



Criminal Justice and Courts Act 2015

2015 CHAPTER 2

PART 1

CRIMINAL JUSTICE

Dangerous offenders

1 Maximum sentence for certain offences to be life imprisonment

- (1) In section 4 of the Explosive Substances Act 1883 (making or possession of explosive under suspicious circumstances)—
 - (a) in subsection (1), for the words from “guilty” to the end substitute “guilty of an offence”, and
 - (b) after that subsection insert—

“(1A) A person who is guilty of an offence under subsection (1) is liable, on conviction on indictment, to imprisonment for life.

(1B) Where a person is convicted of an offence under subsection (1) the explosive substance is to be forfeited.”
- (2) In section 54(6)(a) of the Terrorism Act 2000 (penalty on conviction on indictment of offence involving weapons training for terrorism), for “imprisonment for a term not exceeding ten years” substitute “imprisonment for life”.
- (3) In section 6(5)(a) of the Terrorism Act 2006 (penalty on conviction on indictment of offence involving training for terrorism), for “imprisonment for a term not exceeding 10 years” substitute “imprisonment for life”.
- (4) The amendments made by this section apply only in relation to an offence committed on or after the day on which they come into force.
- (5) Where an offence is found to have been committed over a period of 2 or more days, or at some time during a period of 2 or more days, it must be taken for the purposes of subsection (4) to have been committed on the last of those days.

2 Specified offences

- (1) Schedule 15 to the Criminal Justice Act 2003 (specified offences for purposes of Chapter 5 of Part 12 of that Act) is amended as follows.
- (2) After paragraph 22 (offence under section 3 of the Explosive Substances Act 1883) insert—
 - “22A An offence under section 4 of that Act (making or possession of explosive under suspicious circumstances).”
- (3) For paragraph 64 (accessories and inchoate offences: violent offences) substitute—
 - “64 (1) Aiding, abetting, counselling or procuring the commission of an offence specified in the preceding paragraphs of this Part of this Schedule.
 - (2) An attempt to commit such an offence.
 - (3) Conspiracy to commit such an offence.
 - (4) Incitement to commit such an offence.
 - (5) An offence under Part 2 of the Serious Crime Act 2007 in relation to which an offence specified in the preceding paragraphs of this Part of this Schedule is the offence (or one of the offences) which the person intended or believed would be committed.”
- (4) For paragraph 65 (attempt or conspiracy to commit murder) substitute—
 - “65 (1) An attempt to commit murder.
 - (2) Conspiracy to commit murder.
 - (3) Incitement to commit murder.
 - (4) An offence under Part 2 of the Serious Crime Act 2007 in relation to which murder is the offence (or one of the offences) which the person intended or believed would be committed.”
- (5) Omit paragraph 92 (offence of keeping a brothel under section 33 of the Sexual Offences Act 1956).
- (6) After that paragraph insert—
 - “92A An offence under section 33A of that Act (keeping a brothel used for prostitution).”
- (7) For paragraph 153 (accessories and inchoate offences: sexual offences) substitute—
 - “153 (1) Aiding, abetting, counselling or procuring the commission of an offence specified in this Part of this Schedule.
 - (2) An attempt to commit such an offence.
 - (3) Conspiracy to commit such an offence.
 - (4) Incitement to commit such an offence.
 - (5) An offence under Part 2 of the Serious Crime Act 2007 in relation to which an offence specified in this Part of this Schedule is the offence (or one of the offences) which the person intended or believed would be committed.”

- (8) The amendments made by this section apply in relation to a person sentenced for an offence on or after the day on which they come into force, whenever the offence was committed.
- (9) But subsection (8) does not apply for the purposes of the provisions referred to in subsection (10).
- (10) For the purposes of sections 225(1)(a) and 226(1)(a) of the Criminal Justice Act 2003 and sections 219(1)(b) and 221(1)(b) of the Armed Forces Act 2006, the amendments made by subsections (2) and (4) apply only in relation to a person sentenced for an offence that was committed on or after the day on which they come into force.
- (11) Where an offence is found to have been committed over a period of 2 or more days, or at some time during a period of 2 or more days, it must be taken for the purposes of subsection (10) to have been committed on the last of those days.

3 Schedule 15B offences

- (1) Part 1 of Schedule 15B to the Criminal Justice Act 2003 (offences under the law of England and Wales listed for the purposes of sections 224A(1) and (4), 226A and 246A of that Act) is amended as follows.
- (2) After paragraph 3 (offence under section 18 of the Offences Against the Person Act 1861) insert—
 - “3A An offence under section 28 of that Act (causing bodily injury by explosives).
 - 3B An offence under section 29 of that Act (using explosives etc with intent to do grievous bodily harm).
 - 3C An offence under section 2 of the Explosive Substances Act 1883 (causing explosion likely to endanger life or property).
 - 3D An offence under section 3 of that Act (attempt to cause explosion, or making or keeping explosive with intent to endanger life or property).
 - 3E An offence under section 4 of that Act (making or possession of explosive under suspicious circumstances).”
- (3) After paragraph 8 insert—
 - “8A An offence under section 54 of the Terrorism Act 2000 (weapons training).”
- (4) In paragraph 9, for “the Terrorism Act 2000” substitute “that Act”.
- (5) After paragraph 40 (offence under section 5 of the Terrorism Act 2006) insert—
 - “40A An offence under section 6 of that Act (training for terrorism).”
- (6) Part 4 of Schedule 15B to the Criminal Justice Act 2003 (offences under the law of Scotland, Northern Ireland or a member State other than the United Kingdom listed for the purposes of sections 224A(4) and 226A of that Act) is amended as follows.
- (7) In paragraph 49, for “An offence” substitute “A civilian offence”.
- (8) After paragraph 49 insert—

“49A A member State service offence which, if committed in England and Wales at the time of the conviction, would have constituted an offence specified in Part 1 or 2 of this Schedule.

49B In this Part of this Schedule—

“civilian offence” means an offence other than an offence described in Part 3 of this Schedule or a member State service offence;

“member State service offence” means an offence which was the subject of proceedings under the law of a member State, other than the United Kingdom, governing all or any of the naval, military or air forces of that State.”

- (9) For the purposes of section 224A of the Criminal Justice Act 2003 and section 218A of the Armed Forces Act 2006, the amendments made by this section apply only in relation to a person sentenced for an offence that was committed on or after the day on which they come into force.
- (10) For the purposes of section 226A of the Criminal Justice Act 2003 and section 219A of the Armed Forces Act 2006, the amendments made by this section apply in relation to a person sentenced for an offence on or after the day on which they come into force, whenever the offence was committed.
- (11) For the purposes of section 246A of the Criminal Justice Act 2003, the amendments made by subsections (2) to (5) apply in relation to a person serving an extended sentence imposed on or after the day on which they come into force, whenever the offence in question was committed.
- (12) Where an offence is found to have been committed over a period of 2 or more days, or at some time during a period of 2 or more days, it must be taken for the purposes of subsection (9) to have been committed on the last of those days.

4 Parole Board release when serving extended sentences

- (1) Section 246A of the Criminal Justice Act 2003 (release on licence of prisoners serving extended sentences under section 226A or 226B) is amended as follows.
- (2) In subsection (2) (automatic release at the end of requisite custodial period), for the words from “unless” to the end substitute “if—
- (a) the sentence was imposed before the coming into force of section 4 of the Criminal Justice and Courts Act 2015,
 - (b) the appropriate custodial term is less than 10 years, and
 - (c) the sentence was not imposed in respect of an offence listed in Parts 1 to 3 of Schedule 15B or in respect of offences that include one or more offences listed in those Parts of that Schedule.”
- (3) In subsection (3) (release following Parole Board direction), for “If either or both of those conditions are met” substitute “In any other case”.

5 Minor amendments

- (1) In section 224A of the Criminal Justice Act 2003 (life sentence for second listed offence), at the end insert—

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

“(12) Where an offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, it must be taken for the purposes of subsections (1)(b) and (4)(a) to have been committed on the last of those days.”

(2) In section 232A of that Act (certificates of conviction), for “section 224A” substitute “sections 224A and 226A”.

(3) In section 218A of the Armed Forces Act 2006 (life sentence for second listed offence), at the end insert—

“(8) Where an offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, it must be taken for the purposes of subsections (1)(c) and (5)(a) to have been committed on the last of those days.”

Other offenders of particular concern

6 Sentence and Parole Board release for offenders of particular concern

(1) Part 1 of Schedule 1 contains—

- (a) provision about the sentence to be imposed on certain offenders of particular concern, and
- (b) provision for such offenders to be released on licence following a Parole Board direction.

(2) That Schedule also contains—

- (a) equivalent provision in respect of offenders convicted of service offences (see Part 2),
- (b) transitional and transitory provision (see Part 3), and
- (c) consequential provision (see Part 4).

Release and recall of prisoners

7 Electronic monitoring following release on licence etc

(1) Part 3 of the Criminal Justice and Court Services Act 2000 (dealing with offenders) is amended as follows.

(2) In section 62 (release on licence etc: conditions as to monitoring)—

(a) for subsection (2) substitute—

“(2) The conditions may include electronic monitoring conditions.

(2A) An electronic monitoring condition imposed under this section must include provision for making a person responsible for the monitoring.

(2B) A person may not be made responsible for the monitoring unless the person is of a description specified in an order made by the Secretary of State.”, and

(b) after subsection (5) insert—

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

“(5A) In this section “electronic monitoring condition” means a condition requiring the person to submit to either or both of the following—

- (a) electronic monitoring of the person’s compliance with another condition of release, and
- (b) electronic monitoring of the person’s whereabouts (other than for the purpose of monitoring compliance with another condition of release).”

(3) After section 62 insert—

“62A Release on licence etc: compulsory electronic monitoring conditions

- (1) The Secretary of State may by order provide that the power under section 62 to impose an electronic monitoring condition must be exercised.
- (2) An order under this section may—
 - (a) require an electronic monitoring condition to be included for so long as the person’s release is required to be, or may be, subject to conditions or for a shorter period;
 - (b) make provision generally or in relation to a case described in the order.
- (3) An order under this section may, in particular—
 - (a) make provision in relation to cases in which compliance with a condition imposed on a person’s release is monitored by a person specified or described in the order;
 - (b) make provision in relation to persons selected on the basis of criteria specified in the order or on a sampling basis;
 - (c) make provision by reference to whether a person specified in the order is satisfied of a matter.
- (4) An order under this section may not make provision about a case in which the sentence imposed on the person is—
 - (a) a detention and training order,
 - (b) a sentence of detention under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 (detention of offenders under 18 convicted of certain offences),
 - (c) a sentence of detention under section 209 of the Armed Forces Act 2006 (detention of offenders under 18 convicted of certain offences), or
 - (d) an order under section 211 of that Act.
- (5) In this section, “electronic monitoring condition” has the same meaning as in section 62.

62B Data from electronic monitoring: code of practice

- (1) The Secretary of State must issue a code of practice relating to the processing of data gathered in the course of monitoring persons under electronic monitoring conditions imposed under section 62.
- (2) A failure to observe a code issued under this section does not of itself make a person liable to any criminal or civil proceedings.”

- (4) Schedule 2 to this Act contains consequential provision.
- (5) The amendments made by this section and Schedule 2 apply in relation to a person who is released from prison on or after the day on which they come into force.

8 Recall adjudicators

- (1) After section 239 of the Criminal Justice Act 2003 insert—

“239A Recall adjudicators

- (1) In this Chapter, “recall adjudicator” means a person for the time being appointed as such by the Secretary of State.
 - (2) The Secretary of State may appoint the Board or another person.
 - (3) The Secretary of State may, in particular, appoint a person—
 - (a) to carry out all or only some of the functions of a recall adjudicator;
 - (b) to carry out such functions only in relation to a specified area;
 - (c) to carry out such functions only in relation to a specified description of case.
 - (4) The Secretary of State may make rules with respect to the proceedings of recall adjudicators.
 - (5) The Secretary of State may appoint a recall adjudicator (referred to in this section as “the chief recall adjudicator”) to oversee the activities of recall adjudicators.
 - (6) The chief recall adjudicator may, in particular—
 - (a) issue guidance with respect to the carrying out of the functions of recall adjudicators, and
 - (b) make recommendations to the Secretary of State about the termination of appointments under this section.
 - (7) Before issuing guidance the chief recall adjudicator must consult the recall adjudicators and the Secretary of State.
 - (8) A recall adjudicator must carry out his or her functions in accordance with guidance issued from time to time by the chief recall adjudicator.
 - (9) The Secretary of State may make payments to a recall adjudicator.
 - (10) A person is not to be regarded as acting on behalf of the Crown, or as enjoying any status, immunity or privilege of the Crown, by virtue of an appointment under this section.”
- (2) The amendments of Chapter 6 of Part 12 of the Criminal Justice Act 2003 (release etc of fixed-term prisoners) in section 9 of this Act confer functions on recall adjudicators in connection with the release of fixed-term prisoners following their recall.
 - (3) Schedule 3 to this Act contains further provision relating to recall adjudicators.

9 Test for release after recall: determinate sentences

(1) Chapter 6 of Part 12 of the Criminal Justice Act 2003 (release etc of fixed-term prisoners) is amended as follows.

(2) In section 255A (suitability for automatic release after recall), after subsection (4) insert—

“(4A) But a person is not suitable for automatic release if—

- (a) it appears to the Secretary of State that the person is highly likely to breach a condition included in the person’s licence if released at the end of the automatic release period, and
- (b) for that reason, the Secretary of State considers that it would not be appropriate to release the person at the end of that period.”

(3) In section 255B (automatic release)—

- (a) in subsection (2), at the end insert “(but see subsections (3) and (3A))”,
- (b) after subsection (3), insert—

“(3A) The Secretary of State must not release P under subsection (2) if—

- (a) it appears to the Secretary of State that, if released, P is highly likely to breach a condition included in P’s licence, and
- (b) for that reason, the Secretary of State considers that it is not appropriate to release P under that subsection.”

(c) in subsection (4)—

- (i) for “that period” substitute “the period mentioned in subsection (1)(b)”, and
- (ii) for “the Board” substitute “a recall adjudicator”,

(d) after subsection (4) insert—

“(4A) On a reference under subsection (4), the recall adjudicator must determine the reference by—

- (a) directing P’s immediate release on licence under this Chapter,
- (b) directing P’s release on licence under this Chapter as soon as conditions specified in the direction are met, or
- (c) giving no direction as to P’s release,

(but see subsections (4B) and (4C)).

(4B) The recall adjudicator must not give a direction under subsection (4A)

(a) or (b) unless satisfied that it is not necessary for the protection of the public that P should remain in prison until the end of the period mentioned in subsection (1)(b).

(4C) The recall adjudicator must not give a direction under subsection (4A)

(a) or (b) if—

- (a) it appears to the recall adjudicator that, if released, P is highly likely to breach a condition included in P’s licence, and
- (b) for that reason, the recall adjudicator considers that it is not appropriate to give the direction.”, and

(e) for subsection (5) substitute—

“(5) The Secretary of State must give effect to any direction under subsection (4A)(a) or (b).”

(4) In section 255C (extended sentence prisoners and those not suitable for automatic release)—

- (a) in subsection (2), at the end insert “(but see subsections (3) and (3A))”,
- (b) after subsection (3), insert—

“(3A) The Secretary of State must not release P under subsection (2) if—

- (a) it appears to the Secretary of State that, if released, P is highly likely to breach a condition included in P’s licence, and
- (b) for that reason, the Secretary of State considers that it is not appropriate to release P under that subsection.”,
- (c) in subsection (4), for “the Board” substitute “a recall adjudicator”,
- (d) after subsection (4) insert—

“(4A) On a reference under subsection (4), the recall adjudicator must determine the reference by—

- (a) directing P’s immediate release on licence under this Chapter,
- (b) directing P’s release on licence under this Chapter as soon as conditions specified in the direction are met, or
- (c) giving no direction as to P’s release,

(but see subsections (4B) and (4C)).

(4B) The recall adjudicator must not give a direction under subsection (4A)

(a) or (b) unless satisfied that it is not necessary for the protection of the public that P should remain in prison.

(4C) The recall adjudicator must not give a direction under subsection (4A)

(a) or (b) if—

- (a) it appears to the recall adjudicator that, if released, P is highly likely to breach a condition included in P’s licence, and
- (b) for that reason, the recall adjudicator considers that it is not appropriate to give the direction.”, and

(e) for subsection (5) substitute—

“(5) The Secretary of State must give effect to any direction under subsection (4A)(a) or (b).”

(5) Omit section 256 (powers of Board where it does not direct immediate release).

(6) In section 256A (further review)—

(a) for subsection (1) substitute—

“(1) Where a case has been referred to a recall adjudicator under section 255C(4) or this section and the person has not been released, the Secretary of State must refer the person’s case back to a recall adjudicator no later than the review date.

(1A) In the case of a person serving one sentence of imprisonment, “the review date” is the first anniversary of the determination by the recall adjudicator on the reference mentioned in subsection (1).

(1B) In the case of a person serving more than one sentence of imprisonment, “the review date” is—

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

- (a) the first anniversary of the determination by the recall adjudicator on the reference mentioned in subsection (1), or
- (b) if later, the day on which the person has served—
 - (i) the requisite custodial period, and
 - (ii) if the sentences include a life sentence, the minimum term.”,
- (b) in subsection (2)—
 - (i) for “that anniversary” substitute “the review date”, and
 - (ii) for “the Board” substitute “a recall adjudicator”,
- (c) in subsection (3), for “The Board” substitute “A recall adjudicator”,
- (d) in subsection (4)—
 - (i) for “Board” substitute “recall adjudicator”, and
 - (ii) for paragraph (b) substitute—
 - “(b) directing the person’s release on licence under this Chapter as soon as conditions specified in the direction are met.”,
- (e) at the end of subsection (4) insert—
 - “(but see subsections (4A) and (4B)).”,
- (f) after subsection (4) insert—
 - “(4A) The recall adjudicator must not give a direction under subsection (4) (a) or (b) unless satisfied that it is not necessary for the protection of the public that the person should remain in prison.
 - (4B) The recall adjudicator must not give a direction under subsection (4) (a) or (b) if—
 - (a) it appears to the recall adjudicator that, if released, the person is highly likely to breach a condition included in the person’s licence, and
 - (b) for that reason, the recall adjudicator considers that it is not appropriate to give the direction.”, and
- (g) for subsection (5) substitute—
 - “(5) The Secretary of State must give effect to any direction under subsection (4)(a) or (b).
 - (6) In subsection (1B)(b)—
 - “life sentence” means a sentence mentioned in section 34(2) of the Crime (Sentences) Act 1997, and
 - “the minimum term” means the part of the sentence specified in the minimum term order (as defined by section 28 of that Act).”
- (7) In Schedule 20A (application of Chapter 6 of Part 12 to pre 4 April 2005 cases), omit paragraph 6(5) (certain determinations to be treated as determinations under section 256(1) of the Criminal Justice Act 2003).
- (8) The amendments made by this section apply to a person recalled before the day on which they come into force as well as to a person recalled on or after that day.

