 19XA(1) of the Wildlife and Countryside Act 1981 (constables' powers in connection with samples) for “by this section” substitute “ by section 19 ”.

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VALID FROM 14/07/2008

*Mental Health Act 1983 (c. 20)*

- 8 In section 37 of the Mental Health Act 1983 (powers of court to order hospital admission or guardianship), in subsection (1A)(c) for “any of sections 225 to 228” substitute “ section 225(2) or 226(2) ”.

*Repatriation of Prisoners Act 1984 (c. 47)*

- 9 The Repatriation of Prisoners Act 1984 has effect subject to the following amendments.

**Commencement Information**

- II** Sch. 26 para. 9 in force at 9.6.2008 by S.I. 2008/1466, art. 2(c)(i)

VALID FROM 14/07/2008

- 10 Before section 1 insert— “ Transfer of prisoners to or from the United Kingdom ”.

VALID FROM 14/07/2008

- 11 (1) Section 1 (issue of warrant for transfer) is amended as follows.
- (2) In subsections (2) and (3) for “warrant under this Act” substitute “ warrant under this section ”.
- (3) In subsection (4)—
- (a) for “warrant under this Act” (in both places) substitute “ warrant under this section ”;
  - (b) in paragraph (b) omit the words “under this Act”.
- (4) In subsection (5) (as it applies in cases in which the relevant Minister is the Scottish Ministers and in cases in which the relevant Minister is the Secretary of State) for “warrant under this Act” substitute “ warrant under this section ”.
- (5) In subsection (6) after “warrant” (in the first place it appears) insert “ under this section ”.
- (6) In subsection (7)(b) after “under” insert “ any of ”.
- (7) In subsection (8)—
- (a) after “similar to” insert “ any of ”;
  - (b) after “respect to” insert “—  
    - (a) ”; and
  - (c) at the end insert “; or

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- (b) the transfer between different countries and territories (or different parts of a country or territory) of responsibility for the detention and release of persons who are required to be so detained in one of those countries or territories (or parts of a country or territory) but are present in the other country or territory (or part of a country or territory).”

- 12 (1) Section 2 (transfer out of the United Kingdom) is amended as follows.
- (2) In subsection (1) after “warrant” insert “ under section 1 ”.
- (3) In subsection (4)—
- (a) in paragraph (a) for “warrant under this Act” substitute “ warrant under section 1 ”; and
- (b) in paragraph (b)(i) (as it continues to have effect in relation to prisoners sentenced for offences committed before 4th April 2005) after “33(1)(b)” insert “ , (1A) ”.
- (4) In subsection (7) for “warrant under this Act” substitute “ warrant under section 1 ”.

#### Commencement Information

**12** Sch. 26 para. 12(1)(3)(b) in force at 9.6.2008 by S.I. 2008/1466, art. 2(c)(i)

VALID FROM 14/07/2008

- 13 (1) Section 3 (transfer into the United Kingdom) is amended as follows.
- (2) In subsection (1), after “a warrant” insert “ under section 1 ”.
- (3) In subsections (2), (4) and (6), for “warrant under this Act” substitute “ warrant under section 1 ”.
- (4) In subsection (7)—
- (a) at the beginning insert “ Part 1 of ”; and
- (b) for “warrant under this Act” substitute “ warrant under section 1 ”.
- (5) Subsection (10) is omitted.

VALID FROM 14/07/2008

- 14 (1) Section 4 (temporary return) is amended as follows
- (2) In subsection (1)—
- (a) for “warrant under this Act” substitute “ warrant under section 1 ”;
- (b) in paragraph (a), after “Kingdom” (in the second place it appears) insert “ , or from which responsibility for his detention and release has previously been transferred to the United Kingdom, ”;
- (c) in paragraph (b), after “transferred” insert “ , or to which responsibility for his detention and release has previously been transferred, ”.
- (3) In subsection (2)—

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- (a) for “a warrant under this Act” substitute “ a warrant under section 1 ”;
- (b) for “earlier warrant under this Act” substitute “ earlier warrant under section 1 or section 4A ”.

(4) In subsection (3)—

- (a) for “issued under this Act” substitute “ issued under section 1 ”;
- (b) after “an earlier warrant” insert “ under section 1 or section 4A ”.

(5) In subsection (4) for “warrant under this Act” substitute “ warrant under section 1 ”.

(6) After subsection (5) insert—

“(6) Any reference in subsection (5)(a) to the prisoner having previously been transferred into or from Scotland includes a reference to responsibility for his detention and release having previously been transferred to or from the Scottish Ministers (as the case may be).”.

VALID FROM 14/07/2008

- 15 Before section 5 (operation of warrant and retaking prisoners) insert— “ Supplementary and general provisions ”.

VALID FROM 14/07/2008

16 (1) Section 5 (operation of warrant and retaking prisoners) is amended as follows.