10 Power to change test for release after recall: determinate sentences

- (1) In Chapter 6 of Part 12 of the Criminal Justice Act 2003 (release etc of fixed-term prisoners), after section 256A insert—

“256AZA Power to change test for release following recall

- (1) The Secretary of State may by order change—
- (a) the test to be applied by the Secretary of State in deciding under section 255A whether a person is suitable for automatic release;
 - (b) the tests to be applied by the Secretary of State in deciding whether to release a person under section 255B(2) or 255C(2);
 - (c) the tests to be applied by the recall adjudicator in deciding how to determine a reference under section 255B(4), 255C(4) or 256A(1) or (2).
- (2) An order under subsection (1) may, in particular—
- (a) apply to people recalled before the day on which it comes into force as well as to people recalled on or after that day;
 - (b) amend this Chapter.”
- (2) In section 330(5)(a) of that Act (orders subject to affirmative procedure) at the appropriate place insert—
“section 256AZA,”.

11 Initial release and release after recall: life sentences

- (1) In section 28(7)(c) of the Crime (Sentences) Act 1997 (duty to release certain life prisoners), for “one-half of that sentence” substitute “the requisite custodial period (as defined in section 268 of the Criminal Justice Act 2003)”.
- (2) In section 32 of the Crime (Sentences) Act 1997 (recall of life prisoners while on licence), after subsection (5) insert—
“(5A) The Board must not give a direction unless satisfied that it is no longer necessary for the protection of the public that the life prisoner should remain in prison.”
- (3) In section 128 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (power to change test for release on licence of certain prisoners), in subsection (3), after paragraph (a) insert—
“(aa) amend section 32 of the Crime (Sentences) Act 1997 (recall of IPP prisoners and others while on licence and further release),”.
- (4) The amendment made by subsection (1) applies to a person sentenced before the day on which it comes into force as well as to a person sentenced on or after that day.
- (5) The amendment made by subsection (2) applies in relation to a person recalled before the day on which it comes into force as well as in relation to a person recalled on or after that day.

12 Offence of remaining unlawfully at large after recall

- (1) After section 32 of the Crime (Sentences) Act 1997 (recall of life prisoners) insert—

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

“32ZA Offence of remaining unlawfully at large after recall

- (1) A person recalled to prison under section 32 commits an offence if the person—
 - (a) has been notified of the recall orally or in writing, and
 - (b) while unlawfully at large fails, without reasonable excuse, to take all necessary steps to return to prison as soon as possible.
- (2) A person is to be treated for the purposes of subsection (1)(a) as having been notified of the recall if—
 - (a) written notice of the recall has been delivered to an appropriate address, and
 - (b) a period specified in the notice has elapsed.
- (3) In subsection (2) “an appropriate address” means—
 - (a) an address at which, under the person’s licence, the person is permitted to reside or stay, or
 - (b) an address nominated, in accordance with the person’s licence, for the purposes of this section.
- (4) A person is also to be treated for the purposes of subsection (1)(a) as having been notified of the recall if—
 - (a) the person’s licence requires the person to keep in touch in accordance with any instructions given by an officer of a provider of probation services,
 - (b) the person has failed to comply with such an instruction, and
 - (c) the person has not complied with such an instruction for at least 6 months.
- (5) A person who is guilty of an offence under this section is liable—
 - (a) on conviction on indictment to imprisonment for a term not exceeding 2 years or a fine (or both);
 - (b) on summary conviction to imprisonment for a term not exceeding 12 months or a fine (or both).
- (6) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in subsection (5)(b) to 12 months is to be read as a reference to 6 months.
- (7) In relation to an offence committed before section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force, the reference in subsection (5)(b) to a fine is to be read as a reference to a fine not exceeding the statutory maximum.”

- (2) After section 255 of the Criminal Justice Act 2003 (recall of prisoners) insert—

“255ZA Offence of remaining unlawfully at large after recall

- (1) A person recalled to prison under section 254 or 255 commits an offence if the person—
 - (a) has been notified of the recall orally or in writing, and

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

- (b) while unlawfully at large fails, without reasonable excuse, to take all necessary steps to return to prison as soon as possible.
 - (2) A person is to be treated for the purposes of subsection (1)(a) as having been notified of the recall if—
 - (a) written notice of the recall has been delivered to an appropriate address, and
 - (b) a period specified in the notice has elapsed.
 - (3) In subsection (2) “an appropriate address” means—
 - (a) an address at which, under the person’s licence, the person is permitted to reside or stay, or
 - (b) an address nominated, in accordance with the person’s licence, for the purposes of this section.
 - (4) A person is also to be treated for the purposes of subsection (1)(a) as having been notified of the recall if—
 - (a) the person’s licence requires the person to keep in touch in accordance with any instructions given by an officer of a provider of probation services,
 - (b) the person has failed to comply with such an instruction, and
 - (c) the person has not complied with such an instruction for at least 6 months.
 - (5) A person who is guilty of an offence under this section is liable—
 - (a) on conviction on indictment to imprisonment for a term not exceeding 2 years or a fine (or both);
 - (b) on summary conviction to imprisonment for a term not exceeding 12 months or a fine (or both).
 - (6) In relation to an offence committed before section 154(1) comes into force, the reference in subsection (5)(b) to 12 months is to be read as a reference to 6 months.
 - (7) In relation to an offence committed before section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force, the reference in subsection (5)(b) to a fine is to be read as a reference to a fine not exceeding the statutory maximum.”
- (3) Section 32ZA of the Crime (Sentences) Act 1997 and section 255ZA of the Criminal Justice Act 2003 apply in relation to a person recalled to prison before or after this section comes into force.

13 Offence of remaining unlawfully at large after temporary release

- (1) Section 1 of the Prisoners (Return to Custody) Act 1995 (remaining at large after temporary release) is amended as follows.
- (2) For subsection (3) substitute—
 - “(3) A person guilty of an offence under this section is liable—
 - (a) on conviction on indictment to imprisonment for a term not exceeding 2 years or a fine (or both), and

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

- (b) on summary conviction to imprisonment for a term not exceeding 12 months or a fine (or both).”

(3) At the end insert—

“(7) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in subsection (3)(b) to 12 months is to be read as a reference to 6 months.

(8) In relation to an offence committed before section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force, the reference in subsection (3)(b) to a fine is to be read as a reference to a fine not exceeding the statutory maximum.”

(4) The amendment made by subsection (2) does not apply where the period of temporary release expired, or the order of recall was made, before this section comes into force.

14 Definition of “requisite custodial period”

(1) Chapter 6 of Part 12 of the Criminal Justice Act 2003 (release etc of fixed-term prisoners) is amended as follows.

(2) In section 268 (interpretation of Chapter), after subsection (1) insert—

“(1A) In this Chapter, “the requisite custodial period” means—

- (a) in relation to a person serving an extended sentence imposed under section 226A or 226B, the requisite custodial period for the purposes of section 246A;
- (b) in relation to a person serving an extended sentence imposed under section 227 or 228, the requisite custodial period for the purposes of section 247;
- (c) in relation to a person serving a sentence imposed under section 236A, the requisite custodial period for the purposes of section 244A;
- (d) in relation to any other fixed-term prisoner, the requisite custodial period for the purposes of section 243A or section 244 (as appropriate).”

(3) In section 247 (release on licence of prisoner serving extended sentence under section 227 or 228)—

- (a) in subsection (2)(a), for “one-half of the appropriate custodial term” substitute “the requisite custodial period”, and
- (b) for subsection (7) substitute—

“(7) In this section—

“the appropriate custodial term” means the period determined by the court as the appropriate custodial term under section 227 or 228;

“the requisite custodial period” means—

- (a) in relation to a person serving one sentence, one-half of the appropriate custodial term, and
- (b) in relation to a person serving two or more concurrent or consecutive sentences, the period determined under sections 263(2) and 264(2).”

- (4) In section 260 (early removal of prisoners liable to removal from United Kingdom), omit subsection (7).
- (5) In section 261 (re-entry into United Kingdom of offender removed from prison early)
 - (a) in subsection (5), omit paragraph (a),
 - (b) in subsection (5)(b)—
 - (i) omit “in any other case,” and
 - (ii) for “or 246A” substitute “, 246A or 247”, and
 - (c) in subsection (6), omit the definition of “requisite custodial period”.
- (6) In Schedule 20A (application of Chapter 6 of Part 12 to pre-4 April 2005 cases)—
 - (a) omit paragraph 8(2) (modification of section 260), and
 - (b) after paragraph 8 insert—

“8A Section 268(1A) (definition of “the requisite custodial period”) has effect as if it provided that, in relation to a person serving an extended sentence under section 85 of the Sentencing Act, the requisite custodial period means one-half of the custodial term determined under that section (subject to sections 263 and 264).”
- (7) The amendments made by this section apply in relation to a person sentenced before the day on which they come into force as well as in relation to a person sentenced on or after that day.

15 Minor amendments and transitional cases

- (1) In section 82A(3) of the Powers of Criminal Courts (Sentencing) Act 2000 (determination of tariffs for life sentences), for paragraph (b) substitute—
 - “(b) the effect that the following would have if the court had sentenced the offender to a term of imprisonment—
 - (i) section 240ZA of the Criminal Justice Act 2003 (crediting periods of remand in custody);
 - (ii) section 246 of the Armed Forces Act 2006 (equivalent provision for service courts);
 - (iii) any direction which the court would have given under section 240A of the Criminal Justice Act 2003 (crediting periods of remand on bail subject to certain types of condition);”.
- (2) In section 97 of the Powers of Criminal Courts (Sentencing) Act 2000 (term of detention in a young offender institution)—
 - (a) in subsection (2), omit “Subject to subsection (3) below,” and
 - (b) omit subsection (3) (power to pass sentence of less than 21 days for offence under section 65(6) of the Criminal Justice Act 1991).
- (3) In section 106(4) of the Powers of Criminal Courts (Sentencing) Act 2000 (persons subject concurrently to detention and training order and sentence of detention in young offender institution), for “Part II of the Criminal Justice Act 1991 (early release)” substitute “Chapter 6 of Part 12 of the Criminal Justice Act 2003 (release, licences, supervision and recall)”.

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- (4) In section 246(4) of the Criminal Justice Act 2003 (cases in which power to release before required to do so is not available), after paragraph (g) insert—
- “(ga) the prisoner has at any time been released on licence under section 34A of the Criminal Justice Act 1991 and has been recalled to prison under section 38A(1)(a) of that Act (and the revocation of the licence has not been cancelled under section 38A(3) of that Act);”.
- (5) In section 250 of the Criminal Justice Act 2003 (licence conditions), for subsection (5A) substitute—
- “(5A) Subsection (5B) applies to a licence granted, either on initial release or after recall to prison, to a prisoner serving an extended sentence imposed under section 226A or 226B, other than a sentence that meets the conditions in section 246A(2) (release without direction of the Board).
- (5B) The Secretary of State must not—
- (a) include a condition referred to in subsection (4)(b)(ii) in the licence, either on release or subsequently, or
- (b) vary or cancel any such condition included in the licence, unless the Board directs the Secretary of State to do so.”
- (6) In section 260(2B) of the Criminal Justice Act 2003 (early removal from prison of extended sentence prisoners liable to removal from United Kingdom), for “section 246A” substitute “this Chapter”.
- (7) In Schedule 20A to the Criminal Justice Act 2003 (application of Chapter 6 of Part 12 to pre-4 April 2005 cases), in paragraph 4 (modification of section 246: power to release before required to do so)—
- (a) number the existing text as sub-paragraph (1),
- (b) in that sub-paragraph, for “Section 246 applies as if, in subsection (4)” substitute “Section 246(4) applies as if—”,
- (c) in that sub-paragraph, omit paragraph (c), and
- (d) after that sub-paragraph insert—
- “(2) Section 246(6) applies as if, in the definition of “term of imprisonment”, the reference to section 227 or 228 included a reference to section 85 of the Sentencing Act.”
- (8) In Schedule 20B to the Criminal Justice Act 2003 (modifications of Chapter 6 of Part 12 in certain transitional cases), omit paragraph 3(2)(a) (application of Part 2 of the Schedule to an extended sentence under section 85 of the Powers of Criminal Courts (Sentencing) Act 2000).
- (9) In paragraph 34 of that Schedule (licence conditions in certain transitional cases)—
- (a) in sub-paragraph (1), at the end insert “and which was granted to a person serving—
- (a) a 1967 Act sentence,
- (b) a 1991 Act sentence, or
- (c) a 2003 Act sentence which is an extended sentence imposed under section 227 or 228 before 14 July 2008.”, and
- (b) in sub-paragraph (6)(a), after “condition” insert “referred to in section 250(4)(b)(ii)”.

- (10) The amendments made by subsections (1), (3) and (4) apply in relation to a person sentenced before the day on which they come into force as well as in relation to a person sentenced on or after that day.

Prisons

16 Drugs for which prisoners etc may be tested

- (1) The Prison Act 1952 is amended as follows.
- (2) In section 16A (testing prisoners for drugs), in subsection (3)—
- (a) at the end of the definition of “drug” insert “or specified drug”,
 - (b) omit the “and” that follows the definition of “prison officer”, and
 - (c) at the appropriate place insert—
““specified drug” means any substance or product specified in prison rules for the purposes of this section.”
- (3) In section 47 (rules for the management of prisons etc), after subsection (3) insert—
- “(3A) Rules made under this section may specify any substance or product (which is not a controlled drug for the purposes of the Misuse of Drugs Act 1971) in relation to which a person may be required to provide a sample for the purposes of section 16A of this Act.”

Cautions etc

17 Restrictions on use of cautions

- (1) This section applies where, in England and Wales, a person aged 18 or over admits that he or she has committed an offence.
- (2) If the offence is an indictable-only offence, a constable may not give the person a caution except—
- (a) in exceptional circumstances relating to the person or the offence, and
 - (b) with the consent of the Director of Public Prosecutions.
- (3) If the offence is an either-way offence specified by order made by the Secretary of State, a constable may not give the person a caution except in exceptional circumstances relating to the person or the offence.
- (4) If—
- (a) the offence is a summary offence or an either-way offence not specified under subsection (3), and
 - (b) in the two years before the commission of the offence the person has been convicted of, or cautioned for, a similar offence,
- a constable may not give the person a caution except in exceptional circumstances relating to the person, the offence admitted or the previous offence.
- (5) It is for a police officer not below a rank specified by order made by the Secretary of State to determine—

- (a) whether there are exceptional circumstances for the purposes of subsection (2), (3) or (4), and
 - (b) whether a previous offence is similar to the offence admitted for the purposes of subsection (4)(b).
- (6) A determination under subsection (5) must be made in accordance with guidance issued by the Secretary of State.
- (7) The Secretary of State may by order amend this section so as to provide for a different period for the purposes of subsection (4)(b).
- (8) For the purposes of this section—
- (a) “caution” does not include a conditional caution under Part 3 of the Criminal Justice Act 2003, but
 - (b) a person has been “cautioned for” an offence if he or she has been given a caution, a conditional caution or a youth caution or youth conditional caution under Chapter 1 of Part 4 of the Crime and Disorder Act 1998.
- (9) In this section—
- “either-way offence” means an offence triable either way;
 - “indictable-only offence” means an offence which, if committed by an adult, is triable only on indictment.
- (10) This section applies whether the offence admitted was committed before or after the time when this section comes into force.

18 Restrictions on use of cautions: supplementary

- (1) An order under section 17 may make different provision for different purposes.
- (2) An order under section 17 must be made by statutory instrument.
- (3) A statutory instrument containing an order under section 17(3) (specification of either-way offences) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) An order under section 17(7) (change to period in section 17(4)(b)) may not be made unless a draft of the instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament.
- (5) In section 37B of the Police and Criminal Evidence Act 1984 (consultation with the Director of Public Prosecutions), in subsection (7), after “such a caution” insert “(whether because of section 17 of the Criminal Justice and Courts Act 2015 or for any other reason)”.

19 Alternatives to prosecution: rehabilitation of offenders in Scotland

In Schedule 3 to the Rehabilitation of Offenders Act 1974 (protection for spent alternatives to prosecution: Scotland), at the end insert—

- “9 (1) The powers conferred on the Scottish Ministers by—
- (a) paragraph 6, and
 - (b) section 7(4), as applied by paragraph 8,

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may be exercised to make provision relating to reserved matters and are not subject to the restrictions imposed by section 29(2)(b) or (c) of, or Schedule 4 to, the Scotland Act 1998.

- (2) In this paragraph, “reserved matters” has the same meaning as in the Scotland Act 1998.”

Offences involving ill-treatment or wilful neglect

20 Ill-treatment or wilful neglect: care worker offence

- (1) It is an offence for an individual who has the care of another individual by virtue of being a care worker to ill-treat or wilfully to neglect that individual.
- (2) An individual guilty of an offence under this section is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine (or both);
 - (b) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine (or both).
- (3) “Care worker” means an individual who, as paid work, provides—
- (a) health care for an adult or child, other than excluded health care, or
 - (b) social care for an adult,
- including an individual who, as paid work, supervises or manages individuals providing such care or is a director or similar officer of an organisation which provides such care.
- (4) An individual does something as “paid work” if he or she receives or is entitled to payment for doing it other than—
- (a) payment in respect of the individual’s reasonable expenses,
 - (b) payment to which the individual is entitled as a foster parent,
 - (c) a benefit under social security legislation, or
 - (d) a payment made under arrangements under section 2 of the Employment and Training Act 1973 (arrangements to assist people to select, train for, obtain and retain employment).
- (5) “Health care” includes—
- (a) all forms of health care provided for individuals, including health care relating to physical health or mental health and health care provided for or in connection with the protection or improvement of public health, and
 - (b) procedures that are similar to forms of medical or surgical care but are not provided in connection with a medical condition,
- and “excluded health care” has the meaning given in Schedule 4.
- (6) “Social care” includes all forms of personal care and other practical assistance provided for individuals who are in need of such care or assistance by reason of age, illness, disability, pregnancy, childbirth, dependence on alcohol or drugs or any other similar circumstances.
- (7) References in this section to a person providing health care or social care do not include a person whose provision of such care is merely incidental to the carrying out of other activities by the person.

- (8) In this section—
- “adult” means an individual aged 18 or over;
 - “child” means an individual aged under 18;
 - “foster parent” means—
 - (a) a local authority foster parent within the meaning of the Children Act 1989,
 - (b) a person with whom a child has been placed by a voluntary organisation under section 59(1)(a) of that Act, or
 - (c) a private foster parent within the meaning of section 53 of the Safeguarding Vulnerable Groups Act 2006.
- (9) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in subsection (2)(b) to 12 months is to be read as a reference to 6 months.
- (10) In relation to an offence committed before section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force, the reference in subsection (2)(b) to a fine is to be read as a reference to a fine not exceeding the statutory maximum.

21 Ill-treatment or wilful neglect: care provider offence

- (1) A care provider commits an offence if—
- (a) an individual who has the care of another individual by virtue of being part of the care provider’s arrangements ill-treats or wilfully neglects that individual,
 - (b) the care provider’s activities are managed or organised in a way which amounts to a gross breach of a relevant duty of care owed by the care provider to the individual who is ill-treated or neglected, and
 - (c) in the absence of the breach, the ill-treatment or wilful neglect would not have occurred or would have been less likely to occur.
- (2) “Care provider” means—
- (a) a body corporate or unincorporated association which provides or arranges for the provision of—
 - (i) health care for an adult or child, other than excluded health care, or
 - (ii) social care for an adult, or
 - (b) an individual who provides such care and employs, or has otherwise made arrangements with, other persons to assist him or her in providing such care, subject to section 22.
- (3) An individual is “part of a care provider’s arrangements” where the individual—
- (a) is not the care provider, but
 - (b) provides health care or social care as part of health care or social care provided or arranged for by the care provider,
- including where the individual is not the care provider but supervises or manages individuals providing health care or social care as described in paragraph (b) or is a director or similar officer of an organisation which provides health care or social care as described there.
- (4) A “relevant duty of care” means—
- (a) a duty owed under the law of negligence, or

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- (b) a duty that would be owed under the law of negligence but for a provision contained in an Act, or an instrument made under an Act, under which liability is imposed in place of liability under that law,
but only to the extent that the duty is owed in connection with providing, or arranging for the provision of, health care or social care.
- (5) For the purposes of this section, there is to be disregarded any rule of the common law that has the effect of—
- (a) preventing a duty of care from being owed by one person to another by reason of the fact that they are jointly engaged in unlawful conduct, or
- (b) preventing a duty of care being owed to a person by reason of that person’s acceptance of a risk of harm.
- (6) A breach of a duty of care by a care provider is a “gross” breach if the conduct alleged to amount to the breach falls far below what can reasonably be expected of the care provider in the circumstances.
- (7) In this section—
- (a) references to a person providing health care or social care do not include a person whose provision of such care is merely incidental to the carrying out of other activities by the person, and
- (b) references to a person arranging for the provision of such care do not include a person who makes arrangements under which the provision of such care is merely incidental to the carrying out of other activities.
- (8) References in this section to providing or arranging for the provision of health care or social care do not include making payments under—
- (a) regulations under section 57 of the Health and Social Care Act 2001 (direct payments for community services and carers);
- (b) section 12A of the National Health Act 2006 (direct payments for health care);
- (c) section 31 or 32 of the Care Act 2014 (direct payments for care and support);
- (d) regulations under section 50 of the [Social Services and Well-being \(Wales\) Act 2014 \(anaw 4\)](#) (direct payments to meet an adult’s needs).
- (9) In this section—
- “Act” includes an Act or Measure of the National Assembly for Wales;
- “adult”, “child”, “excluded health care”, “health care” and “social care” have the same meaning as in section 20.

22 Care provider offence: excluded care providers

- (1) A local authority in England is not a care provider for the purposes of section 21 to the extent that it carries out functions to which Chapter 4 of Part 8 of the Education and Inspections Act 2006 applies.
- (2) A person is not a care provider for the purposes of section 21 to the extent that the person carries out a function of a local authority in England mentioned in subsection (1) in respect of which either of the following has effect—
- (a) a direction under section 15(6)(a) of the Local Government Act 1999 (power of Secretary of State to direct functions of a best value authority to be carried out by another person);

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- (b) a direction under section 497A(4) or (4A) of the Education Act 1996 (power of Secretary of State to direct certain functions to be carried out by another person).
- (3) Where a body corporate has entered into arrangements with a local authority in England under Part 1 of the Children and Young Persons Act 2008 (social work services for children and young persons), the body is not a care provider for the purposes of section 21 to the extent that it carries out relevant care functions of that authority (as defined in that Part of that Act) under those arrangements.
- (4) A local authority in Wales is not a care provider for the purposes of section 21 to the extent that it—
- carries out functions under Part 2 of the Childcare Act 2006;
 - carries out the education functions of the authority (as defined in section 579(1) of the Education Act 1996);
 - carries out the social services functions of the authority (as defined in the Local Authority Social Services Act 1970), so far as relating to a child.
- (5) A person is not a care provider for the purposes of section 21 to the extent that the person carries out a function of a local authority in Wales mentioned in subsection (4) in respect of which any of the following has effect—
- a direction under section 29(6)(a) of the Local Government (Wales) Measure 2009 ([nawm 2](#)) (power of Welsh Ministers to direct certain functions of a Welsh improvement authority to be carried out by another person);
 - a direction under section 25 or 26 of the [School Standards and Organisation \(Wales\) Act 2013](#) ([anaw 1](#)) (powers of Welsh Ministers to direct education functions to be carried out by another person);
 - a direction under section 154 or 155 of the [Social Services and Well-Being \(Wales\) Act 2014](#) ([anaw 4](#)) (powers of Welsh Ministers to direct social services functions to be carried out by another person).
- (6) A registered adoption society or registered adoption support agency is not a care provider for the purposes of section 21 to the extent that it provides adoption support services (as defined in section 2(6) of the Adoption and Children Act 2002).
- (7) In this section, “local authority” means—
- in England, a county council, a metropolitan district council, a non-metropolitan district council for an area for which there is no county council, a London borough council, the Council of the Isles of Scilly and (in its capacity as a local authority) the Common Council of the City of London, and
 - in Wales, a county council or a county borough council.
- (8) In this section—
- “child” has the same meaning as in section 20;
- “registered adoption society” means an adoption society (as defined in section 2 of the Adoption and Children Act 2002) which is a voluntary organisation (as defined in that section) and in respect of which a person is registered under Part 2 of the Care Standards Act 2000;
- “registered adoption support agency” means an adoption support agency (as defined in section 8 of the Adoption and Children Act 2002) in respect of which a person is registered under Part 2 of the Care Standards Act 2000.

23 Care provider offence: penalties

- (1) A person guilty of an offence under section 21 is liable, on conviction on indictment or summary conviction, to a fine.
- (2) A court before which a person is convicted of an offence under section 21 may make either or both of the following orders—
 - (a) a remedial order;
 - (b) a publicity order;(whether instead of or as well as imposing a fine).
- (3) A “remedial order” is an order requiring the person to take specified steps to remedy one or more of the following—
 - (a) the breach mentioned in section 21(1)(b) (“the relevant breach”);
 - (b) any matter that appears to the court to have resulted from the relevant breach and to be connected with the ill-treatment or neglect;
 - (c) any deficiency in the person’s policies, systems or practices of which the relevant breach appears to the court to be an indication.
- (4) A “publicity order” is an order requiring the person to publicise in a specified manner—
 - (a) the fact that the person has been convicted of the offence;
 - (b) specified particulars of the offence;
 - (c) the amount of any fine imposed;
 - (d) the terms of any remedial order made.
- (5) A remedial order—
 - (a) may be made only on an application by the prosecution which specifies the terms of the proposed order,
 - (b) must be made on such terms as the court considers appropriate having regard to any representations made, and any evidence adduced, in relation to its terms by the prosecution or by or on behalf of the person convicted, and
 - (c) must specify a period within which the steps specified in the order must be taken.
- (6) A publicity order must specify a period within which the requirements specified in the order must be complied with.
- (7) A person who fails to comply with a remedial order or a publicity order commits an offence and is liable, on conviction on indictment or summary conviction, to a fine.
- (8) In relation to an offence committed before section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force, subsections (1) and (7) have effect as if they provided for a fine on summary conviction not exceeding the statutory maximum.

24 Care provider offence: application to unincorporated associations

- (1) For the purposes of sections 21 and 23, an unincorporated association is to be treated as owing whatever duties of care it would owe if it were a body corporate.

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- (2) Proceedings for an offence under those sections alleged to have been committed by an unincorporated association must be brought in the name of the association (and not in that of any of its members).
- (3) In relation to such proceedings, rules of court relating to the service of documents have effect as if the unincorporated association were a body corporate.
- (4) In proceedings under section 21 or 23 brought against an unincorporated association, the following apply as they apply in relation to a body corporate—
 - (a) section 33 of the Criminal Justice Act 1925 (procedure on charge of offence against corporation);
 - (b) Schedule 3 to the Magistrates' Courts Act 1980 (provision about corporation charged with offence before a magistrates' court).
- (5) A fine imposed on an unincorporated association on its conviction of an offence under section 21 or 23 is to be paid out of the funds of the association.

25 Care provider offence: liability for ancillary and other offences

- (1) An individual cannot be guilty of—
 - (a) aiding, abetting, counselling or procuring the commission of an offence under section 21, or
 - (b) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) by reference to an offence under section 21.
- (2) Where, in the same proceedings, there is—
 - (a) a charge under section 21 arising out of a particular set of circumstances, and
 - (b) a charge against the same defendant of a relevant offence arising out of some or all of those circumstances,the defendant may, if the interests of justice so require, be convicted of both offences.
- (3) A person convicted of an offence under section 21 arising out of a particular set of circumstances may, if the interests of justice so require, be charged with a relevant offence arising out of some or all of those circumstances.
- (4) “Relevant offence” means an offence under an Act, or an instrument made under an Act, dealing with—
 - (a) health and safety matters, or
 - (b) the provision of health care or social care.
- (5) In this section—

“Act” includes an Act or Measure of the National Assembly for Wales;
“health care” and “social care” have the same meaning as in section 20.

Offences involving police or prison officers

26 Corrupt or other improper exercise of police powers and privileges

- (1) A police constable listed in subsection (3) commits an offence if he or she—
 - (a) exercises the powers and privileges of a constable improperly, and
 - (b) knows or ought to know that the exercise is improper.

- (2) A police constable guilty of an offence under this section is liable, on conviction on indictment, to imprisonment for a term not exceeding 14 years or a fine (or both).
- (3) The police constables referred to in subsection (1) are—
 - (a) a constable of a police force in England and Wales;
 - (b) a special constable for a police area in England and Wales;
 - (c) a constable or special constable of the British Transport Police Force;
 - (d) a constable of the Civil Nuclear Constabulary;
 - (e) a constable of the Ministry of Defence Police;
 - (f) a National Crime Agency officer designated under section 9 or 10 of the Crime and Courts Act 2013 as having the powers and privileges of a constable.
- (4) For the purposes of this section, a police constable exercises the powers and privileges of a constable improperly if—
 - (a) he or she exercises a power or privilege of a constable for the purpose of achieving—
 - (i) a benefit for himself or herself, or
 - (ii) a benefit or a detriment for another person, and
 - (b) a reasonable person would not expect the power or privilege to be exercised for the purpose of achieving that benefit or detriment.
- (5) For the purposes of this section, a police constable is to be treated as exercising the powers and privileges of a constable improperly in the cases described in subsections (6) and (7).
- (6) The first case is where—
 - (a) the police constable fails to exercise a power or privilege of a constable,
 - (b) the purpose of the failure is to achieve a benefit or detriment described in subsection (4)(a), and
 - (c) a reasonable person would not expect a constable to fail to exercise the power or privilege for the purpose of achieving that benefit or detriment.
- (7) The second case is where—
 - (a) the police constable threatens to exercise, or not to exercise, a power or privilege of a constable,
 - (b) the threat is made for the purpose of achieving a benefit or detriment described in subsection (4)(a), and
 - (c) a reasonable person would not expect a constable to threaten to exercise, or not to exercise, the power or privilege for the purpose of achieving that benefit or detriment.
- (8) An offence is committed under this section if the act or omission in question takes place in the United Kingdom or in United Kingdom waters.
- (9) In this section—

“benefit” and “detriment” mean any benefit or detriment, whether or not in money or other property and whether temporary or permanent;

“United Kingdom waters” means the sea and other waters within the seaward limits of the United Kingdom’s territorial sea.
- (10) References in this section to exercising, or not exercising, the powers and privileges of a constable include performing, or not performing, the duties of a constable.

- (11) Nothing in this section affects what constitutes the offence of misconduct in public office at common law in England and Wales or Northern Ireland.

27 Term of imprisonment for murder of police or prison officer

- (1) Schedule 21 to the Criminal Justice Act 2003 (determination of minimum term in relation to mandatory life sentence) is amended as follows.
- (2) In paragraph 4(2) (cases for which a whole life order is the appropriate starting point), after paragraph (b) insert—
- “(ba) the murder of a police officer or prison officer in the course of his or her duty.”.
- (3) In paragraph 5(2) (cases for which 30 years is the appropriate starting point), omit paragraph (a).
- (4) The amendments made by this section apply only in relation to an offence committed on or after the day on which they come into force.

Repeat offences involving offensive weapons etc

28 Minimum sentence for repeat offences involving offensive weapons etc

- (1) The Prevention of Crime Act 1953 is amended as follows.
- (2) In section 1 (prohibition of the carrying of offensive weapons without lawful authority or reasonable excuse), after subsection (2) insert—
- “(2A) Subsection (2B) applies where—
- (a) a person is convicted of an offence under subsection (1) committed after this subsection is commenced, and
- (b) when the offence was committed, the person was aged 16 or over and had at least one relevant conviction (see section 1ZA).
- (2B) Where this subsection applies, the court must impose an appropriate custodial sentence (with or without a fine) unless the court is of the opinion that there are particular circumstances which—
- (a) relate to the offence, to the previous offence or to the offender, and
- (b) would make it unjust to do so in all the circumstances.
- (2C) In this section “appropriate custodial sentence” means—
- (a) in the case of a person who is aged 18 or over when convicted, a sentence of imprisonment for a term of at least 6 months;
- (b) in the case of a person who is aged at least 16 but under 18 when convicted, a detention and training order of at least 4 months.
- (2D) In considering whether it is of the opinion mentioned in subsection (2B) in the case of a person aged 16 or 17, the court must have regard to its duty under section 44 of the Children and Young Persons Act 1933 (general considerations).
- (2E) Where—

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- (a) an appropriate custodial sentence has been imposed on a person under subsection (2B), and
 - (b) a relevant conviction without which subsection (2B) would not have applied has been subsequently set aside on appeal,
- notice of appeal against the sentence may be given at any time within 28 days from the date on which the conviction was set aside (despite anything in section 18 of the Criminal Appeal Act 1968 (initiating procedure)).
- (2F) Where an offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, it shall be taken for the purposes of this section to have been committed on the last of those days.
- (2G) In relation to times before the coming into force of paragraph 180 of Schedule 7 to the Criminal Justice and Court Services Act 2000, the reference in subsection (2C)(a) to a sentence of imprisonment, in relation to an offender aged under 21 at the time of conviction, is to be read as a reference to a sentence of detention in a young offender institution.”
- (3) After section 1 insert—

“1ZA Offence under section 1: previous relevant convictions

- (1) For the purposes of section 1, “relevant conviction” means—
- (a) a conviction for an offence under—
 - (i) section 1 or 1A of this Act, or
 - (ii) section 139, 139A or 139AA of the Criminal Justice Act 1988,
 - (a “relevant offence”), whenever committed,
 - (b) a conviction in Scotland, Northern Ireland or a member State other than the United Kingdom for a civilian offence, whenever committed, which would have constituted a relevant offence if committed in England and Wales at the time of that conviction,
 - (c) a conviction for an offence under section 42 of the Armed Forces Act 2006, whenever committed, in respect of which the corresponding offence under the law of England and Wales (within the meaning of that section) is a relevant offence,
 - (d) a conviction for an offence under section 70 of the Army Act 1955, section 70 of the Air Force Act 1955 or section 42 of the Naval Discipline Act 1957, whenever committed, in respect of which the corresponding civil offence (within the meaning of the Act in question) is a relevant offence, and
 - (e) a conviction for a member State service offence, whenever committed, which would have constituted a relevant offence if committed in England and Wales at the time of conviction.
- (2) In this section—
- “civilian offence” means an offence other than—
- (a) an offence under an enactment mentioned in subsection (1)(c) or (d), or
 - (b) a member State service offence;

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“conviction” includes—

- (a) in relation to an offence under section 42 of the Armed Forces Act 2006, anything which by virtue of section 376(1) and (2) of that Act is to be treated as a conviction and
- (b) in relation to an offence under section 42 of the Naval Discipline Act 1957 and a member State service offence, a finding of guilt in respect of the person;

“member State service offence” means an offence which was the subject of proceedings under the law of a member State, other than the United Kingdom, governing all or any of the naval, military or air forces of that State.

- (3) For the purposes of subsection (1)(c) and (d), where the offence was committed by aiding, abetting, counselling or procuring, it must be assumed that the act aided, abetted, counselled or procured was done in England and Wales.”

(4) The Criminal Justice Act 1988 is amended as follows.

- (5) In section 139 (offence of having article with blade or point in public place), after subsection (6) insert—

“(6A) Subsection (6B) applies where—

- (a) a person is convicted of an offence under subsection (1) by a court in England and Wales,
- (b) the offence was committed after this subsection is commenced, and
- (c) when the offence was committed, the person was aged 16 or over and had at least one relevant conviction (see section 139AZA).

(6B) Where this subsection applies, the court must impose an appropriate custodial sentence (with or without a fine) unless the court is of the opinion that there are particular circumstances which—

- (a) relate to the offence, to the previous offence or to the offender, and
- (b) would make it unjust to do so in all the circumstances.

(6C) In this section “appropriate custodial sentence” means—

- (a) in the case of a person who is aged 18 or over when convicted, a sentence of imprisonment for a term of at least 6 months;
- (b) in the case of a person who is aged at least 16 but under 18 when convicted, a detention and training order of at least 4 months.

(6D) In considering whether it is of the opinion mentioned in subsection (6B) in the case of a person aged 16 or 17, the court must have regard to its duty under section 44 of the Children and Young Persons Act 1933 (general considerations).

(6E) Where—

- (a) an appropriate custodial sentence has been imposed on a person under subsection (6B), and
- (b) a relevant conviction without which subsection (6B) would not have applied has been subsequently set aside on appeal,

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notice of appeal against the sentence may be given at any time within 28 days from the date on which the conviction was set aside (despite anything in section 18 of the Criminal Appeal Act 1968 (initiating procedure)).

(6F) Where an offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, it shall be taken for the purposes of this section to have been committed on the last of those days.

(6G) In relation to times before the coming into force of paragraph 180 of Schedule 7 to the Criminal Justice and Court Services Act 2000, the reference in subsection (6C)(a) to a sentence of imprisonment, in relation to an offender aged under 21 at the time of conviction, is to be read as a reference to a sentence of detention in a young offender institution.”

(6) In section 139A (offence of having article with blade or point (or offensive weapon) on school premises), after subsection (5) insert—

“(5A) Subsection (5B) applies where—

- (a) a person is convicted of an offence under subsection (1) or (2) by a court in England and Wales,
- (b) the offence was committed after this subsection is commenced, and
- (c) when the offence was committed, the person was aged 16 or over and had at least one relevant conviction (see section 139AZA).

(5B) Where this subsection applies, the court must impose an appropriate custodial sentence (with or without a fine) unless the court is of the opinion that there are particular circumstances which—

- (a) relate to the offence, to the previous offence or to the offender, and
- (b) would make it unjust to do so in all the circumstances.

(5C) In this section “appropriate custodial sentence” means—

- (a) in the case of a person who is aged 18 or over when convicted, a sentence of imprisonment for a term of at least 6 months;
- (b) in the case of a person who is aged at least 16 but under 18 when convicted, a detention and training order of at least 4 months.