(2) In subsection (1)—

- (a) for “under this Act” substitute “ under section 1 ”; and
- (b) after “this section” insert “ (apart from subsection (9)) ”.

(3) After subsection (8) insert—

“(9) Where—

- (a) a warrant under section 4A has been issued, and
- (b) the relevant person is a person to whom subsection (3) of that section applies,

subsections (2) to (8) above apply for the purposes of that warrant (but with the modifications contained in subsection (10)), except (without prejudice to section 4C(4) or any enactment contained otherwise than in this Act) in relation to any time when the relevant person is required to be detained in accordance with provisions contained in the warrant by virtue of section 4C(1)(b).

(10) In their application for the purposes of a warrant under section 4A those subsections shall have effect as if—

- (a) any reference to the warrant under section 1 (however expressed) were a reference to the warrant under section 4A;
- (b) any reference to the prisoner were a reference to the relevant person;
- (c) in subsection (4)—

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- (i) in paragraph (a) for “that person” there were substituted “the authorised person”; and
- (ii) paragraph (b) were omitted; and
- (d) in subsection (8)(a) for “transfer of a prisoner to or from Scotland” there were substituted “transfer of responsibility for the detention and release of the relevant person to the Scottish Ministers”.

VALID FROM 14/07/2008

- 17 (1) Section 6 (revocation etc. of warrants) is amended as follows.
- (2) In subsection (1)—
- (a) for “warrant under this Act” (in the first place they appear) substitute “warrant under section 1”;
  - (b) in paragraph (b) for “this Act” substitute “that section”.
- (3) After subsection (1) insert—
- “(1A) Subject to section 4A(8), if at any time it appears to the relevant Minister appropriate, in order that effect may be given to any such arrangements as are mentioned in section 4A(5)(a) for a warrant under section 4A to be revoked or varied, he may as the case may require—
- (a) revoke that warrant; or
  - (b) revoke that warrant and issue a new warrant under section 4A containing provision superseding some or all of the provisions of the previous warrant.”
- (4) In subsections (2) and (3) after “subsection (1)(b)” insert “or (1A)(b)”.
- (5) In subsection (5)(a), for the words from “where” to the end substitute “in a case where—
- (i) the warrant was issued under section 1 and provides for the transfer of the prisoner to or from Scotland; or
  - (ii) the warrant was issued under section 4A and provides for the transfer of responsibility for the detention and release of the relevant person to those Ministers;”.

VALID FROM 14/07/2008

- 18 (1) Section 8 is amended as follows.
- (2) In subsection (1) after the definition of “the prisoner” insert “; and  
“the relevant person” has the meaning given by section 4A(5)(b).”
- (3) In subsection (3)—
- (a) in paragraph (a) after “section 1(1)(a)” insert “or 4A(5)(a)”;
  - (b) in paragraph (b) for “such a party” substitute “a party to such international arrangements as are mentioned in section 1(1)(a)”;
  - (c) after paragraph (b) (but before the “or” after that paragraph) insert—

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“(ba) that the appropriate authority of a country or territory which is a party to such international arrangements as are mentioned in section 4A(5)(a) has agreed to the transfer of responsibility for the detention and release of a particular person in accordance with those arrangements.”.

- 19 (1) The Schedule (operation of certain enactments in relation to the prisoner) is amended as follows.
- (2) For the cross-heading before paragraph 1 substitute— “ Part 1 Warrants under section 1 Application of Part 1 ”.
- (3) In paragraph 1—
- (a) at the beginning insert “ This Part of ”;
  - (b) after “under” insert “ section 1 of ”; and
  - (c) after “; and in” insert “ this Part of ”.
- (4) In paragraph 2 (as it applies in England and Wales in relation to offences committed before 4 April 2005)—
- (a) in sub-paragraph (1A)(a) (which defines the enactments relating to release on licence) after “33(1)(b) insert “ , (1A) ”; and
  - (b) after sub-paragraph (2) insert—
 

“(2A) If the warrant specifies that the offence or any of the offences in relation to which a determinate sentence is to be served corresponds to murder or an offence specified in Schedule 15 to the Criminal Justice Act 2003 (specified violent or sexual offences), any reference (however expressed) in Part 2 of the Criminal Justice Act 1991 to a person sentenced for an offence specified in that Schedule is to be read as including a reference to the prisoner.”
- (5) In paragraph 2 (as it applies in England and Wales in relation to offences committed on or after 4 April 2005), after sub-paragraph (3) insert—
- “(3A) If the warrant specifies that the offence or any of the offences in relation to which a determinate sentence is to be served corresponds to murder or an offence specified in Schedule 15 to the Criminal Justice Act 2003 (specified violent or sexual offences), any reference (however expressed) in Chapter 6 of Part 12 of that Act to a person sentenced for an offence specified in that Schedule is to be read as including a reference to the prisoner.”
- (6) After paragraph 8 insert—

## “PART 2

### WARRANTS UNDER SECTION 4A TRANSFERRING RESPONSIBILITY TO THE RELEVANT MINISTER

- 9 This Part of this Schedule applies where a warrant is issued under section 4A providing for the transfer of responsibility for the detention and release of the relevant person to the relevant Minister (within the meaning of that section).
- 10 Paragraphs 2 to 8 above apply as they apply where a warrant is issued under section 1, but with the following modifications.