(5D) In considering whether it is of the opinion mentioned in subsection (5B) in the case of a person aged 16 or 17, the court must have regard to its duty under section 44 of the Children and Young Persons Act 1933 (general considerations).

(5E) Where—

- (a) an appropriate custodial sentence has been imposed on a person under subsection (5B), and
- (b) a relevant conviction without which subsection (5B) would not have applied has been subsequently set aside on appeal,

notice of appeal against the sentence may be given at any time within 28 days from the date on which the conviction was set aside (despite anything in section 18 of the Criminal Appeal Act 1968 (initiating procedure)).

(5F) Where an offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, it shall be

taken for the purposes of this section to have been committed on the last of those days.

(5G) In relation to times before the coming into force of paragraph 180 of Schedule 7 to the Criminal Justice and Court Services Act 2000, the reference in subsection (5C)(a) to a sentence of imprisonment, in relation to an offender aged under 21 at the time of conviction, is to be read as a reference to a sentence of detention in a young offender institution.”

(7) After section 139A insert—

“139AZA Offences under sections 139 and 139A: previous relevant convictions

- (1) For the purposes of sections 139 and 139A, “relevant conviction” means—
- (a) a conviction for an offence under—
 - (i) section 1 or 1A of the Prevention of Crime Act 1953, or
 - (ii) section 139, 139A or 139AA of this Act,
 (a “relevant offence”), whenever committed,
 - (b) a conviction in Scotland, Northern Ireland or a member State other than the United Kingdom for a civilian offence, whenever committed, which would have constituted a relevant offence if committed in England and Wales at the time of that conviction,
 - (c) a conviction for an offence under section 42 of the Armed Forces Act 2006, whenever committed, in respect of which the corresponding offence under the law of England and Wales (within the meaning of that section) is a relevant offence,
 - (d) a conviction for an offence under section 70 of the Army Act 1955, section 70 of the Air Force Act 1955 or section 42 of the Naval Discipline Act 1957, whenever committed, in respect of which the corresponding civil offence (within the meaning of the Act in question) is a relevant offence, and
 - (e) a conviction for a member State service offence, whenever committed, which would have constituted a relevant offence if committed in England and Wales at the time of conviction.
- (2) In this section—
- “civilian offence” means an offence other than—
- (a) an offence under an enactment mentioned in subsection (1)(c) or (d), or
 - (b) a member State service offence;
- “conviction” includes—
- (a) in relation to an offence under section 42 of the Armed Forces Act 2006, anything which by virtue of section 376(1) and (2) of that Act is to be treated as a conviction, and
 - (b) in relation to an offence under section 42 of the Naval Discipline Act 1957 and a member State service offence, a finding of guilt in respect of the person;
- “member State service offence” means an offence which was the subject of proceedings under the law of a member State, other than

the United Kingdom, governing all or any of the naval, military or air forces of that State.

(3) For the purposes of subsection (1)(c) and (d), where the offence was committed by aiding, abetting, counselling or procuring, it must be assumed that the act aided, abetted, counselled or procured was done in England and Wales.”

(8) Schedule 5 to this Act contains consequential provision.

Driving offences

29 Offences committed by disqualified drivers

(1) After section 3ZB of the Road Traffic Act 1988 insert—

“3ZC Causing death by driving: disqualified drivers

A person is guilty of an offence under this section if he or she—

- (a) causes the death of another person by driving a motor vehicle on a road, and
- (b) at that time, is committing an offence under section 103(1)(b) of this Act (driving while disqualified).

3ZD Causing serious injury by driving: disqualified drivers

(1) A person is guilty of an offence under this section if he or she—

- (a) causes serious injury to another person by driving a motor vehicle on a road, and
- (b) at that time, is committing an offence under section 103(1)(b) of this Act (driving while disqualified).

(2) In this section “serious injury” means—

- (a) in England and Wales, physical harm which amounts to grievous bodily harm for the purposes of the Offences against the Person Act 1861, and
- (b) in Scotland, severe physical injury.”

(2) In Part 1 of Schedule 2 to the Road Traffic Offenders Act 1988 (prosecution and punishment of offences under the Traffic Acts) at the appropriate place insert—

“RTA section 3ZC	Causing death by driving: disqualified drivers	On indictment	10 years or a fine or both	Obligatory	Obligatory	3-11
RTA section 3ZD	Causing serious injury by driving: disqualified drivers	(a) Summarily	(a) On conviction in England and Wales: 12 months	Obligatory	Obligatory	3-11

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

		or a fine or both. On conviction in Scotland: 12 months or the statutory maximum or both.	
	(b) indictment	On (b) 4 years or a fine or both”.	

- (3) In the entries in Part 1 of Schedule 2 to the Road Traffic Offenders Act 1988 relating to an offence under section 3ZD of the Road Traffic Act 1988—
- in relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in column 4 to 12 months on summary conviction in England and Wales is to be read as a reference to 6 months, and
 - in relation to an offence committed before section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force, the reference in column 4 to a fine on summary conviction in England and Wales is to be read as a reference to the statutory maximum.
- (4) Schedule 6 to this Act contains further amendments relating to the offences under sections 3ZC and 3ZD of the Road Traffic Act 1988.
- (5) The amendments made by this section and Schedule 6 have effect only in relation to driving which occurs after they come into force.

30 Extension of disqualification from driving where custodial sentence also imposed

- (1) In section 35A of the Road Traffic Offenders Act 1988 (extension of disqualification where custodial sentence also imposed)—
- in subsection (4)(e) and (f), omit “calculated after that term has been reduced by any relevant discount”,
 - in subsection (4)(h), omit “calculated after that sentence has been reduced by any relevant discount”, and
 - omit subsection (6) (definition of “relevant discount”).
- (2) In section 147A of the Powers of Criminal Courts (Sentencing) Act 2000 (extension of disqualification where custodial sentence also imposed)—
- in subsection (4)(e) and (f), omit “calculated after that term has been reduced by any relevant discount”,
 - in subsection (4)(h), omit “calculated after that sentence has been reduced by any relevant discount”, and
 - omit subsection (6) (definition of “relevant discount”).
- (3) In consequence of the amendments made by subsections (1) and (2), omit paragraphs 8 and 12 of Schedule 13 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

31 Mutual recognition of driving disqualification in UK and Republic of Ireland

(1) Chapter 1 of Part 3 of the Crime (International Co-operation) Act 2003 (EU Convention on driving disqualifications) is amended as follows.

(2) For the heading of the Chapter substitute “Mutual recognition of driving disqualification in UK and Republic of Ireland”.

(3) In section 54 (application of duty of the UK to give notice of driving disqualification)

(a) in subsection (1), for paragraph (a) substitute—

“(a) an individual (“the offender”) is convicted of a qualifying UK road traffic offence,

(aa) when convicted, the offender—

(i) is normally resident in the Republic of Ireland, or

(ii) is not normally resident in the Republic of Ireland but holds a Republic of Ireland licence,” and”

(b) after subsection (1) insert—

“(1A) A qualifying UK road traffic offence is—

(a) an offence under the law of England and Wales or Scotland mentioned in Schedule 3;

(b) an offence under the law of Northern Ireland mentioned in Schedule 3A.”

(4) In section 56(1) (application of duty of the UK to recognise driving disqualification imposed outside the UK), for paragraph (a) substitute—

“(a) an individual (“the offender”) is convicted in the Republic of Ireland of an offence described in Schedule 3B,

(aa) when convicted, the offender—

(i) is normally resident in the United Kingdom, or

(ii) is not normally resident in the United Kingdom but holds a Great Britain licence or a Northern Ireland licence,”.

(5) After section 71 insert—

“71A The specified agreement on driving disqualifications

(1) In this Chapter, “the specified agreement on driving disqualifications” means the agreement specified from time to time by the Secretary of State by regulations for the purposes of this Chapter.

(2) The Secretary of State may only specify an agreement made—

(a) between the United Kingdom and the Republic of Ireland, and

(b) for the purpose of giving effect in one of those States to disqualification from driving imposed in the other on conviction for an offence.

(3) In this section, “disqualification from driving” means disqualification from holding or obtaining a licence to drive a motor vehicle.”

(6) In Schedule 7 to this Act—

- (a) Part 1 contains further provision for the purpose of implementing an agreement between the United Kingdom and the Republic of Ireland on the mutual recognition of driving disqualification;
- (b) Part 2 contains provision about the transition from the EU Convention on driving disqualification to that agreement.

Offences involving intent to cause distress etc

32 Sending letters etc with intent to cause distress or anxiety

- (1) In section 1 of the Malicious Communications Act 1988 (offence of sending letters etc with intent to cause distress or anxiety), for subsection (4) substitute—

“(4) A person guilty of an offence under this section is liable—

- (a) on conviction on indictment to imprisonment for a term not exceeding two years or a fine (or both);
- (b) on summary conviction to imprisonment for a term not exceeding 12 months or a fine (or both).

- (5) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in subsection (4)(b) to 12 months is to be read as a reference to six months.

- (6) In relation to an offence committed before section 85 of the Legal Aid Sentencing and Punishment of Offenders Act 2012 comes into force, the reference in subsection (4)(b) to a fine is to be read as a reference to a fine not exceeding the statutory maximum.”

- (2) The amendment made by this section applies only in relation to an offence committed on or after the day on which it comes into force.

33 Disclosing private sexual photographs and films with intent to cause distress

- (1) It is an offence for a person to disclose a private sexual photograph or film if the disclosure is made—

- (a) without the consent of an individual who appears in the photograph or film, and
- (b) with the intention of causing that individual distress.

- (2) But it is not an offence under this section for the person to disclose the photograph or film to the individual mentioned in subsection (1)(a) and (b).

- (3) It is a defence for a person charged with an offence under this section to prove that he or she reasonably believed that the disclosure was necessary for the purposes of preventing, detecting or investigating crime.

- (4) It is a defence for a person charged with an offence under this section to show that—

- (a) the disclosure was made in the course of, or with a view to, the publication of journalistic material, and
- (b) he or she reasonably believed that, in the particular circumstances, the publication of the journalistic material was, or would be, in the public interest.

- (5) It is a defence for a person charged with an offence under this section to show that—

- (a) he or she reasonably believed that the photograph or film had previously been disclosed for reward, whether by the individual mentioned in subsection (1) (a) and (b) or another person, and
 - (b) he or she had no reason to believe that the previous disclosure for reward was made without the consent of the individual mentioned in subsection (1)(a) and (b).
- (6) A person is taken to have shown the matters mentioned in subsection (4) or (5) if—
 - (a) sufficient evidence of the matters is adduced to raise an issue with respect to it, and
 - (b) the contrary is not proved beyond reasonable doubt.
- (7) For the purposes of subsections (1) to (5)—
 - (a) “consent” to a disclosure includes general consent covering the disclosure, as well as consent to the particular disclosure, and
 - (b) “publication” of journalistic material means disclosure to the public at large or to a section of the public.
- (8) A person charged with an offence under this section is not to be taken to have disclosed a photograph or film with the intention of causing distress merely because that was a natural and probable consequence of the disclosure.
- (9) A person guilty of an offence under this section is liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both), and
 - (b) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine (or both).
- (10) Schedule 8 makes special provision in connection with the operation of this section in relation to persons providing information society services.
- (11) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in subsection (9)(b) to 12 months is to be read as a reference to 6 months.
- (12) In relation to an offence committed before section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force, the reference in subsection (9) (b) to a fine is to be read as a reference to a fine not exceeding the statutory maximum.

34 Meaning of “disclose” and “photograph or film”

- (1) The following apply for the purposes of section 33, this section and section 35.
- (2) A person “discloses” something to a person if, by any means, he or she gives or shows it to the person or makes it available to the person.
- (3) Something that is given, shown or made available to a person is disclosed—
 - (a) whether or not it is given, shown or made available for reward, and
 - (b) whether or not it has previously been given, shown or made available to the person.
- (4) “Photograph or film” means a still or moving image in any form that—
 - (a) appears to consist of or include one or more photographed or filmed images, and

- (b) in fact consists of or includes one or more photographed or filmed images.
- (5) The reference in subsection (4)(b) to photographed or filmed images includes photographed or filmed images that have been altered in any way.
- (6) “Photographed or filmed image” means a still or moving image that—
 - (a) was originally captured by photography or filming, or
 - (b) is part of an image originally captured by photography or filming.
- (7) “Filming” means making a recording, on any medium, from which a moving image may be produced by any means.
- (8) References to a photograph or film include—
 - (a) a negative version of an image described in subsection (4), and
 - (b) data stored by any means which is capable of conversion into an image described in subsection (4).

35 Meaning of “private” and “sexual”

- (1) The following apply for the purposes of section 33.
- (2) A photograph or film is “private” if it shows something that is not of a kind ordinarily seen in public.
- (3) A photograph or film is “sexual” if—
 - (a) it shows all or part of an individual’s exposed genitals or pubic area,
 - (b) it shows something that a reasonable person would consider to be sexual because of its nature, or
 - (c) its content, taken as a whole, is such that a reasonable person would consider it to be sexual.
- (4) Subsection (5) applies in the case of—
 - (a) a photograph or film that consists of or includes a photographed or filmed image that has been altered in any way,
 - (b) a photograph or film that combines two or more photographed or filmed images, and
 - (c) a photograph or film that combines a photographed or filmed image with something else.
- (5) The photograph or film is not private and sexual if—
 - (a) it does not consist of or include a photographed or filmed image that is itself private and sexual,
 - (b) it is only private or sexual by virtue of the alteration or combination mentioned in subsection (4), or
 - (c) it is only by virtue of the alteration or combination mentioned in subsection (4) that the person mentioned in section 33(1)(a) and (b) is shown as part of, or with, whatever makes the photograph or film private and sexual.

Offences involving sexual grooming or pornographic images

36 Meeting a child following sexual grooming etc

- (1) In section 15(1)(a) of the Sexual Offences Act 2003 (meeting a child following sexual grooming etc), for “on at least two occasions” substitute “on one or more occasions”.
- (2) In a case in which person A met or communicated with person B only once before the event mentioned in section 15(1)(a)(i) to (iii) of the Sexual Offences Act 2003, an offence under that section is committed only if the meeting or communication took place after this section comes into force.

37 Possession of pornographic images of rape and assault by penetration

- (1) Part 5 of the Criminal Justice and Immigration Act 2008 is amended as follows.
 - (2) In section 63 (possession of extreme pornographic images)—
 - (a) after subsection (5) insert—

“(5A) In relation to possession of an image in England and Wales, an “extreme image” is an image which—

 - (a) falls within subsection (7) or (7A), and
 - (b) is grossly offensive, disgusting or otherwise of an obscene character.”,
 - (b) in subsection (6), for “An” substitute “In relation to possession of an image in Northern Ireland, an”, and
 - (c) after subsection (7) insert—

“(7A) An image falls within this subsection if it portrays, in an explicit and realistic way, either of the following—

 - (a) an act which involves the non-consensual penetration of a person’s vagina, anus or mouth by another with the other person’s penis, or
 - (b) an act which involves the non-consensual sexual penetration of a person’s vagina or anus by another with a part of the other person’s body or anything else,

and a reasonable person looking at the image would think that the persons were real.
 - (7B) For the purposes of subsection (7A)—
 - (a) penetration is a continuing act from entry to withdrawal;
 - (b) “vagina” includes vulva.”
- (3) In section 66 (defence: participation in consensual acts)—
 - (a) before subsection (1) insert—

“(A1) Subsection (A2) applies where in England and Wales—

 - (a) a person (“D”) is charged with an offence under section 63, and
 - (b) the offence relates to an image that portrays an act or acts within subsection (7)(a) to (c) or (7A) of that section (but does not portray an act within subsection (7)(d) of that section).

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

- (A2) It is a defence for D to prove—
- (a) that D directly participated in the act or any of the acts portrayed, and
 - (b) that the act or acts did not involve the infliction of any non-consensual harm on any person, and
 - (c) if the image portrays an act within section 63(7)(c), that what is portrayed as a human corpse was not in fact a corpse, and
 - (d) if the image portrays an act within section 63(7A), that what is portrayed as non-consensual penetration was in fact consensual.”, and
- (b) in subsection (1)—
- (i) for “This section” substitute “Subsection (2)”, and
 - (ii) after “where” insert “in Northern Ireland”.
- (4) In section 67 (penalties for possession of extreme pornographic images)—
- (a) in subsection (2), for “Except where subsection (3) applies to the offence” substitute “If the offence relates to an image that portrays any relevant act (with or without other acts)”,
 - (b) in subsection (3), for “act within section 63(7)(a) or (b)” substitute “relevant act”, and
 - (c) after subsection (4) insert—
- “(5) In this section “relevant act” means—
- (a) in relation to England and Wales, an act within section 63(7)(a) or (b) or (7A)(a) or (b);
 - (b) in relation to Northern Ireland, an act within section 63(7)(a) or (b).”
- (5) In Schedule 14 (special rules relating to providers of information society services)—
- (a) after paragraph 1(3) insert—
- “(3A) For the purposes of sub-paragraph (2), “extreme pornographic image” has the meaning given by section 63(2) and in determining whether a domestic service provider is in possession of such an image—
- (a) where the service provider is established in England and Wales, “extreme image” has the meaning given by section 63(5A);
 - (b) where the service provider is established in Northern Ireland, “extreme image” has the meaning given by section 63(6).”, and
- (b) omit paragraph 6(2).

PART 2

YOUNG OFFENDERS

Detention of young offenders

38 Secure colleges and other places for detention of young offenders etc

(1) For section 43 of the Prison Act 1952 and the italic heading before it substitute—

“Places for the detention of young offenders etc

43 Places for the detention of young offenders etc

- (1) The Secretary of State may provide the following places for the detention of young persons sentenced to detention for an offence or remanded to custody (or for the detention of a class of such persons)—
- (a) young offender institutions,
 - (b) secure training centres, and
 - (c) secure colleges.
- (2) In subsection (1), “young person” means a person who is aged under 18 or who was aged under 18 when convicted of the offence or remanded.
- (3) Sections 1 to 42A and Schedule A1 (“the prisons provisions”) apply in relation to places listed in subsection (1) and to persons detained in them as they apply to prisons and prisoners, subject to subsections (4) to (7).
- (4) The following provisions do not apply in relation to the following places—

<i>Place</i>	<i>Provisions</i>
Young offender institutions	Sections 28 and 37(2)
Secure training centres or secure colleges	Sections 5, 6(2) and (3), 12, 14, 19, 28 and 37(2)

- (5) In their application in relation to secure colleges, the prisons provisions apply as if references to the governor and deputy governor were references to the principal and deputy principal.
- (6) In their application in relation to places listed in subsection (1), the prisons provisions apply—
- (a) as if references to imprisonment included references to detention in those places, and
 - (b) subject to any other modifications specified in rules made by the Secretary of State (but see subsection (7)).
- (7) The following provisions, as they apply in relation to the following places, may not be modified by rules made under this section—

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

<i>Place</i>	<i>Provisions</i>
Young offender institutions	Sections 5A, 6(2) and (3), 16, 22, 36 and 42A and Schedule A1
Secure training centres or secure colleges	Sections 5A, 16, 22, 36 and 42A and Schedule A1

- (8) Rules made under this section may—
- (a) make different provision for different cases;
 - (b) contain transitional, transitory or saving provision.
- (9) The references in this section to a young person sentenced to detention—
- (a) include a person sentenced to a detention and training order or an order under section 211 of the Armed Forces Act 2006;
 - (b) do not include a person sentenced to service detention within the meaning of the Armed Forces Act 2006.
- (10) Subsections (11) to (13) have effect in relation to any time before the coming into force of section 61 of the Criminal Justice and Court Services Act 2000 (abolition of sentences of detention in a young offender institution).
- (11) Subsection (2) of this section, as it applies for the purposes of the power under subsection (1) to provide young offender institutions, has effect as if for “18”, in each place, there were substituted “21”.
- (12) The Secretary of State may from time to time direct that a woman aged 21 or over who is serving a sentence of imprisonment or who has been committed to prison for default is to be detained in a young offender institution.
- (13) Nothing in this section prejudices the operation of section 108(5) of the Powers of Criminal Courts (Sentencing) Act 2000 (detention of persons aged at least 18 but under 21 for default or contempt).”
- (2) In section 52 of the Prison Act 1952 (orders, rules and regulations), after subsection (2) insert—
- “(2ZA) A statutory instrument containing rules under section 43 is subject to annulment in pursuance of a resolution of either House of Parliament.”
- (3) Schedule 9 to this Act contains further amendments relating to secure colleges and other places for the detention of young offenders.