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- 11 Any reference to “the relevant provisions” is to be read as a reference to the provisions contained in the warrant by virtue of section 4C(1)(b).
- 12 (1) Any reference to the prisoner is to be read as a reference to the relevant person.
  - (2) Sub-paragraph (1) does not apply to the words “a short-term or long-term prisoner” in paragraph 2(3) (as it applies in Scotland to repatriated prisoners any of whose sentences were imposed on or after 1 October 1993).
- 13 In paragraph 2 (as it applies in Scotland to repatriated prisoners any of whose sentences were imposed on or after 1 October 1993) the reference to prisoners repatriated to Scotland is to be read as a reference to any relevant person—
  - (a) in whose case the warrant under section 4A transfers responsibility for his detention and release from a country or territory outside the British Islands to the Scottish Ministers; and
  - (b) whose sentence or any of whose sentences in that country or territory were imposed on or after 1 October 1993.
- 14 The reference in paragraph 7 to the time of the prisoner's transfer into the United Kingdom is to be read as a reference to the time at which the warrant under section 4A was issued.”

#### Commencement Information

- I3** Sch. 26 para. 19(1)(4) in force at 9.6.2008 by S.I. 2008/1466, art. 2(c)(i) (with art. 4)

VALID FROM 16/11/2009

#### *Police and Criminal Evidence Act 1984 (c. 60)*

- 20 (1) In section 37B of the Police and Criminal Evidence Act 1984 (consultation with the Director of Public Prosecutions) in subsection (9) (meaning of caution)—
  - (a) after paragraph (a) (and before the word “and” immediately following it) insert—

“(aa) a youth conditional caution within the meaning of Chapter 1 of Part 4 of the Crime and Disorder Act 1998”; and
  - (b) in paragraph (b), for “of the Crime and Disorder Act 1998” substitute “ of that Act ”.
- (2) In section 63B of that Act (testing for presence of Class A drugs) in subsection (7) (disclosure of information obtained from drug samples) in paragraph (aa) after “Criminal Justice Act 2003” insert “ or a youth conditional caution under Chapter 1 of Part 4 of the Crime and Disorder Act 1998 ”.

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*Criminal Justice Act 1987 (c. 38)*

- 21 In section 1(17) of the Criminal Justice Act 1987 (application of Serious Fraud Office provisions to Northern Ireland), for “Attorney General for Northern Ireland” substitute “ Advocate General for Northern Ireland ”.

*Criminal Justice Act 1988 (c. 33)*

VALID FROM 14/07/2008

- 22 The Criminal Justice Act 1988 has effect subject to the following amendments.

VALID FROM 14/07/2008

- 23 In section 36 (reviews of sentencing), in subsection (2)(b)(iii) for “any of sections 225 to 228” substitute “ section 225(2) or 226(2) ”.

- 24 In section 160(1) (offence of possession of indecent photographs of children) for “Subject to subsection (1A),” substitute “ Subject to section 160A, ”.

*Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988 (S.I. 1988/1847 (N.I. 17))*

- 25 In article 15(5) of the Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988 (possession of indecent photographs of children) after “Article 2(2)” insert “ , (2A) ”.

VALID FROM 14/07/2008

*Football Spectators Act 1989 (c. 37)*

- 26 In paragraph 1(c), (k) and (q) of Schedule 1 to the Football Spectators Act 1989 (offences)—
- (a) for “Part III” substitute “ Part 3 or 3A ”; and
  - (b) for “(racial hatred)” substitute “ (hatred by reference to race etc) ”.

VALID FROM 14/07/2008

*Criminal Justice (International Co-operation) Act 1990 (c. 5)*

- 27 In section 6(7) of the Criminal Justice (International Co-operation) Act 1990 (transfer of overseas prisoner to give evidence or assist investigation in the United Kingdom), for the words from “having been” to the end of paragraph (b) substitute “—

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- (b) having been transferred there, or responsibility for his detention and release having been transferred there, from the United Kingdom under the Repatriation of Prisoners Act 1984;
- (c) having been transferred there, or responsibility for his detention and release having been transferred there, under any similar provision or arrangement from any other country or territory.”.

VALID FROM 14/07/2008

*Broadcasting Act 1990 (c. 42)*

- 28 (1) Section 167 of the Broadcasting Act 1990 (power to make copies of recordings) is amended as follows.
- (2) In subsection (4)(b), after “section 24” insert “ or 29H ”.
  - (3) In subsection (5)(b), after “section 22” insert “ or 29F ”.