39 Contracting out secure colleges

In Schedule 10—

- (a) Part 1 makes provision about contracting out the provision and running of secure colleges,
- (b) Part 2 makes provision about the certification of secure college custody officers,
- (c) Part 3 makes provision about contracting out functions at directly managed secure colleges,
- (d) Part 4 contains definitions, and
- (e) Part 5 contains further amendments relating to contracted-out secure colleges.

40 Powers of Youth Justice Board in relation to provision of accommodation

- (1) Section 41(5)(i) of the Crime and Disorder Act 1998 (functions of the Youth Justice Board of entering into agreements for the provision of accommodation) is amended as follows.
- (2) In sub-paragraph (ii)—
 - (a) after “2000” insert “, section 226, 226B or 228 of the Criminal Justice Act 2003”, and
 - (b) for “or 218” substitute “218, 221, 221A or 222”.
- (3) Omit sub-paragraphs (v) and (vi).

Other matters

41 Youth cautions and conditional cautions: involvement of appropriate adults

- (1) The Crime and Disorder Act 1998 is amended as follows.
- (2) In section 66ZA (youth cautions)—
 - (a) in subsection (2) (caution to be given in presence of appropriate adult), omit “given to a person under the age of 17”, and
 - (b) in subsection (3)(b) (certain matters to be explained to appropriate adult), omit “where that person is under the age of 17,”.
- (3) In section 66B(5) (requirements for giving youth conditional cautions: explanation and warning to be given in presence of appropriate adult), omit “If the offender is aged 16 or under,”.

42 Duties of custody officer after charge: arrested juveniles

In section 37(15) of the Police and Criminal Evidence Act 1984 (definitions for the purposes of provisions about detention in Part 4 of that Act), in the definition of “arrested juvenile”, for “under the age of 17” substitute “under the age of 18”.

43 Referral orders: alternatives to revocation for breach of youth offender contract

- (1) In Schedule 1 to the Powers of Criminal Courts (Sentencing) Act 2000, after paragraph 6 insert—

“Power of court to impose fine or extend period for which contract has effect

- 6A (1) This paragraph applies where—
- (a) an offender has been referred back to the appropriate court under section 22(2), 26(5) or 27(4), and
 - (b) it is proved to the satisfaction of the court that the offender has failed, without reasonable excuse, to comply with the terms of a contract under section 23.
- (2) If the court does not revoke the order under paragraph 5 it may—
- (a) order the offender to pay a fine of an amount not exceeding £2,500, or

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- (b) make an order extending the length of the period for which the contract under section 23 has effect.
- (3) The court may not extend the length of the period for which the contract has effect so that it becomes longer than 12 months.
- (4) If the period for which the contract has effect has expired (whether before or after the referral of the offender back to court) the court—
 - (a) may make an order under sub-paragraph (2)(a), but
 - (b) may not make an order under sub-paragraph (2)(b).
- (5) The court may not exercise a power under sub-paragraph (2) unless the offender is present before it.
- (6) A fine imposed under sub-paragraph (2)(a) is to be treated, for the purposes of any enactment, as being a sum adjudged to be paid by a conviction.
- (7) The Secretary of State may by order amend any sum for the time being specified in sub-paragraph (2)(a).”
- (2) In paragraph 7 of that Schedule, in sub-paragraph (2), at the end insert “(subject to any order under paragraph 6A(2)(b))”.
- (3) In the heading before paragraph 7 of that Schedule, at the beginning insert “Consequences of”.
- (4) In section 160(3) of the Powers of Criminal Courts (Sentencing) Act 2000 (statutory instruments subject to affirmative resolution procedure), after “103(2)” insert “or paragraph 6A(7) of Schedule 1”.
- (5) The amendments made by this section apply only in relation to a person who fails to comply with the terms of a youth offender contract after this section comes into force.

44 Referral orders: extension on further conviction

- (1) For paragraphs 10 to 12 of Schedule 1 to the Powers of Criminal Courts (Sentencing) Act 2000 substitute—
 - “10 (1) This paragraph applies where—
 - (a) an offender aged under 18 is subject to referral, and
 - (b) a relevant court is dealing with the offender for an offence in relation to which paragraphs (a) to (c) of section 16(1) apply.
 - (2) The relevant court may sentence the offender for the offence by making an order extending any compliance period.
 - (3) The relevant court may not extend the length of a compliance period so that it becomes longer than 12 months.
 - (4) In this paragraph and paragraph 13 “relevant court” means a youth court or other magistrates’ court.”
- (2) In paragraph 13 of that Schedule—
 - (a) omit sub-paragraphs (1), (6) and (7),

- (b) in sub-paragraph (2), for “paragraph 11 or 12 above in respect of the offence mentioned in paragraph 10 above” substitute “paragraph 10 in respect of an offence”, and
 - (c) in sub-paragraph (8), for “paragraphs 10 to 12” substitute “paragraph 10”.
- (3) In consequence of the amendments made above—
- (a) in paragraphs 5(3) and 9 of that Schedule, for “paragraph 9ZD, 11 or 12” substitute “paragraphs 9ZD or 10”,
 - (b) in the heading before paragraph 13 of that Schedule, for “paragraph 11 and 12” substitute “paragraph 10”, and
 - (c) in paragraph 14(1)(a) of that Schedule, for “paragraph 11 or 12” substitute “paragraph 10”.
- (4) The amendments made by this section apply in relation to a person dealt with for an offence committed before or after this section comes into force.

45 Referral orders: revocation on further conviction

- (1) The Powers of Criminal Courts (Sentencing) Act 2000 is amended as follows.
- (2) In Schedule 1—
- (a) in paragraph 14(1)(b) (further conviction: cases where revocation not available), for “absolutely” substitute “, whether absolutely or conditionally”,
 - (b) for paragraph 14(2) substitute—
 - “(2) The court may revoke the referral order (or any one or more of the referral orders) if it appears to the court to be in the interests of justice to do so.
 - (2A) The revocation of a referral order under sub-paragraph (2) has the effect of revoking any related order under paragraph 9ZD or 10.”,
 - and
 - (c) in the heading before paragraph 14, for “which lead to revocation of referral” substitute “: power to revoke referral orders”.
- (3) In section 18 (making of referral orders: general), after subsection (3) insert—
- “(3A) Where a court makes a referral order in respect of an offender who is subject to an earlier referral order, the court may direct that any youth offender contract under the later order is not to take effect under section 23 until the earlier order is revoked or discharged.”
- (4) The amendments made by this section apply in relation to a person dealt with for an offence committed before or after this section comes into force.

PART 3

COURTS AND TRIBUNALS

Trial by single justice on the papers

46 Instituting proceedings by written charge

(1) Section 29 of the Criminal Justice Act 2003 (public prosecutor to institute proceedings by written charge) is amended as follows.

(2) In subsection (1), for “public prosecutor” substitute “relevant prosecutor”.

(3) For subsection (2) substitute—

“(2) Where a relevant prosecutor issues a written charge, it must at the same time issue—

(a) a requisition, or

(b) a single justice procedure notice.

(2A) A requisition is a document which requires the person on whom it is served to appear before a magistrates’ court to answer the written charge.

(2B) A single justice procedure notice is a document which requires the person on whom it is served to serve on the designated officer for a magistrates’ court specified in the notice a written notification stating—

(a) whether the person desires to plead guilty or not guilty, and

(b) if the person desires to plead guilty, whether or not the person desires to be tried in accordance with section 16A of the Magistrates’ Courts Act 1980.”

(4) In subsection (3), for “The” substitute “Where a relevant prosecutor issues a written charge and a requisition, the”.

(5) After subsection (3) insert—

“(3A) Where a relevant prosecutor issues a written charge and a single justice procedure notice, the written charge and notice must be served on the person concerned, and a copy of both must be served on the designated officer specified in the notice.

(3B) If a single justice procedure notice is served on a person, the relevant prosecutor must—

(a) at the same time serve on the person such documents as may be prescribed by Criminal Procedure Rules, and

(b) serve copies of those documents on the designated officer specified in the notice.”

(6) After subsection (3B) insert—

“(3C) The written notification required by a single justice procedure notice may be served by the legal representative of the person charged on the person’s behalf.”

- (7) In subsection (4), for the words from the beginning to “public prosecutor” substitute “A relevant prosecutor authorised to issue a requisition”.
- (8) In subsection (5), for ““public prosecutor”” substitute ““relevant prosecutor””.
- (9) After subsection (5) insert—
 - “(5A) An order under subsection (5)(h) specifying a person for the purposes of this section must also specify whether that person and a person authorised by that person to institute criminal proceedings—
 - (a) are authorised to issue written charges, requisitions and single justice procedure notices, or
 - (b) are authorised to issue only written charges and single justice procedure notices.”
- (10) A person who immediately before the commencement of this section is—
 - (a) a person specified in an order under section 29(5)(h) of the Criminal Justice Act 2003, or
 - (b) a person authorised by a person so specified to institute criminal proceedings, is to be treated after the commencement of this section as authorised to issue requisitions and single justice procedure notices (subject to the order specifying that person being varied or revoked).

47 Instituting proceedings: further provision

- (1) Section 30 of the Criminal Justice Act 2003 (further provision about method of instituting proceedings in section 29) is amended as follows.
- (2) In subsection (1)—
 - (a) in paragraph (a), for “or requisitions” substitute “, requisitions or single justice procedure notices”, and
 - (b) in paragraph (b), for “or requisitions” substitute “, requisitions or single justice procedure notices”.
- (3) In subsection (2)(b), after “further requisitions” insert “or further single justice procedure notices”.
- (4) In subsection (5)—
 - (a) in paragraph (b), for “public prosecutor” substitute “relevant prosecutor”, and
 - (b) after paragraph (b) insert “, and
 - (c) any reference (however expressed) which is or includes a reference to a summons under section 1 of the Magistrates’ Courts Act 1980 (or to a justice of the peace issuing such a summons) is to be read as including a reference to a single justice procedure notice (or to a relevant prosecutor issuing a single justice procedure notice).”
- (5) After subsection (7) insert—
 - “(7A) The reference in subsection (5) to an enactment contained in an Act passed before this Act is to be read, in relation to paragraph (c) of subsection (5), as including—

- (a) a reference to an enactment contained in an Act passed before or in the same Session as the Criminal Justice and Courts Act 2015, and
- (b) a reference to an enactment contained in such an Act as a result of an amendment to that Act made by the Criminal Justice and Courts Act 2015 or by any other Act passed in the same Session as the Criminal Justice and Courts Act 2015.”

(6) In subsection (8)—

- (a) for ““public prosecutor”,” substitute ““relevant prosecutor”,” and
- (b) after ““requisition”” insert “, “single justice procedure notice””.

48 Trial by single justice on the papers

(1) The Magistrates’ Courts Act 1980 is amended as follows.

(2) In section 11 (non-appearance of accused: general provisions)—

- (a) in subsection (1), for “and (4)” substitute “, (4) and (8)”, and
- (b) after subsection (7) insert—

“(8) This section and sections 12 to 16 do not apply if and for so long as a written charge is to be tried by a magistrates’ court in accordance with section 16A.”

(3) After section 16 insert—

“Trial by single justice on the papers

16A Trial by single justice on the papers

(1) A magistrates’ court may try a written charge in accordance with subsections (3) to (10) if—

- (a) the offence charged is a summary offence not punishable with imprisonment,
- (b) the accused had attained the age of 18 years when charged,
- (c) the court is satisfied that—
 - (i) the documents specified in subsection (2) have been served on the accused, and
 - (ii) service of all of the documents was effected at the same time, and
- (d) the accused has not served on the designated officer specified in the single justice procedure notice, within the period prescribed by Criminal Procedure Rules, a written notification stating either—
 - (i) a desire to plead not guilty, or
 - (ii) a desire not to be tried in accordance with this section.

(2) The documents mentioned in subsection (1)(c) are—

- (a) a written charge and a single justice procedure notice (see section 29 of the Criminal Justice Act 2003), and
- (b) such other documents as may be prescribed by Criminal Procedure Rules (see section 29(3B) of the Criminal Justice Act 2003).

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- (3) The court may not hear any oral evidence and may consider only the contents of the following—
 - (a) the documents specified in subsection (2),
 - (b) any document containing information to which subsection (4) applies, and
 - (c) any written submission that the accused makes with a view to mitigation of sentence.
- (4) This subsection applies to information if—
 - (a) a notice describing the information was served on the accused at the same time as the documents specified in subsection (2), and
 - (b) a copy of the notice has been served on the designated officer specified in the single justice procedure notice.
- (5) The court may disregard a written submission that is not served on the designated officer specified in the single justice procedure notice within the period prescribed by Criminal Procedure Rules.
- (6) The court is not required to conduct any part of the proceedings in open court.
- (7) The court may try the charge in the absence of the parties and, if a party appears, must proceed as if the party were absent.
- (8) If the accused served on the designated officer specified in the notice a written notification stating a desire to plead guilty and to be tried in accordance with this section, the court may try the charge as if the accused had pleaded guilty.
- (9) The court may not remand the accused.
- (10) If the resumed trial is to be conducted in accordance with subsections (3) to (9), no notice is required of the resumption of the trial after an adjournment.
- (11) A magistrates' court acting under this section may be composed of a single justice.
- (12) Any magistrates' court may try a written charge in accordance with subsections (3) to (10), whether or not its designated officer is specified in the single justice procedure notice.
- (13) Subsection (1) is subject to sections 16B and 16C.

16B Cases not tried in accordance with section 16A

- (1) If a magistrates' court decides, before the accused is convicted of the offence, that it is not appropriate to convict the accused in proceedings conducted in accordance with section 16A, the court may not try or continue to try the charge in that way.
- (2) A magistrates' court may not try a written charge in accordance with section 16A if, at any time before the trial, the accused or the accused's legal representative on the accused's behalf gives notice to the designated officer specified in the single justice procedure notice that the accused does not desire to be tried in accordance with section 16A.

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

- (3) If a magistrates' court may not try or continue to try a written charge in accordance with section 16A because the conditions in section 16A(1) are not satisfied or because of subsection (1) or (2), the magistrates' court dealing with the matter must—
 - (a) adjourn the trial, if it has begun, and
 - (b) issue a summons directed to the accused requiring the accused to appear before a magistrates' court for the trial of the written charge.
- (4) A magistrates' court issuing a summons under subsection (3)(b) may be composed of a single justice.

16C Cases that cease to be tried in accordance with section 16A

- (1) If a magistrates' court decides, after the accused is convicted of the offence, that it is not appropriate to try the written charge in accordance with section 16A, the court may not continue to try the charge in that way.
- (2) If a magistrates' court trying a written charge in accordance with section 16A proposes, after the accused is convicted of the offence, to order the accused to be disqualified under section 34 or 35 of the Road Traffic Offenders Act 1988—
 - (a) the court must give the accused the opportunity to make representations or further representations about the proposed disqualification, and
 - (b) if the accused indicates a wish to make such representations, the court may not continue to try the case in accordance with section 16A.
- (3) If a magistrates' court may not continue to try a written charge in accordance with section 16A because of subsection (1) or (2), the magistrates' court must—
 - (a) adjourn the trial, and
 - (b) issue a summons directed to the accused requiring the accused to appear before a magistrates' court to be dealt with in respect of the offence.

16D Sections 16B and 16C: further provision

- (1) If a summons is issued under section 16B(3)(b) or 16C(3)(b), a reference in sections 11 to 13 to a summons issued under section 1 is to be read, for the purposes of subsequent proceedings as regards the matter, as if it included a reference to a summons issued under section 16B(3)(b) or 16C(3)(b) (as the case may be).
- (2) If a summons has been issued under section 16B(3)(b) or 16C(3)(b), a justice of the peace may issue a summons directed to the accused requiring the accused to appear before a magistrates' court for the purpose specified in the earlier summons; and subsection (1) applies in relation to a summons under this section as it applies in relation to a summons under section 16B(3)(b) or 16C(3)(b).

- (3) Where a summons has been issued under section 16B(3)(b) or 16C(3)(b), a magistrates' court that afterwards tries the written charge or deals with the accused for the offence must be—
- (a) composed as described in section 121(1), or
 - (b) composed of a District Judge (Magistrates' Courts) sitting alone by virtue of section 26 of the Courts Act 2003.
- (4) Where—
- (a) the accused is convicted of an offence before a matter is adjourned under section 16C(3)(a), and
 - (b) the matter is tried after the adjournment by another magistrates' court, that other magistrates' court is to be treated as if it were the court that convicted the accused for the purposes of section 142(2).

16E Accused not aware of single justice procedure notice

- (1) This section applies if—
- (a) a single justice procedure notice has been issued, and
 - (b) the written charge is being tried, or has been tried, in accordance with section 16A.
- (2) This section does not apply if the trial of the written charge has been adjourned under section 16B(3)(a) or 16C(3)(a).
- (3) The proceedings subsequent to the single justice procedure notice are void if—
- (a) the accused makes a statutory declaration that the accused did not know of the single justice procedure notice or the proceedings until a date that the accused specifies in the statutory declaration,
 - (b) that date is a date after a magistrates' court began to try the written charge,
 - (c) the declaration is served on the designated officer specified in the single justice procedure notice within 21 days of that date in such manner as Criminal Procedure Rules may prescribe, and
 - (d) at the same time as serving the declaration, the accused responds to the single justice procedure notice by serving a written notification on that designated officer.
- (4) Subsection (3) does not affect the validity of a written charge or a single justice procedure notice.
- (5) A magistrates' court may accept service of a statutory declaration required by subsection (3) after the period described in subsection (3)(c) if, on application by the accused, it appears to the court that it was not reasonable to expect the accused to serve that statutory declaration within that period.
- (6) A magistrates' court that accepts a statutory declaration under subsection (5) is to be treated as accepting service of a written notification that is served at the same time.