*Criminal Justice Act 1991 (c. 53)*

- 29 (1) The Criminal Justice Act 1991 is amended as follows.
- (2) In section 43(5) (young offenders), for “under this Part” substitute “ under any provision of this Part other than section 33(1A) ”.
  - (3) In section 44(6) (disapplication of certain provisions for prisoners serving extended sentences) for “section 46” substitute “ section 46(2) ”.
  - (4) In section 46(3) (definition of persons liable to removal from the United Kingdom) after “for the purposes of this section” insert “ and the following provisions of this Part ”.
  - (5) In section 46B(5) (re-entry into United Kingdom of offender removed early from prison), after “subsections (1)” insert “ , (1A) ”.
  - (6) In paragraph 10(3)(d) of Schedule 3 (reciprocal enforcement of certain orders)—
    - (a) for “references in paragraph 3 to a day centre were references to” substitute “ in paragraph 3 “day centre” meant ”, and
    - (b) at the end insert “ or an attendance centre provided under section 221 of that Act ”.
  - (7) Sub-paragraph (6) extends to England and Wales and Northern Ireland only.

**Commencement Information**

**I4** Sch. 26 para. 29(1)(2)(5) in force at 9.6.2008 by S.I. 2008/1466, art. 2(c)(ii)

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*Prisoners and Criminal Proceedings (Scotland) Act 1993 (c. 9)*

30 In section 10 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (life prisoners transferred to Scotland), after subsection (4) insert—

“(4A) The reference in subsection (4)(b) above to a person who has been transferred to Scotland in pursuance of a warrant under the Repatriation of Prisoners Act 1984 includes a reference to a person who is detained in Scotland in pursuance of a warrant issued by the Scottish Ministers under section 4A of that Act (warrant transferring responsibility for detention and release of offender).

(4B) Such a person is to be taken to have been transferred when the warrant under section 4A of that Act was issued in respect of that person.”

*Crime (Sentences) Act 1997 (c. 43)*

31 The Crime (Sentences) Act 1997 has effect subject to the following amendments.

**Commencement Information**

**I5** Sch. 26 para. 31 in force at 9.6.2008 by S.I. 2008/1466, art. 2(c)(iii)

VALID FROM 14/07/2008

32 (1) Schedule 1 (transfer of prisoners within the British Islands) is amended as follows.

(2) In paragraph 8(2)(a) (as it continues to have effect in relation to prisoners serving sentences of imprisonment for offences committed before 4th April 2005), after “46” insert “, 50A”.

(3) In paragraph 8(4)(a) (as it continues to have effect in relation to prisoners serving sentences of imprisonment for offences committed before 4th April 2005), after “46” insert “, 50A”.

(4) Any reference in paragraph 8(2)(a) or (4)(a) to section 39 of the 1991 Act is to be read as a reference to section 254(1) of the Criminal Justice Act 2003 (c. 44) in relation to any prisoner to whom paragraph 19 of Schedule 2 to the Criminal Justice Act 2003 (Commencement No. 8 and Transitional and Saving Provisions) Order 2005 (S.I. 2005/950) applies.

(5) In paragraph 9(2)(a) (as it continues to have effect in relation to prisoners serving sentences of imprisonment for offences committed before 4th April 2005), after “46” insert “, 50A”.

(6) In paragraph 9(4)(a) (as it continues to have effect in relation to prisoners serving sentences of imprisonment for offences committed before 4th April 2005), after “46” insert “, 50A”.

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(7) Any reference in paragraph 9(2)(a) or (4)(a) to section 39 of the 1991 Act is to be read as a reference to section 254(1) of the Criminal Justice Act 2003 in relation to any prisoner to whom paragraph 19 of Schedule 2 to the Criminal Justice Act 2003 (Commencement No. 8 and Transitional and Saving Provisions) Order 2005 applies.

- 33 (1) Schedule 2 (repatriation of prisoners to the British Islands) is amended as follows.
- (2) In paragraph 2(2) (as it continues to have effect in relation to persons to whom it applied before 4th April 2005), in the definition of enactments relating to release on licence, after “33(1)(b),” insert “, (1A),”.
- (3) In paragraph 3(2) (as it continues to have effect in relation to persons to whom it applied before 4th April 2005), in the definition of enactments relating to release on licence, after “33(1)(b),” insert “, (1A),”.
- (4) In paragraph 5 (which modifies paragraph 2 of the Schedule to the Repatriation of Prisoners Act 1984 (c. 47) in its application to certain descriptions of prisoner), after sub-paragraph (1)(b) insert—
- “(c) prisoners detained in Scotland in pursuance of warrants which—
- (i) are issued by the Scottish Ministers under section 4A of the Repatriation of Prisoners Act 1984 (warrant transferring responsibility for detention and release); and
- (ii) relate to sentences that were imposed before 1 October 1993.”

#### Commencement Information

**I6** Sch. 26 para. 33(1)-(3) in force at 9.6.2008 by S.I. 2008/1466, art. 2(c)(iii)

VALID FROM 16/11/2009

#### *Crime and Disorder Act 1998 (c. 37)*

- 34 (1) Section 38(4) of the Crime and Disorder Act 1998 (which defines “youth justice services” for the purposes of sections 38 to 41) is amended as follows.
- (2) After paragraph (a) insert—
- “(aa) the provision of assistance to persons determining whether reprimands or warnings should be given under section 65 below;”.
- (3) After paragraph (b) insert—
- “(ba) the provision of assistance to persons determining whether youth conditional cautions (within the meaning of Chapter 1 of Part 4) should be given and which conditions to attach to such cautions;
- (bb) the supervision and rehabilitation of persons to whom such cautions are given;”.

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*Youth Justice and Criminal Evidence Act 1999 (c. 23)*

35 The Youth Justice and Criminal Evidence Act 1999 has effect subject to the following amendments.

36 (1) Section 35 (child complainants and other child witnesses) is amended as follows.

(2) In subsection (3) (offences to which section applies), in paragraph (a)—

(a) before sub-paragraph (v) insert—

“(iva) any of sections 33 to 36 of the Sexual Offences Act 1956;” and

(b) in sub-paragraph (vi), at end insert “ or any relevant superseded enactment ”.

(3) After that subsection insert—

“(3A) In subsection (3)(a)(vi) “relevant superseded enactment” means—

(a) any of sections 1 to 32 of the Sexual Offences Act 1956;

(b) the Indecency with Children Act 1960;

(c) the Sexual Offences Act 1967;

(d) section 54 of the Criminal Law Act 1977.”

37 (1) Section 62 (meaning of “sexual offence” and other references to offences) is amended as follows.

(2) In subsection (1) at end insert “ or any relevant superseded offence ”.

(3) After that subsection insert—

“(1A) In subsection (1) “relevant superseded offence” means—

(a) rape or burglary with intent to rape;

(b) an offence under any of sections 2 to 12 and 14 to 17 of the Sexual Offences Act 1956 (unlawful intercourse, indecent assault, forcible abduction etc.);

(c) an offence under section 128 of the Mental Health Act 1959 (unlawful intercourse with person receiving treatment for mental disorder by member of hospital staff etc.);

(d) an offence under section 1 of the Indecency with Children Act 1960 (indecent conduct towards child under 14);

(e) an offence under section 54 of the Criminal Law Act 1977 (incitement of child under 16 to commit incest).”

38 The amendments made by paragraphs 36 and 37 are deemed to have had effect as from 1 May 2004.

39 Where an order under section 61 of the Youth Justice and Criminal Evidence Act 1999 (c. 23) (application of Part 2 of Act to service courts) makes provision as regards the application of any provision of section 35 or 62 of that Act which is amended or inserted by paragraph 36 or 37, the order may have effect in relation to times before the making of the order.

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

40 The Powers of Criminal Courts (Sentencing) Act 2000 has effect subject to the following amendments.

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#### Commencement Information

**17** Sch. 26 para. 40 in force at 9.6.2008 by S.I. 2008/1466, art. 2(c)(iv)

VALID FROM 14/07/2008

41 In section 12 (absolute and conditional discharge), in subsection (1) for “section 225, 226, 227 or 228” substitute “ section 225(2) or 226(2) ”.

VALID FROM 27/04/2009

42 In section 24(5)(a) (first meeting: duration of contract), after “under paragraph” insert “ 9ZD, ”.

VALID FROM 27/04/2009

43 In section 28(a) (offender etc. referred back to court), for “Part I” substitute “ Parts 1 and 1ZA ”.

VALID FROM 14/07/2008

44 In section 92 (detention under sections 90 and 91: place of detention etc.) omit subsection (3).

45 In section 116 (power to order return to prison where offence committed during original sentence)—

- (a) in subsection (1)(b) for “under Part II of the Criminal Justice Act 1991 (early release of prisoners)” substitute “ under any provision of Part 2 of the Criminal Justice Act 1991 (early release of prisoners) other than section 33(1A) ”, and
- (b) in subsection (7), for “section 84 above” substitute “ section 265 of the Criminal Justice Act 2003 (restriction on consecutive sentences for released prisoners) ”.

#### Commencement Information

**18** Sch. 26 para. 45(a) in force at 9.6.2008 by S.I. 2008/1466, art. 2(c)(iv)

VALID FROM 14/07/2008

46 In section 130 (compensation orders), in subsection (2) for “section 225, 226, 227 or 228” substitute “ section 225(2) or 226(2) ”.