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

- (7) A statutory declaration accepted under subsection (5) and a written notification treated as accepted under subsection (6) are to be treated as having been served as required by subsection (3).
- (8) If proceedings have become void under subsection (3), the reference in section 16A to the period within which a written notification must be served is to be read as referring to a period that ends on—
- (a) the date on which a written notification is served under subsection (3) (d), or
 - (b) if a magistrates' court is treated as accepting service of a written notification by virtue of subsection (6), the date on which the written notification is so treated as accepted.
- (9) If proceedings have become void under subsection (3), the written charge may not be tried again by any of the same justices.
- (10) A magistrates' court carrying out functions under subsection (5) may be composed of a single justice.

16F Admissibility of statements

- (1) A statement contained in a document is admissible in proceedings conducted in accordance with section 16A as evidence of a matter stated if, in the particular case—
- (a) the document is one in relation to which section 16A(1)(c) is satisfied, or
 - (b) section 16A(4) applies to the information in that document (as the case may be).
- (2) Subsection (1) does not prevent a court taking into consideration the nature of the evidence placed before it when deciding whether it is appropriate to try the written charge in accordance with section 16A.
- (3) In this section “statement” means any representation of fact or opinion.”

49 Trial by single justice on the papers: sentencing etc

In section 121 of the Magistrates' Courts Act 1980 (constitution etc of a magistrates' court), after subsection (5) insert—

- “(5A) A magistrates' court that is trying a summary offence in accordance with section 16A is restricted to the following in dealing with the accused for the offence—
- (a) imposing a fine;
 - (b) imposing a penalty under section 102(3)(aa) of the Customs and Excise Management Act 1979 or section 29, 35A or 37 of the Vehicle Excise and Registration Act 1994 (penalties imposed for certain offences in relation to vehicle excise licences);
 - (c) ordering an amount to be paid under section 30, 36 or 38 of the Vehicle Excise and Registration Act 1994 (liability to additional duty);
 - (d) making an order under section 130(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (compensation orders);

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- (e) ordering payment of a surcharge under section 161A of the Criminal Justice Act 2003 (victim surcharge);
- (f) making an order as to costs to be paid by the accused to the prosecutor under section 18 of the Prosecution of Offences Act 1985;
- (g) making an order as to costs to be paid by the accused by virtue of section 19 of the Prosecution of Offences Act 1985;
- (h) ordering payment of a charge under section 21A of the Prosecution of Offences Act 1985 (criminal courts charge);
- (i) making an order under section 30A of the Road Traffic Offenders Act 1988 (order to disregard penalty points if approved course attended);
- (j) making an order under section 34 or 35 of the Road Traffic Offenders Act 1988 (disqualification from driving);
- (k) making an order under section 44 of the Road Traffic Offenders Act 1988 (endorsement of a driving record);
- (l) making an application to the Secretary of State by virtue of section 24(1)(a) of the Criminal Justice Act 1991 (benefit deductions);
- (m) making an attachment of earnings order under Part 3 of Schedule 5 to the Courts Act 2003;
- (n) making an application for benefits deductions to the Secretary of State under Part 3 of Schedule 5 to the Courts Act 2003;
- (o) making a collection order under Part 4 of Schedule 5 to the Courts Act 2003;
- (p) discharging the accused absolutely or conditionally.

(5B) The limit in subsection (5) does not apply to fines imposed as described in subsection (5A).”

50 Further amendments

Schedule 11 contains further amendments relating to the provision made by sections 46 to 49.

Time limit for bringing certain criminal proceedings

51 Offence of improper use of public electronic communications network

(1) In section 127 of the Communications Act 2003 (improper use of public electronic communications network), at the end insert—

“(5) An information or complaint relating to an offence under this section may be tried by a magistrates’ court in England and Wales or Northern Ireland if it is laid or made—

- (a) before the end of the period of 3 years beginning with the day on which the offence was committed, and
- (b) before the end of the period of 6 months beginning with the day on which evidence comes to the knowledge of the prosecutor which the prosecutor considers sufficient to justify proceedings.

(6) Summary proceedings for an offence under this section may be commenced in Scotland—

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

- (a) before the end of the period of 3 years beginning with the day on which the offence was committed, and
 - (b) before the end of the period of 6 months beginning with the day on which evidence comes to the knowledge of the prosecutor which the prosecutor considers sufficient to justify proceedings,
- and section 136(3) of the Criminal Procedure (Scotland) Act 1995 (date when proceedings deemed to be commenced) applies for the purposes of this subsection as it applies for the purposes of that section.
- (7) A certificate of a prosecutor as to the date on which evidence described in subsection (5)(b) or (6)(b) came to his or her knowledge is conclusive evidence of that fact.”
- (2) The amendment made by this section applies only in relation to an offence committed on or after the day on which it comes into force.

Committal to Crown Court

52 Low-value shoplifting: mode of trial

- (1) In section 22A of the Magistrates’ Courts Act 1980 (low-value shoplifting), in subsection (2) (right to elect trial by Crown Court), for paragraph (b) substitute—
- “(b) the court must proceed in relation to the offence in accordance with section 51(1) of the Crime and Disorder Act 1998.”
- (2) In section 51 of the Crime and Disorder Act 1998 (sending cases to Crown Court: adults), in subsection (2)(b), after “21,” insert “22A(2)(b).”

53 Committal of young offenders convicted of certain serious offences

- (1) In section 3B of the Powers of Criminal Courts (Sentencing) Act 2000 (committal for sentence on indication of guilty plea by child or young person), for subsection (1) substitute—
- “(1) This section applies where on the summary trial of an offence mentioned in section 91(1) of this Act a person aged under 18 is convicted of the offence.”
- (2) For the heading of that section substitute “Committal for sentence of young offenders on summary trial of certain serious offences”.
- (3) The amendment made by subsection (1) applies only if the person convicted of the offence first appeared in respect of the offence after the day on which the amendment comes into force.
- (4) For the purposes of subsection (3), a person first appears in respect of an offence when the person first appears or is brought before a magistrates’ court in the proceedings in which the person is charged with the offence.

Costs of criminal courts

54 Criminal courts charge

- (1) In the Prosecution of Offences Act 1985, after Part 2 insert—

“PART 2A

COURT COSTS IN CRIMINAL CASES

21A Criminal courts charge

- (1) A court mentioned in section 21B must, at the times listed there, order a person convicted of an offence to pay a charge in respect of relevant court costs, subject to—
 - (a) subsections (2) and (3), and
 - (b) section 21C.
- (2) An order must not be made if the person was under 18 when the offence was committed.
- (3) An order must not be made in a case or class of case prescribed by the Lord Chancellor by regulations.
- (4) A court must not take into account the duty under subsection (1) or any order under this section when dealing with a person (other than under this section) for an offence or for a failure to comply with a requirement mentioned in section 21B.
- (5) In this section—

“court costs” means costs of providing the judiciary and the rest of the system of courts, but does not include defence or prosecution costs;

“relevant court costs” means court costs incurred in connection with criminal proceedings or proceedings for a failure to comply with a requirement mentioned in section 21B, but does not include costs of providing the Supreme Court or judges of that Court.

21B Criminal courts charge: courts and times

- (1) A magistrates’ court must make an order under section 21A at the following times—
 - (a) when dealing with the person for the offence;
 - (b) when dealing with the person under Schedule 8 to the Criminal Justice Act 2003 for failure to comply with any of the requirements of a community order;
 - (c) when dealing with the person under Schedule 12 to the Criminal Justice Act 2003 for failure to comply with any of the community requirements of a suspended sentence order;
 - (d) when dealing with the person under section 256AC of the Criminal Justice Act 2003 for failure to comply with a supervision requirement imposed under section 256AA of that Act.
- (2) The Crown Court must make an order under section 21A at the following times—
 - (a) when dealing with the person for the offence;

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- (b) when dealing with the person under Schedule 8 to the Criminal Justice Act 2003 for failure to comply with any of the requirements of a community order;
 - (c) when dealing with the person under Schedule 12 to the Criminal Justice Act 2003 for failure to comply with any of the community requirements of a suspended sentence order;
 - (d) when dismissing an appeal by the person against conviction or sentence for the offence.
- (3) The Court of Appeal must make an order under section 21A at the following times—
- (a) when dismissing an appeal under Part 1 of the Criminal Appeal Act 1968 against the person’s conviction or sentence for the offence;
 - (b) when dismissing an application for leave to bring such an appeal.

21C Amount of criminal courts charge

- (1) A charge ordered to be paid under section 21A must be of an amount specified by the Lord Chancellor by regulations.
- (2) When specifying amounts under this section, the Lord Chancellor must seek to secure that an amount specified in respect of a class of case does not exceed the relevant court costs reasonably attributable to a case of that class.
- (3) In this section “relevant court costs” has the same meaning as in section 21A.

21D Interest on criminal courts charge

- (1) The Lord Chancellor may by regulations provide that a person who is ordered to pay a charge under section 21A must pay interest on the charge if or to the extent that it remains unpaid.
- (2) The regulations may, in particular—
 - (a) make provision about the rate of interest,
 - (b) make provision about periods when interest is or is not payable, and
 - (c) make provision by reference to a measure or document as amended from time to time.
- (3) The regulations may not make provision for a rate of interest that is higher than the rate that the Lord Chancellor considers would maintain the value in real terms of amounts that remain unpaid.
- (4) An amount of interest payable under the regulations is to be treated as part of the charge ordered to be paid under section 21A.

21E Power to remit criminal courts charge

- (1) A magistrates’ court may remit the whole or part of a charge ordered to be paid by a person under section 21A, subject to the restrictions in subsections (2) to (4).
- (2) It may remit the charge only if—

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

- (a) it is satisfied that the person has taken all reasonable steps to pay it, having regard to the person's personal circumstances, or
 - (b) it is satisfied that collection and enforcement of the charge is impracticable.
- (3) It may not remit the charge at a time when the person is detained in prison.
- (4) It may not remit the charge unless each of following has expired—
- (a) a specified period beginning with the day on which an order under section 21A was last made in respect of the person;
 - (b) a specified period beginning with the day on which the person was last convicted of an offence;
 - (c) where relevant, a specified period beginning with the day on which the person was last released from prison.
- (5) Where a court remits a charge under section 21A after an order has been made under section 300(2) of the Criminal Justice Act 2003 (power to impose unpaid work requirement etc on fine defaulter) for default in paying the charge (or the charge and other amounts), the court must—
- (a) reduce the total number of hours or days to which the order relates by the same proportion as the amount remitted bears to the total amount in respect of which the order was made, or
 - (b) if the total number of hours or days would be reduced to nil under paragraph (a), revoke the order.
- (6) In calculating a reduction required by subsection (5), any fraction of an hour or day is to be rounded down to the nearest hour or day.
- (7) In this section—
- “prison” includes any place where a person serving a sentence of detention for an offence is liable to be detained;
 - “specified period” means a period of a length specified by the Lord Chancellor by regulations.

21F Regulations under this Part

Regulations under this Part may include transitional, transitory and saving provision.”

- (2) In Part 1 of Schedule 9 to the Administration of Justice Act 1970 (cases where payment enforceable as on summary conviction)—
- (a) after paragraph 9 insert—
 - “9A Where a court orders the payment of a charge in respect of relevant court costs under section 21A of the Prosecution of Offences Act 1985.”,
 - (b) re-number paragraph 13 as paragraph 12A, and
 - (c) re-number paragraph 13A as paragraph 12B.
- (3) Schedule 12 to this Act makes further provision about the criminal courts charge.
- (4) Section 21A of the Prosecution of Offences Act 1985 applies only in relation to a person convicted of an offence committed after that section comes into force.

55 Duty to review criminal courts charge

- (1) After the end of the initial period, the Lord Chancellor must carry out a review of the operation of Part 2A of the Prosecution of Offences Act 1985 (inserted by section 54 of this Act).
- (2) “The initial period” is the period of 3 years beginning with the day on which section 54(1) comes into force.
- (3) If the Lord Chancellor considers it appropriate, having regard to the conclusions reached on the review, the Lord Chancellor must by regulations repeal Part 2A of the Prosecution of Offences Act 1985.
- (4) Regulations under this section may include consequential, transitional, transitory and saving provision, including provision amending an Act (whenever passed or made).
- (5) Regulations under this section are to be made by statutory instrument.
- (6) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

*Collection of fines etc***56 Variation of collection orders etc**

- (1) Schedule 5 to the Courts Act 2003 (collection of fines and other sums imposed on conviction) is amended as follows.
- (2) For paragraph 21 (application of Part 6: variation of collection orders containing payment terms) substitute—

“21 This Part applies if—

 - (a) the court has made a collection order, and
 - (b) the order contains payment terms but does not contain reserve terms.”
- (3) In paragraph 22 (variation of collection order)—
 - (a) omit sub-paragraph (1),
 - (b) in sub-paragraph (2), for “P may apply for” substitute “P may at any time apply to the fines officer under this paragraph for”,
 - (c) in sub-paragraph (4)(a), omit “in P’s favour”,
 - (d) after sub-paragraph (4) insert—

“(4A) The fines officer may not vary the payment terms under sub-paragraph (4)(a) so that they are less favourable to P without P’s consent.”, and
 - (e) for sub-paragraph (7) substitute—

“(7) The fines officer may not vary the order so that it states reserve terms which are less favourable to P than the payment terms without P’s consent.”
- (4) In paragraph 25 (application of Part 7: effect of first default on collection order containing payment terms), for paragraphs (a) and (b) substitute—

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- “(a) an application to a fines officer under paragraph 22 (application for variation of order or for attachment of earnings order etc) that was made at a time when P was not in default on the collection order;
 - (b) an appeal under paragraph 23 against a decision of a fines officer on an application described in paragraph (a);”.
- (5) In paragraph 31 (variation of reserve terms)—
 - (a) for sub-paragraph (1) substitute—
 - “(1) P may, at any time after the date of a payment notice under paragraph 30, apply to the fines officer for the reserve terms to be varied.”,
 - (b) in sub-paragraph (3)(a), omit “in P’s favour”, and
 - (c) after sub-paragraph (3) insert—
 - “(3A) The fines officer may not vary the reserve terms under sub-paragraph (3)(a) so that they are less favourable to P without P’s consent.”
- (6) In paragraph 37 (functions of fines officer in relation to defaulters: referral or further steps notice), in sub-paragraph (1)(c), for sub-paragraphs (i) and (ii) substitute—
 - “(i) an application to a fines officer under paragraph 31 (application for variation of reserve terms) that was made at a time when P was not in default on the collection order;
 - (ii) an appeal under paragraph 32 against a decision of a fines officer on an application described in sub-paragraph (i);”.

Civil proceedings relating to personal injury

57 Personal injury claims: cases of fundamental dishonesty

- (1) This section applies where, in proceedings on a claim for damages in respect of personal injury (“the primary claim”)—
 - (a) the court finds that the claimant is entitled to damages in respect of the claim, but
 - (b) on an application by the defendant for the dismissal of the claim under this section, the court is satisfied on the balance of probabilities that the claimant has been fundamentally dishonest in relation to the primary claim or a related claim.
- (2) The court must dismiss the primary claim, unless it is satisfied that the claimant would suffer substantial injustice if the claim were dismissed.
- (3) The duty under subsection (2) includes the dismissal of any element of the primary claim in respect of which the claimant has not been dishonest.
- (4) The court’s order dismissing the claim must record the amount of damages that the court would have awarded to the claimant in respect of the primary claim but for the dismissal of the claim.
- (5) When assessing costs in the proceedings, a court which dismisses a claim under this section must deduct the amount recorded in accordance with subsection (4) from the

amount which it would otherwise order the claimant to pay in respect of costs incurred by the defendant.

- (6) If a claim is dismissed under this section, subsection (7) applies to—
- (a) any subsequent criminal proceedings against the claimant in respect of the fundamental dishonesty mentioned in subsection (1)(b), and
 - (b) any subsequent proceedings for contempt of court against the claimant in respect of that dishonesty.
- (7) If the court in those proceedings finds the claimant guilty of an offence or of contempt of court, it must have regard to the dismissal of the primary claim under this section when sentencing the claimant or otherwise disposing of the proceedings.
- (8) In this section—
- “claim” includes a counter-claim and, accordingly, “claimant” includes a counter-claimant and “defendant” includes a defendant to a counter-claim;
 - “personal injury” includes any disease and any other impairment of a person’s physical or mental condition;
 - “related claim” means a claim for damages in respect of personal injury which is made—
 - (a) in connection with the same incident or series of incidents in connection with which the primary claim is made, and
 - (b) by a person other than the person who made the primary claim.
- (9) This section does not apply to proceedings started by the issue of a claim form before the day on which this section comes into force.

58 Rules against inducements to make personal injury claims

- (1) A regulated person is in breach of this section if—
- (a) the regulated person offers another person a benefit or is treated as doing so under subsection (4),
 - (b) the offer of the benefit is an inducement to make a claim in civil proceedings for—
 - (i) damages for personal injury or death, or
 - (ii) damages arising out of circumstances involving personal injury or death, and
 - (c) the benefit is not related to the provision of legal services in connection with the claim.
- (2) An offer of a benefit to another person is an inducement to make a claim if the offer of the benefit—
- (a) is intended to encourage the person to make a claim or to seek advice from a regulated person with a view to making a claim, or
 - (b) is likely to have the effect of encouraging the person to do so.
- (3) An offer of a benefit may be an inducement to make a claim regardless of—
- (a) when or by what means the offer is made,
 - (b) whether the receipt of the benefit pursuant to the offer is subject to conditions,
 - (c) when the benefit may be received pursuant to the offer, or
 - (d) whether the benefit may be received by the person to whom the offer is made or by a third party.

- (4) If a person other than a regulated person offers a benefit in accordance with arrangements made by or on behalf of a regulated person—
 - (a) the regulated person is to be treated as offering the benefit, and
 - (b) the offer of the benefit is to be treated as satisfying subsection (2)(a) if the arrangements were intended to encourage people to make claims or seek advice from a regulated person with a view to making a claim.
- (5) The Lord Chancellor may by regulations make provision as to the circumstances in which a benefit is related to the provision of legal services in connection with a claim, including provision about benefits relating to—
 - (a) fees to be charged in respect of the legal services,
 - (b) expenses which are or would be necessarily incurred in connection with the claim, or
 - (c) insurance to cover legal costs and expenses in connection with the claim.