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VALID FROM 14/07/2008

47 In section 146 (driving disqualification for any offence), in subsection (2) for “section 225, 226, 227 or 228” substitute “ section 225(2) or 226(2) ”.

VALID FROM 14/07/2008

48 In section 164 (further interpretative provisions), in subsection (3)(c) for “any of sections 225 to 228” substitute “ section 225(2) or 226(2) ”.

VALID FROM 27/04/2009

49 (1) Schedule 1 (youth offender panels: further court proceedings) is amended as follows.

(2) In the heading for Part 1, at the end insert “ : REVOCATION OF REFERRAL ORDER ”.

(3) In paragraphs 5(3), 9 and 14(2)(b), after “under paragraph” insert “ 9ZD, ”.

PROSPECTIVE

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

50 In section 1 of the Criminal Justice and Court Services Act 2000 (purposes of the Chapter)—

(a) in subsection (1A)(a) for “authorised persons to be given assistance in” substitute “ the giving of assistance to persons ”, and

(b) in subsection (4) for “ “authorised person” and “conditional caution” have” substitute “conditional caution” has ”.

VALID FROM 14/07/2008

*Life Sentences (Northern Ireland) Order 2001 (S.I. 2001/2564) (N.I. 2)*

51 In Article 10 of the Life Sentences (Northern Ireland) Order 2001 (life prisoners transferred to Northern Ireland), after paragraph (5) insert—

“(6) The reference in paragraph (4)(b) to a person transferred to Northern Ireland in pursuance of a warrant under the Repatriation of Prisoners Act 1984 includes a person who is detained in Northern Ireland in pursuance of a warrant under section 4A of that Act (warrant transferring responsibility for detention and release of offender).”



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VALID FROM 14/07/2008

*Crime (International Co-operation) Act 2003 (c. 32)*

- 52 In section 48(2)(b) of the Crime (International Co-operation) Act 2003 (transfer of EU etc prisoner to assist UK investigation), for the words from “having been” to the end of paragraph (b) substitute “—
- (a) having been transferred there, or responsibility for his detention and release having been transferred there, from the United Kingdom under the Repatriation of Prisoners Act 1984;
  - (b) having been transferred there, or responsibility for his detention and release having been transferred there, under any similar provision or arrangement from any other country or territory.”

VALID FROM 14/07/2008

*Sexual Offences Act 2003 (c. 42)*

- 53 The Sexual Offences Act 2003 has effect subject to the following amendments.

VALID FROM 31/10/2009

- 54 (1) In section 83(6)(a) (notification requirements: initial notification) after “court” insert “ or kept in service custody ”.
- (2) This paragraph extends to England and Wales and Northern Ireland only.

VALID FROM 31/10/2009

- 55 (1) In section 85(4)(a) (notification requirements: periodic notification) after “court” insert “ or kept in service custody ”.
- (2) This paragraph extends to England and Wales and Northern Ireland only.

- 56 (1) Section 133 (interpretation) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a) of the definition of “cautioned”, for “by a police officer” substitute “ (or, in Northern Ireland, cautioned by a police officer) ”;
  - (b) at the appropriate place insert—  
  
““kept in service custody” means kept in service custody by virtue of an order under section 105(2) of the Armed Forces Act 2006 (but see also subsection (3));”
- (3) After subsection (2) insert—
- “(3) In relation to any time before the commencement of section 105(2) of the Armed Forces Act 2006, “kept in service custody” means being kept in military, air-force or naval custody by virtue of an order made under

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section 75A(2) of the Army Act 1955 or of the Air Force Act 1955 or section 47G(2) of the Naval Discipline Act 1957 (as the case may be).”

(4) This paragraph extends to England and Wales and Northern Ireland only.

57 (1) In section 138 (orders and regulations), at the end insert—

“(4) Orders or regulations made by the Secretary of State under this Act may—

- (a) make different provision for different purposes;
- (b) include supplementary, incidental, consequential, transitional, transitory or saving provisions.”

(2) The amendment made by sub-paragraph (1), and the repeals in Part 4 of Schedule 28 of sections 86(4) and 87(6) of the Sexual Offences Act 2003 (which are consequential on that amendment), extend to England and Wales and Northern Ireland only.

VALID FROM 26/01/2009

58 (1) Schedule 3 (sexual offences in respect of which offender becomes subject to notification requirements) is amended as follows.

(2) After paragraph 35 insert—

“35A An offence under section 63 of the Criminal Justice and Immigration Act 2008 (possession of extreme pornographic images) if the offender—

- (a) was 18 or over, and
- (b) is sentenced in respect of the offence to imprisonment for a term of at least 2 years.”

(3) After paragraph 92 insert—

“92A An offence under section 63 of the Criminal Justice and Immigration Act 2008 (possession of extreme pornographic images) if the offender—

- (a) was 18 or over, and
- (b) is sentenced in respect of the offence to imprisonment for a term of at least 2 years.”

(4) In paragraphs 93(1) and 93A(1) (service offences) for “35” substitute “ 35A ”.

(5) This paragraph extends to England and Wales and Northern Ireland only.

*Criminal Justice Act 2003 (c. 44)*

VALID FROM 14/07/2008

59 The Criminal Justice Act 2003 has effect subject to the following amendments.

VALID FROM 08/07/2009

60 (1) Section 23A (financial penalties) is amended as follows.

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- (2) In subsection (5), for paragraphs (b) and (c) substitute—  
“(b) the person to whom the financial penalty is to be paid and how it may be paid.”
- (3) In subsection (6), for “to the specified officer” substitute “ in accordance with the provision specified under subsection (5)(b). ”
- (4) After subsection (6) insert—  
“(6A) Where a financial penalty is (in accordance with the provision specified under subsection (5)(b)) paid to a person other than a designated officer for a local justice area, the person to whom it is paid must give the payment to such an officer.”
- (5) Omit subsections (7) to (9).

VALID FROM 08/07/2009

61 After section 23A insert—

**“23B Variation of conditions**

A relevant prosecutor may, with the consent of the offender, vary the conditions attached to a conditional caution by—

- (a) modifying or omitting any of the conditions;
- (b) adding a condition.”

VALID FROM 08/07/2009

62 In section 25 (codes of practice) in subsection (2) after paragraph (g) insert—  
“(ga) the provision which may be made by a relevant prosecutor under section 23A(5)(b).”.

VALID FROM 15/07/2008

63 In sections 88(3), 89(9) and 91(5) (days to be disregarded in calculating certain time periods relating to bail and custody under Part 10), before paragraph (a) insert—  
“(za) Saturday.”.

VALID FROM 14/07/2008

64 In section 142 (purposes of sentencing), in subsection (2)(c) for “any of sections 225 to 228” substitute “ section 225(2) or 226(2) ”.

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VALID FROM 14/07/2008

65 In section 150 (circumstances in which community sentence not available), in paragraph (d) for “any of sections 225 to 228” to the end substitute “section 225(2) or 226(2) of this Act (requirement to impose sentence of imprisonment for life or detention for life)”.

VALID FROM 14/07/2008

66 In section 152 (general restrictions on imposing custodial sentences), in subsection (1)(b) for “any of sections 225 to 228” substitute “section 225(2) or 226(2)”.

VALID FROM 14/07/2008

67 In section 153 (length of discretionary custodial sentences: general provision), in subsection (1), omit “falling to be”.

VALID FROM 14/07/2008

68 In section 163 (general power of Crown Court to fine) for “any of sections 225 to 228” substitute “section 225(2) or 226(2)”.

VALID FROM 14/07/2008

69 In section 224 (meaning of “specified offence” etc), in subsection (3) the definition of relevant offence is omitted.

VALID FROM 23/03/2010

70 Section 233 (offences under service law) is omitted.

VALID FROM 14/07/2008

71 In section 264 (consecutive terms), in subsection (6)(a)(i) after “means” insert “one-half of”.

VALID FROM 14/07/2008

72 In section 305 (interpretation of Part 12), in subsection (4)—  
 (a) for paragraphs (c) and (d) substitute—  
 “(c) a sentence falls to be imposed under subsection (2) of section 225 if the court is obliged to pass a sentence of imprisonment for life under that subsection;

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- (d) a sentence falls to be imposed under subsection (2) of section 226 if the court is obliged to pass a sentence of detention for life under that subsection;”, and
- (b) paragraph (e) is omitted.

VALID FROM 14/07/2008

- 73 In section 273 (life prisoners transferred to England and Wales), after subsection (4) insert—
- “(5) The reference in subsection (2)(b) above to a person who has been transferred to England and Wales in pursuance of a warrant issued under the Repatriation of Prisoners Act 1984 includes a reference to a person who is detained in England and Wales in pursuance of a warrant under section 4A of that Act (warrant transferring responsibility for detention and release of offender).”

VALID FROM 14/07/2008

- 74 (1) Section 325 (arrangements for assessing etc risks posed by certain offenders) is amended as follows.
- (2) In subsection (8), for “section 326” substitute “ sections 326 and 327A ”.
- (3) After that subsection insert—
- “(8A) Responsible authorities must have regard to any guidance issued under subsection (8) in discharging those functions.”

VALID FROM 14/07/2008

- 75 In section 326(5)(a) (review of arrangements), for “and this section” substitute “ , this section and section 327A ”.

VALID FROM 14/07/2008

- 76 In section 330(5)(a) (orders subject to the affirmative procedure) after “section 223,” insert—
- “section 227(6),  
section 228(7)”.