59 Effect of rules against inducements

- (1) The relevant regulator must ensure that it has appropriate arrangements for monitoring and enforcing the restriction imposed on regulated persons by section 58.
- (2) A regulator may make rules for the purposes of subsection (1).
- (3) The rules may in particular provide that, in relation to anything done in breach of that section, the relevant regulator may exercise any powers that the regulator would have in relation to anything done by the regulated person in breach of another restriction (subject to subsection (4)).
- (4) A breach of section 58—
 - (a) does not make a person guilty of an offence, and
 - (b) does not give rise to a right of action for breach of statutory duty.
- (5) Subsection (6) applies in a case where—
 - (a) a regulated person has offered a benefit to a person or is treated as having done so under section 58(4), and
 - (b) it appears to the regulator that the offer of the benefit is an inducement to make a claim as mentioned in section 58(1)(b).
- (6) Rules under subsection (2) may provide for the offer of the benefit to the person to be treated as an inducement to make a claim as mentioned in section 58(1)(b) unless the regulated person shows—
 - (a) that the benefit was offered for a reason other than encouraging the person to make a claim or to seek advice from a regulated person with a view to making a claim, or
 - (b) that the benefit is related to the provision of legal services in connection with the claim (see regulations under section 58(5)).

60 Inducements: interpretation

- (1) In relation to an offer of a benefit which is an inducement to make a claim in civil proceedings for damages for personal injury or death or arising out of circumstances involving personal injury or death—
 - (a) a regulator is any person listed in column 1 below;

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- (b) a regulated person is any person listed in column 2;
- (c) a regulator in column 1 is the relevant regulator in relation to the corresponding person in column 2.

<i>Regulator</i>	<i>Regulated person</i>
The General Council of the Bar	A person authorised by the Council to carry on a reserved legal activity within the meaning of the Legal Services Act 2007
The Chartered Institute of Legal Executives	A person authorised by the Institute to carry on a reserved legal activity within the meaning of the Legal Services Act 2007
The Law Society	A person authorised by the Society to carry on a reserved legal activity within the meaning of the Legal Services Act 2007
A licensing authority for the purposes of Part 5 of the Legal Services Act 2007 (alternative business structures)	A person who is licensed by the authority to carry on a reserved legal activity
A regulatory body specified for the purposes of this section in regulations made by the Lord Chancellor	A person of a description specified for the purposes of this section in regulations made by the Lord Chancellor in relation to the body specified under column 1

- (2) For the purposes of this section and sections 58 and 59—
- “benefit” means—
- (a) any benefit, whether or not in money or other property and whether temporary or permanent, and
- (b) any opportunity to obtain a benefit;
- “claim” includes a counter-claim;
- “legal services” means services provided by a person which consist of or include legal activities (within the meaning of the Legal Services Act 2007) carried on by or on behalf of that person;
- “personal injury” includes any disease and any other impairment of a person’s physical or mental condition.
- (3) For the purposes of this section and section 59 whether an offer of a benefit is an inducement to make a claim is to be determined in accordance with section 58.

61 Inducements: regulations

- (1) This section applies to regulations under section 58 or 60.
- (2) The regulations are to be made by statutory instrument.
- (3) The regulations may include consequential, supplementary, incidental, transitional, transitory or saving provision.

- (4) Regulations under section 58 may not be made unless a draft of the instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.
- (5) A statutory instrument containing regulations under section 60 is subject to annulment in pursuance of a resolution of either House of Parliament.

Appeals in civil proceedings

62 Appeals from the Court of Protection

- (1) Section 53 of the Mental Capacity Act 2005 (rights of appeal from the Court of Protection) is amended as follows.
- (2) For subsection (2) substitute—
 - “(2) Court of Protection Rules may provide that, where a decision of the court is made by a specified description of person, an appeal from the decision lies to a specified description of judge of the court and not to the Court of Appeal.”
- (3) Omit subsection (3).
- (4) In subsection (4)(d), omit “higher”.

63 Appeals from the High Court to the Supreme Court

- (1) Part 2 of the Administration of Justice Act 1969 (appeal from High Court to Supreme Court) is amended as follows.
- (2) In section 12 (grant of a certificate by the trial judge enabling an appeal to the Supreme Court), in subsection (1)—
 - (a) in paragraph (a), after “those proceedings” insert “or that the conditions in subsection (3A) (“the alternative conditions”) are satisfied in relation to those proceedings”, and
 - (b) omit paragraph (c) (requirement that all parties consent to the grant of the certificate) and the “and” before it.
- (3) After subsection (3) insert—
 - “(3A) The alternative conditions, in relation to a decision of the judge in any proceedings, are that a point of law of general public importance is involved in the decision and that—
 - (a) the proceedings entail a decision relating to a matter of national importance or consideration of such a matter,
 - (b) the result of the proceedings is so significant (whether considered on its own or together with other proceedings or likely proceedings) that, in the opinion of the judge, a hearing by the Supreme Court is justified, or
 - (c) the judge is satisfied that the benefits of earlier consideration by the Supreme Court outweigh the benefits of consideration by the Court of Appeal.”
- (4) In section 16 (application of Part 2 to Northern Ireland), after subsection (1) insert—

“(1A) In the application of this Part of this Act to Northern Ireland, section 12 has effect as if—

- (a) in subsection (1)(a) there were omitted “or that the conditions in subsection (3A) (“the alternative conditions”) are satisfied in relation to those proceedings”;
- (b) after subsection (1)(b) there were inserted “, and
 - (c) that all the parties to the proceedings consent to the grant of a certificate under this section.”;
- (c) subsection (3A) were omitted.”

64 Appeals from the Upper Tribunal to the Supreme Court

In the Tribunals, Courts and Enforcement Act 2007, after section 14 insert—

“14A Appeal to Supreme Court: grant of certificate by Upper Tribunal

- (1) If the Upper Tribunal is satisfied that—
 - (a) the conditions in subsection (4) or (5) are fulfilled in relation to the Upper Tribunal’s decision in any proceedings, and
 - (b) as regards that decision, a sufficient case for an appeal to the Supreme Court has been made out to justify an application under section 14B,
 the Upper Tribunal may grant a certificate to that effect.
- (2) The Upper Tribunal may grant a certificate under this section only on an application made by a party to the proceedings.
- (3) The Upper Tribunal may grant a certificate under this section only if the relevant appellate court as regards the proceedings is—
 - (a) the Court of Appeal in England and Wales, or
 - (b) the Court of Appeal in Northern Ireland.
- (4) The conditions in this subsection are that a point of law of general public importance is involved in the decision of the Upper Tribunal and that point of law is—
 - (a) a point of law that—
 - (i) relates wholly or mainly to the construction of an enactment or statutory instrument, and
 - (ii) has been fully argued in the proceedings and fully considered in the judgment of the Upper Tribunal in the proceedings, or
 - (b) a point of law—
 - (i) in respect of which the Upper Tribunal is bound by a decision of the relevant appellate court or the Supreme Court in previous proceedings, and
 - (ii) that was fully considered in the judgments given by the relevant appellate court or, as the case may be, the Supreme Court in those previous proceedings.
- (5) The conditions in this subsection are that a point of law of general public importance is involved in the decision of the Upper Tribunal and that—

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- (a) the proceedings entail a decision relating to a matter of national importance or consideration of such a matter,
 - (b) the result of the proceedings is so significant (whether considered on its own or together with other proceedings or likely proceedings) that, in the opinion of the Upper Tribunal, a hearing by the Supreme Court is justified, or
 - (c) the Upper Tribunal is satisfied that the benefits of earlier consideration by the Supreme Court outweigh the benefits of consideration by the Court of Appeal.
- (6) Before the Upper Tribunal decides an application made to it under this section, the Upper Tribunal must specify the court that would be the relevant appellate court if the application were an application for permission (or leave) under section 13.
- (7) In this section except subsection (6) and in sections 14B and 14C, “the relevant appellate court”, as respects an application, means the court specified as respects that application by the Upper Tribunal under subsection (6).
- (8) No appeal lies against the grant or refusal of a certificate under subsection (1).

14B Appeal to Supreme Court: permission to appeal

- (1) If the Upper Tribunal grants a certificate under section 14A in relation to any proceedings, a party to those proceedings may apply to the Supreme Court for permission to appeal directly to the Supreme Court.
- (2) An application under subsection (1) must be made—
- (a) within one month from the date on which that certificate is granted, or
 - (b) within such time as the Supreme Court may allow in a particular case.
- (3) If on such an application it appears to the Supreme Court to be expedient to do so, the Supreme Court may grant permission for such an appeal.
- (4) If permission is granted under this section—
- (a) no appeal from the decision to which the certificate relates lies to the relevant appellate court, but
 - (b) an appeal lies from that decision to the Supreme Court.
- (5) An application under subsection (1) is to be determined without a hearing.
- (6) Subject to subsection (4), no appeal lies to the relevant appellate court from a decision of the Upper Tribunal in respect of which a certificate is granted under section 14A until—
- (a) the time within which an application can be made under subsection (1) has expired, and
 - (b) where such an application is made, that application has been determined in accordance with this section.

14C Appeal to Supreme Court: exclusions

- (1) No certificate may be granted under section 14A in respect of a decision of the Upper Tribunal in any proceedings where, by virtue of any enactment (other than sections 14A and 14B), no appeal would lie from that decision of the

Upper Tribunal to the relevant appellate court, with or without the permission (or leave) of the Upper Tribunal or the relevant appellate court.

- (2) No certificate may be granted under section 14A in respect of a decision of the Upper Tribunal in any proceedings where, by virtue of any enactment, no appeal would lie from a decision of the relevant appellate court on that decision of the Upper Tribunal to the Supreme Court, with or without the permission (or leave) of the relevant appellate court or the Supreme Court.
- (3) Where no appeal would lie to the relevant appellate court from the decision of the Upper Tribunal except with the permission (or leave) of the Upper Tribunal or the relevant appellate court, no certificate may be granted under section 14A in respect of a decision of the Upper Tribunal unless it appears to the Upper Tribunal that it would be a proper case for giving permission (or leave) to appeal to the relevant appellate court.
- (4) No certificate may be granted under section 14A in respect of a decision or order of the Upper Tribunal made by it in the exercise of its jurisdiction to punish for contempt.”

65 Appeals from the Employment Appeal Tribunal to the Supreme Court

In the Employment Tribunals Act 1996, after section 37 insert—

“37ZA Appeals to Supreme Court: grant of certificate by Appeal Tribunal

- (1) If the Appeal Tribunal is satisfied that—
 - (a) the conditions in subsection (4) or (5) are fulfilled in relation to the Appeal Tribunal’s decision or order in any proceedings, and
 - (b) as regards that decision or order, a sufficient case for an appeal to the Supreme Court has been made out to justify an application under section 37ZB,
 the Appeal Tribunal may grant a certificate to that effect.
- (2) The Appeal Tribunal may grant a certificate under this section only on an application made by a party to the proceedings.
- (3) The Appeal Tribunal may not grant a certificate under this section in the case of proceedings in Scotland.
- (4) The conditions in this subsection are that a point of law of general public importance is involved in the decision or order of the Appeal Tribunal and that point of law is—
 - (a) a point of law that—
 - (i) relates wholly or mainly to the construction of an enactment or statutory instrument, and
 - (ii) has been fully argued in the proceedings and fully considered in the judgment of the Appeal Tribunal in the proceedings, or
 - (b) a point of law—
 - (i) in respect of which the Appeal Tribunal is bound by a decision of the Court of Appeal or the Supreme Court in previous proceedings, and

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

- (ii) that was fully considered in the judgments given by the Court of Appeal or, as the case may be, the Supreme Court in those previous proceedings.
- (5) The conditions in this subsection are that a point of law of general public importance is involved in the decision or order of the Appeal Tribunal and that—
- (a) the proceedings entail a decision relating to a matter of national importance or consideration of such a matter,
 - (b) the result of the proceedings is so significant (whether considered on its own or together with other proceedings or likely proceedings) that, in the opinion of the Appeal Tribunal, a hearing by the Supreme Court is justified, or
 - (c) the Appeal Tribunal is satisfied that the benefits of earlier consideration by the Supreme Court outweigh the benefits of consideration by the Court of Appeal.
- (6) No appeal lies against the grant or refusal of a certificate under subsection (1).

37ZB Appeals to Supreme Court: permission to appeal

- (1) If the Appeal Tribunal grants a certificate under section 37ZA in relation to any proceedings, a party to those proceedings may apply to the Supreme Court for permission to appeal directly to the Supreme Court.
- (2) An application under subsection (1) must be made—
- (a) within one month from the date on which the certificate is granted, or
 - (b) within such time as the Supreme Court may allow in a particular case.
- (3) If on such an application it appears to the Supreme Court to be expedient to do so, the Supreme Court may grant permission for such an appeal.
- (4) If permission is granted under this section—
- (a) no appeal from the decision or order to which the certificate relates lies to the Court of Appeal, but
 - (b) an appeal lies from that decision or order to the Supreme Court.
- (5) An application under subsection (1) is to be determined without a hearing.
- (6) Subject to subsection (4), no appeal lies to the Court of Appeal from a decision or order of the Appeal Tribunal in respect of which a certificate is granted under section 37ZA until—
- (a) the time within which an application can be made under subsection (1) has expired, and
 - (b) where such an application is made, that application has been determined in accordance with this section.

37ZC Appeals to Supreme Court: exclusions

- (1) No certificate may be granted under section 37ZA in respect of a decision or order of the Appeal Tribunal in any proceedings where, by virtue of any enactment (other than sections 3Z7A and 37ZB), no appeal would lie from that

decision or order of the Appeal Tribunal to the Court of Appeal, with or without the leave or permission of the Appeal Tribunal or the Court of Appeal.

- (2) No certificate may be granted under section 37ZA in respect of a decision or order of the Appeal Tribunal in any proceedings where, by virtue of any enactment, no appeal would lie from a decision of the Court of Appeal on that decision or order of the Appeal Tribunal to the Supreme Court, with or without the leave or permission of the Court of Appeal or the Supreme Court.
- (3) Where no appeal would lie to the Court of Appeal from the decision or order of the Appeal Tribunal except with the leave or permission of the Appeal Tribunal or the Court of Appeal, no certificate may be granted under section 37ZA in respect of a decision or order of the Appeal Tribunal unless it appears to the Appeal Tribunal that it would be a proper case for granting leave or permission to appeal to the Court of Appeal.
- (4) No certificate may be granted under section 37ZA where the decision or order of the Appeal Tribunal is made in the exercise of its jurisdiction to punish for contempt.”

66 Appeals from the Special Immigration Appeals Commission to the Supreme Court

- (1) The Special Immigration Appeals Commission Act 1997 is amended as follows.
- (2) Before section 8 insert—

“7B Appeals to Supreme Court: grant of certificate by Commission

- (1) If the Special Immigration Appeals Commission is satisfied that—
 - (a) the conditions in subsection (4) or (5) are fulfilled in relation to a final determination to which section 7(1) or (1A) applies, and
 - (b) in respect of that final determination, a sufficient case for an appeal to the Supreme Court has been made out to justify an application under section 7C,
 the Commission may grant a certificate to that effect.
- (2) The Commission may grant a certificate under this section only on an application made by a party to the appeal or review to which the final determination relates.
- (3) The Commission may not grant a certificate under this section if the final determination is made by the Commission in Scotland.
- (4) The conditions in this subsection are that a point of law of general public importance is involved in the final determination and that point of law is—
 - (a) a point of law that—
 - (i) relates wholly or mainly to the construction of an enactment or statutory instrument, and
 - (ii) has been fully argued in the proceedings on the appeal or review to which the final determination relates and fully considered in the judgment of the Commission, or
 - (b) a point of law—

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

- (i) in respect of which the Commission is bound by a decision of the appropriate appeal court or the Supreme Court in previous proceedings, and
 - (ii) that was fully considered in the judgments given by the appropriate appeal court or, as the case may be, the Supreme Court in those previous proceedings.
- (5) The conditions in this subsection are that a point of law of general public importance is involved in the final determination and that—
 - (a) the proceedings entail a decision relating to a matter of national importance or consideration of such a matter,
 - (b) the result of the proceedings is so significant (whether considered on its own or together with other proceedings or likely proceedings) that, in the opinion of the Commission, a hearing by the Supreme Court is justified, or
 - (c) the Commission is satisfied that the benefits of earlier consideration by the Supreme Court outweigh the benefits of consideration by the Court of Appeal.
- (6) No appeal lies against the grant or refusal of a certificate under subsection (1).

7C Appeals to Supreme Court: permission to appeal

- (1) If the Special Immigration Appeals Commission grants a certificate under section 7B in relation to a final determination, a party to the appeal or review to which the final determination relates may apply to the Supreme Court for permission to appeal directly to the Supreme Court.
- (2) An application under subsection (1) must be made—
 - (a) within one month from the date on which that certificate is granted, or
 - (b) within such time as the Supreme Court may allow in a particular case.
- (3) If on such an application it appears to the Supreme Court to be expedient to do so, the Supreme Court may grant permission for such an appeal.
- (4) If permission is granted under this section—
 - (a) no appeal from the final determination to which the certificate relates lies to the appropriate appeal court, but
 - (b) an appeal lies from that determination to the Supreme Court.
- (5) An application under subsection (1) is to be determined without a hearing.
- (6) Subject to subsection (4), no appeal lies to the appropriate appeal court from a final determination of the Commission in respect of which a certificate is granted under section 7B until—
 - (a) the time within which an application can be made under subsection (1) has expired, and
 - (b) where such an application is made, that application has been determined in accordance with this section.

7D Appeals to Supreme Court: exclusions

- (1) No certificate may be granted under section 7B in respect of a final determination of the Special Immigration Appeals Commission where, by virtue of any enactment (other than sections 7B and 7C), no appeal would lie from that decision of the Commission to the appropriate appeal court, with or without the leave or permission of the Commission or the appropriate appeal court.
 - (2) No certificate may be granted under section 7B in respect of a final determination of the Commission where, by virtue of any enactment, no appeal would lie from a decision of the appropriate appeal court on that determination of the Commission to the Supreme Court, with or without the permission or leave of the appropriate appeal court or the Supreme Court.
 - (3) Where no appeal would lie to the appropriate appeal court from a final determination of the Commission except with the leave or permission of the Commission or the appropriate appeal court, no certificate may be granted under section 7B in respect of a final determination unless it appears to the Commission that it would be a proper case for granting leave to appeal to the appropriate appeal court.
 - (4) No certificate may be granted under section 7B in respect of a decision or order of the Commission made by it in the exercise of its jurisdiction to punish for contempt.”
- (3) In section 1(4) (challenges to decisions of the Commission), after “section 7” insert “and sections 7B to 7D”.
 - (4) In section 7(3) (appeals from the Commission: definition of “the appropriate appeal court”), after “In this section” insert “and sections 7B to 7D”.
 - (5) In section 8 (procedure on applications for leave to appeal)—
 - (a) in subsection (1), at the end insert “or for the grant of a certificate under section 7B”, and
 - (b) in subsection (2), omit “for leave to appeal”.
 - (6) In the heading of section 8, after “leave to appeal” insert “etc”.

*Costs in civil proceedings***67 Wasted costs in certain civil proceedings**

- (1) Section 51 of the Senior Courts Act 1981 (costs in civil division of Court of Appeal, High Court, family court and county court) is amended as follows.
- (2) After subsection (7) (wasted costs) insert—

“(7A) Where the court exercises a power under subsection (6) in relation to costs incurred by a party, it must inform such of the following as it considers appropriate—

 - (a) an approved regulator;
 - (b) the Director of Legal Aid Casework.”