- 77 In Part 4 of Schedule 37, in the entry relating to the Magistrates' Courts Act 1980, in the second column, omit the words “In section 33(1), paragraph (b) and the word “and” immediately preceding it”.

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VALID FROM 14/07/2008

*Criminal Justice Act 2003 (Commencement No. 8 and Transitional and Saving Provisions) Order 2005 (S.I. 2005/950)*

- 78 In paragraph 14 of Schedule 2 to the Criminal Justice Act 2003 (Commencement No. 8 and Transitional and Saving Provisions) Order 2005 (saving from certain provisions of the Criminal Justice Act 2003 for sentences of imprisonment of less than 12 months), for “sections 244 to 268” substitute “ sections 244 to 264 and 266 to 268 ”.

VALID FROM 30/11/2009

*Terrorism Act 2006 (c. 11)*

- 79 (1) Schedule 1 to the Terrorism Act 2006 (Convention offences) is amended as follows.
- (2) In the cross-heading before paragraph 6 (offences involving nuclear material), after “material” add “ or nuclear facilities ”.
- (3) In paragraph 6(1), after “section 1(1)” insert “ (a) to (d) ”.
- (4) For paragraph 6(2) and (3) substitute—
- “(2) An offence mentioned in section 1(1)(a) or (b) of that Act where the act making the person guilty of the offence (whether done in the United Kingdom or elsewhere)—
- (a) is directed at a nuclear facility or interferes with the operation of such a facility, and
- (b) causes death, injury or damage resulting from the emission of ionising radiation or the release of radioactive material.
- (3) An offence under any of the following provisions of that Act—
- (a) section 1B (offences relating to damage to environment);
- (b) section 1C (offences of importing or exporting etc. nuclear material: extended jurisdiction);
- (c) section 2 (offences involving preparatory acts and threats).
- (4) Expressions used in this paragraph and that Act have the same meanings in this paragraph as in that Act.”
- (5) After paragraph 6 insert—
- “6A (1) Any of the following offences under the Customs and Excise Management Act 1979—
- (a) an offence under section 50(2) or (3) (improper importation of goods) in connection with a prohibition or restriction relating to the importation of nuclear material;
- (b) an offence under section 68(2) (exportation of prohibited or restricted goods) in connection with a prohibition or restriction relating to the exportation or shipment as stores of nuclear material;

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(c) an offence under section 170(1) or (2) (fraudulent evasion of duty etc.) in connection with a prohibition or restriction relating to the importation, exportation or shipment as stores of nuclear material.

(2) In this paragraph “nuclear material” has the same meaning as in the Nuclear Material (Offences) Act 1983 (see section 6 of that Act).”

VALID FROM 14/07/2008

*Natural Environment and Rural Communities Act 2006 (c. 16)*

80 In paragraph 7 of Schedule 5 to the Natural Environment and Rural Communities Act 2006 (powers of wildlife inspectors extended to certain other Acts) after paragraph (d) insert—

“(da) section 19XB(1) and (4) (offences in connection with enforcement powers);”.

VALID FROM 14/07/2008

*Police and Justice Act 2006 (c. 48)*

81 (1) The Police and Justice Act 2006 is amended as follows.

(2) In subsection (1) of section 49 (orders and regulations)—

- (a) at the end of paragraph (a) insert “ or ”;
- (b) omit paragraph (c) and the “or” preceding it.

(3) In paragraph 30 of Schedule 1 (National Policing Improvement Agency: inspections) omit sub-paragraph (3).

VALID FROM 31/10/2009

*Armed Forces Act 2006 (c. 52)*

82 (1) The Armed Forces Act 2006 has effect subject to the following amendments.

(2) In paragraph 12(ah) of Schedule 2 (offences)—

- (a) for “and 18 to 23” substitute “ , 18 to 23 and 29B to 29G ”, and
- (b) for “racial or religious hatred” substitute “ hatred by reference to race etc ”.

(3) In paragraph 1(2) of Schedule 5 (service community orders: general)—

- (a) for “12, 13, 15, 16(5), 17(5) and (6)” substitute “ 13, 16(5), 17(6) ”, and
- (b) after “21” insert “ , 25A ”.

(4) In paragraph 10(2)(b) of Schedule 5 (overseas community orders: general)—

- (a) for “12, 13, 15, 16(5), 17(5) and (6)” substitute “ 13, 16(5), 17(6) ”, and
- (b) for “and 23(1)(a)(ii)” substitute “ , 23(1)(a)(ii) and 25A ”.

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VALID FROM 01/04/2010

*Offender Management Act 2007 (c. 21)*

- 83 In section 1 of the Offender Management Act 2007 (meaning of “the probation purposes”)—
- (a) in subsection (1)(b) for “authorised persons to be given assistance in” substitute “ the giving of assistance to persons ”, and
  - (b) in subsection (4) for “ “authorised person” and “conditional caution” have” substitute “conditional caution” has ”.



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