(3) After subsection (12) insert—

“(12A) In subsection (7A)—

“approved regulator” has the meaning given by section 20 of the Legal Services Act 2007;

“the Director of Legal Aid Casework” means the civil servant designated under section 4 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.”

Juries and members of the Court Martial

68 Upper age limit for jury service to be 75

(1) The Juries Act 1974 is amended as follows.

(2) In section 1(1)(a) (qualification for jury service), for the words from “and” to the end substitute “and aged eighteen or over but under seventy six”.

(3) In section 3(1) (electoral register as basis of jury selection), for “less than eighteen or more than seventy years of age” substitute “—

- (a) aged under eighteen, or
- (b) aged seventy six or over”.

69 Jurors and electronic communications devices

In the Juries Act 1974, after section 15 insert—

“15A Surrender of electronic communications devices

(1) A judge dealing with an issue may order the members of a jury trying the issue to surrender any electronic communications devices for a period.

(2) An order may be made only if the judge considers that—

- (a) the order is necessary or expedient in the interests of justice, and
- (b) the terms of the order are a proportionate means of safeguarding those interests.

(3) An order may only specify a period during which the members of the jury are—

- (a) in the building in which the trial is being heard,
- (b) in other accommodation provided at the judge’s request,
- (c) visiting a place in accordance with arrangements made by the court, or
- (d) travelling to or from a place mentioned in paragraph (b) or (c).

(4) An order may be made subject to exceptions.

(5) It is a contempt of court for a member of a jury to fail to surrender an electronic communications device in accordance with an order under this section.

(6) Proceedings for a contempt of court under this section may only be instituted on the motion of a court having jurisdiction to deal with it.

- (7) In this section, “electronic communications device” means a device that is designed or adapted for a use which consists of or includes the sending or receiving of signals that are transmitted by means of an electronic communications network (as defined in section 32 of the Communications Act 2003).”

70 Jurors and electronic communications devices: powers of search etc

- (1) Part 4 of the Courts Act 2003 (court security officers) is amended as follows.

- (2) After section 54 insert—

“54A Powers in relation to jurors’ electronic communications devices

- (1) This section applies where an order has been made under section 15A of the Juries Act 1974 (surrender of electronic communications devices by jurors) in respect of the members of a jury.
- (2) A court security officer acting in the execution of the officer’s duty must, if ordered to do so by a judge, search a member of the jury in order to determine whether the juror has failed to surrender an electronic communications device in accordance with the order.
- (3) Subsection (2) does not authorise the officer to require a person to remove clothing other than a coat, jacket, headgear, gloves or footwear.
- (4) If the search reveals a device which is required by the order to be surrendered—
- (a) the officer must ask the juror to surrender the device, and
 - (b) if the juror refuses to do so, the officer may seize it.
- (5) In this section, “electronic communications device” means a device that is designed or adapted for a use which consists of or includes the sending or receiving of signals that are transmitted by means of an electronic communications network (as defined in section 32 of the Communications Act 2003).”
- (3) In section 55 (powers to retain articles surrendered or seized)—
- (a) after subsection (1) insert—

“(1A) Subject to subsection (2), a court security officer may retain an article which was—

 - (a) surrendered in response to a request under section 54A(4)(a), or
 - (b) seized under section 54A(4)(b),

until the end of the period specified in the relevant order under section 15A of the Juries Act 1974.”, and
 - (b) in subsection (2), for paragraph (a) substitute—

“(a) the time specified in subsection (1) or (1A) (as appropriate), or”.
- (4) In section 56(1)(a) (regulations about retention of articles)—
- (a) in sub-paragraph (i), after “54(1)” insert “or 54A(4)(a)”, and

- (b) in sub-paragraph (ii), after “54(2)” insert “or 54A(4)(b)”.

71 Research by jurors

- (1) The Juries Act 1974 is amended as follows.
- (2) For the heading of section 20 substitute “Offences: failure to attend, serving while disqualified etc”.
- (3) After section 20 insert—

“20A Offence: research by jurors

- (1) It is an offence for a member of a jury that tries an issue in a case before a court to research the case during the trial period, subject to the exceptions in subsections (6) and (7).
- (2) A person researches a case if (and only if) the person—
 - (a) intentionally seeks information, and
 - (b) when doing so, knows or ought reasonably to know that the information is or may be relevant to the case.
- (3) The ways in which a person may seek information include—
 - (a) asking a question,
 - (b) searching an electronic database, including by means of the internet,
 - (c) visiting or inspecting a place or object,
 - (d) conducting an experiment, and
 - (e) asking another person to seek the information.
- (4) Information relevant to the case includes information about—
 - (a) a person involved in events relevant to the case,
 - (b) the judge dealing with the issue,
 - (c) any other person involved in the trial, whether as a lawyer, a witness or otherwise,
 - (d) the law relating to the case,
 - (e) the law of evidence, and
 - (f) court procedure.
- (5) “The trial period”, in relation to a member of a jury that tries an issue, is the period—
 - (a) beginning when the person is sworn to try the issue, and
 - (b) ending when the judge discharges the jury or, if earlier, when the judge discharges the person.
- (6) It is not an offence under this section for a person to seek information if the person needs the information for a reason which is not connected with the case.
- (7) It is not an offence under this section for a person—
 - (a) to attend proceedings before the court on the issue;
 - (b) to seek information from the judge dealing with the issue;

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

- (c) to do anything which the judge dealing with the issue directs or authorises the person to do;
 - (d) to seek information from another member of the jury, unless the person knows or ought reasonably to know that the other member of the jury contravened this section in the process of obtaining the information;
 - (e) to do anything else which is reasonably necessary in order for the jury to try the issue.
- (8) A person guilty of an offence under this section is liable, on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).
- (9) Proceedings for an offence under this section may only be instituted by or with the consent of the Attorney General.”

72 **Sharing research with other jurors**

In the Juries Act 1974, after section 20A insert—

“20B Offence: sharing research with other jurors

- (1) It is an offence for a member of a jury that tries an issue in a case before a court intentionally to disclose information to another member of the jury during the trial period if—
 - (a) the member contravened section 20A in the process of obtaining the information, and
 - (b) the information has not been provided by the court.
- (2) Information has been provided by the court if (and only if) it has been provided as part of—
 - (a) evidence presented in the proceedings on the issue, or
 - (b) other information provided to the jury or a juror during the trial period by, or with the permission of, the judge dealing with the issue.
- (3) A person guilty of an offence under this section is liable, on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).
- (4) Proceedings for an offence under this section may not be instituted except by or with the consent of the Attorney General.
- (5) In this section, “the trial period” has the same meaning as in section 20A.”

73 **Jurors engaging in other prohibited conduct**

In the Juries Act 1974, after section 20B insert—

“20C Offence: jurors engaging in other prohibited conduct

- (1) It is an offence for a member of a jury that tries an issue in a case before a court intentionally to engage in prohibited conduct during the trial period, subject to the exceptions in subsections (4) and (5).

- (2) “Prohibited conduct” means conduct from which it may reasonably be concluded that the person intends to try the issue otherwise than on the basis of the evidence presented in the proceedings on the issue.
- (3) An offence under this section is committed whether or not the person knows that the conduct is prohibited conduct.
- (4) It is not an offence under this section for a member of the jury to research the case (as defined in section 20A(2) to (4)).
- (5) It is not an offence under this section for a member of the jury to disclose information to another member of the jury.
- (6) A person guilty of an offence under this section is liable, on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).
- (7) Proceedings for an offence under this section may not be instituted except by or with the consent of the Attorney General.
- (8) In this section, “the trial period” has the same meaning as in section 20A.”

74 Disclosing jury’s deliberations

- (1) In the Juries Act 1974, after section 20C insert—

“20D Offence: disclosing jury’s deliberations

- (1) It is an offence for a person intentionally—
 - (a) to disclose information about statements made, opinions expressed, arguments advanced or votes cast by members of a jury in the course of their deliberations in proceedings before a court, or
 - (b) to solicit or obtain such information,subject to the exceptions in sections 20E to 20G.
- (2) A person guilty of an offence under this section is liable, on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).
- (3) Proceedings for an offence under this section may not be instituted except by or with the consent of the Attorney General.

20E Offence of disclosing jury’s deliberations: initial exceptions

- (1) It is not an offence under section 20D for a person to disclose information in the proceedings mentioned in section 20D(1) for the purposes of enabling the jury to arrive at their verdict or in connection with the delivery of that verdict.
- (2) It is not an offence under section 20D for the judge dealing with those proceedings to disclose information—
 - (a) for the purposes of dealing with the case, or
 - (b) for the purposes of an investigation by a relevant investigator into whether an offence or contempt of court has been committed by or in relation to a juror in the proceedings mentioned in section 20D(1).

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

- (3) It is not an offence under section 20D for a person who reasonably believes that a disclosure described in subsection (2)(b) has been made to disclose information for the purposes of the investigation.
- (4) It is not an offence under section 20D to publish information disclosed as described in subsection (1) or (2)(a) in the proceedings mentioned in section 20D(1).
- (5) In this section—
“publish” means make available to the public or a section of the public;
“relevant investigator” means—
(a) a police force;
(b) the Attorney General;
(c) any other person or class of person specified by the Lord Chancellor for the purposes of this section by regulations made by statutory instrument.
- (6) The Lord Chancellor must obtain the consent of the Lord Chief Justice before making regulations under this section.
- (7) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

20F Offence of disclosing jury’s deliberations: further exceptions

- (1) It is not an offence under section 20D for a person to disclose information to a person listed in subsection (2) if—
(a) the disclosure is made after the jury in the proceedings mentioned in section 20D(1) has been discharged, and
(b) the person making the disclosure reasonably believes that—
(i) an offence or contempt of court has been, or may have been, committed by or in relation to a juror in connection with those proceedings, or
(ii) conduct of a juror in connection with those proceedings may provide grounds for an appeal against conviction or sentence.
- (2) Those persons are—
(a) a member of a police force;
(b) a judge of the Court of Appeal;
(c) the registrar of criminal appeals;
(d) a judge of the court where the proceedings mentioned in section 20D(1) took place;
(e) a member of staff of that court who would reasonably be expected to disclose the information only to a person mentioned in paragraphs (b) to (d).
- (3) It is not an offence under section 20D for a member of a police force to disclose information for the purposes of obtaining assistance in deciding whether to submit the information to a judge of the Court of Appeal or the registrar of criminal appeals, provided that the disclosure does not involve publishing the information.

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

- (4) It is not an offence under section 20D for a judge of the Court of Appeal or the registrar of criminal appeals to disclose information for the purposes of an investigation by a relevant investigator into—
- (a) whether an offence or contempt of court has been committed by or in relation to a juror in connection with the proceedings mentioned in section 20D(1), or
 - (b) whether conduct of a juror in connection with those proceedings may provide grounds for an appeal against conviction or sentence.
- (5) It is not an offence under section 20D for a judge of the Court of Appeal or the registrar of criminal appeals to disclose information for the purposes of enabling or assisting—
- (a) a person who was the defendant in the proceedings mentioned in section 20D(1), or
 - (b) a legal representative of such a person,
- to consider whether conduct of a juror in connection with those proceedings may provide grounds for an appeal against conviction or sentence.
- (6) It is not an offence under section 20D for a person who reasonably believes that a disclosure described in subsection (4) or (5) has been made to disclose information for the purposes of the investigation or consideration in question.
- (7) It is not an offence under section 20D for a person to disclose information in evidence in—
- (a) proceedings for an offence or contempt of court alleged to have been committed by or in relation to a juror in connection with the proceedings mentioned in section 20D(1),
 - (b) proceedings on an appeal, or an application for leave to appeal, against a decision in the proceedings mentioned in section 20D(1) where an allegation relating to conduct of or in relation to a juror forms part of the grounds of appeal, or
 - (c) proceedings on any further appeal or reference arising out of proceedings mentioned in paragraph (a) or (b).
- (8) It is not an offence under section 20D for a person to disclose information in the course of taking reasonable steps to prepare for proceedings described in subsection (7)(a) to (c).
- (9) It is not an offence under section 20D to publish information disclosed as described in subsection (7).
- (10) In this section—
- “publish” means make available to the public or a section of the public;
 - “relevant investigator” means—
- (a) a police force;
 - (b) the Attorney General;
 - (c) the Criminal Cases Review Commission;
 - (d) the Crown Prosecution Service;
 - (e) any other person or class of person specified by the Lord Chancellor for the purposes of this section by regulations made by statutory instrument.

- (11) The Lord Chancellor must obtain the consent of the Lord Chief Justice before making regulations under this section.
- (12) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

20G Offence of disclosing jury’s deliberations: exceptions for soliciting disclosures or obtaining information

- (1) It is not an offence under section 20D to solicit a disclosure described in section 20E(1) to (4) or section 20F(1) to (9).
- (2) It is not an offence under section 20D to obtain information—
 - (a) by means of a disclosure described in section 20E(1) to (4) or section 20F(1) to (9), or
 - (b) from a document that is available to the public or a section of the public.”
- (2) In the Contempt of Court Act 1981, as it extends to England and Wales, section 8 (confidentiality of jury’s deliberations) is repealed.
- (3) In section 8(1) of that Act, as it extends to Scotland and Northern Ireland, at the beginning insert “In Scotland and Northern Ireland,”.
- (4) In the heading of that section, at the end insert “: Scotland and Northern Ireland”.

75 Juries at inquests

Schedule 13 makes provision about juries at inquests and their deliberations.

76 Members of the Court Martial

Schedule 14 makes provision about members of the Court Martial and their deliberations.

77 Supplementary provision

- (1) In Schedule 1 to the Juries Act 1974 (persons disqualified for jury service), after paragraph 6 insert—
 - “6A A person who at any time in the last ten years has been convicted of—
 - (a) an offence under section 20A, 20B, 20C or 20D of this Act,
 - (b) an offence under paragraph 5A, 5B, 5C or 5D of Schedule 6 to the Coroners and Justice Act 2009 (equivalent offences relating to jurors at inquests), or
 - (c) an offence under paragraph 2, 3, 4 or 5 of Schedule 2A to the Armed Forces Act 2006 (equivalent offences relating to members of the Court Martial).”
- (2) In section 22 of the Juries Act 1974 (consequential amendments, savings and repeals), at the beginning insert—

“(A1) Nothing in section 20A, 20B or 20C affects what constitutes contempt of court at common law.”

Reporting restrictions

78 Lifetime reporting restrictions in criminal proceedings for witnesses and victims under 18

- (1) The Youth Justice and Criminal Evidence Act 1999 is amended as follows.
- (2) After section 45 (power to restrict reporting of criminal proceedings involving persons under 18) insert—

“45A Power to restrict reporting of criminal proceedings for lifetime of witnesses and victims under 18

- (1) This section applies in relation to—
 - (a) any criminal proceedings in any court (other than a service court) in England and Wales, and
 - (b) any proceedings (whether in the United Kingdom or elsewhere) in any service court.
- (2) The court may make a direction (“a reporting direction”) that no matter relating to a person mentioned in subsection (3) shall during that person’s lifetime be included in any publication if it is likely to lead members of the public to identify that person as being concerned in the proceedings.
- (3) A reporting direction may be made only in respect of a person who is under the age of 18 when the proceedings commence and who is—
 - (a) a witness, other than an accused, in the proceedings;
 - (b) a person against whom the offence, which is the subject of the proceedings, is alleged to have been committed.
- (4) For the purposes of subsection (2), matters relating to a person in respect of whom the reporting direction is made include—
 - (a) the person’s name,
 - (b) the person’s address,
 - (c) the identity of any school or other educational establishment attended by the person,
 - (d) the identity of any place of work of the person, and
 - (e) any still or moving picture of the person.
- (5) The court may make a reporting direction in respect of a person only if it is satisfied that—
 - (a) the quality of any evidence given by the person, or
 - (b) the level of co-operation given by the person to any party to the proceedings in connection with that party’s preparation of its case,is likely to be diminished by reason of fear or distress on the part of the person in connection with being identified by members of the public as a person concerned in the proceedings.

- (6) In determining whether subsection (5) is satisfied, the court must in particular take into account—
- (a) the nature and alleged circumstances of the offence to which the proceedings relate;
 - (b) the age of the person;
 - (c) such of the following as appear to the court to be relevant—
 - (i) the social and cultural background and ethnic origins of the person,
 - (ii) the domestic, educational and employment circumstances of the person, and
 - (iii) any religious beliefs or political opinions of the person;
 - (d) any behaviour towards the person on the part of—
 - (i) an accused,
 - (ii) members of the family or associates of an accused, or
 - (iii) any other person who is likely to be an accused or a witness in the proceedings.
- (7) In determining that question the court must in addition consider any views expressed—
- (a) by the person in respect of whom the reporting restriction may be made, and
 - (b) where that person is under the age of 16, by an appropriate person other than an accused.
- (8) In determining whether to make a reporting direction in respect of a person, the court must have regard to—
- (a) the welfare of that person,
 - (b) whether it would be in the interests of justice to make the direction, and
 - (c) the public interest in avoiding the imposition of a substantial and unreasonable restriction on the reporting of the proceedings.
- (9) A reporting direction may be revoked by the court or an appellate court.
- (10) The court or an appellate court may by direction (“an excepting direction”) dispense, to any extent specified in the excepting direction, with the restrictions imposed by a reporting direction.
- (11) The court or an appellate court may only make an excepting direction if—
- (a) it is satisfied that it is necessary in the interests of justice to do so, or
 - (b) it is satisfied that—
 - (i) the effect of the reporting direction is to impose a substantial and unreasonable restriction on the reporting of the proceedings, and
 - (ii) it is in the public interest to remove or relax that restriction.
- (12) No excepting direction shall be given under subsection (11)(b) by reason only of the fact that the proceedings have been determined in any way or have been abandoned.

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

- (13) In determining whether to make an excepting direction in respect of a person, the court or the appellate court must have regard to the welfare of that person.
- (14) An excepting direction—
- (a) may be given at the time the reporting direction is given or subsequently, and
 - (b) may be varied or revoked by the court or an appellate court.
- (15) For the purposes of this section—
- (a) criminal proceedings in a court other than a service court commence when proceedings are instituted for the purposes of Part 1 of the Prosecution of Offences Act 1985, in accordance with section 15(2) of that Act;
 - (b) proceedings in a service court commence when the charge is brought under section 122 of the Armed Forces Act 2006.
- (16) In this section—
- (a) “appellate court”, in relation to any proceedings in a court, means a court dealing with an appeal (including an appeal by way of case stated) arising out of the proceedings or with any further appeal;
 - (b) “appropriate person” has the same meaning as in section 50;
 - (c) references to the quality of evidence given by a person are to its quality in terms of completeness, coherence and accuracy (and for this purpose “coherence” refers to a person’s ability in giving evidence to give answers which address the questions put to the person and can be understood both individually and collectively);
 - (d) references to the preparation of the case of a party to any proceedings include, where the party is the prosecution, the carrying out of investigations into any offence at any time charged in the proceedings.”
- (3) In section 49 (offences under Chapter 4)—
- (a) after subsection (1) insert—

“(1A) This section also applies—

 - (a) in England and Wales, Scotland and Northern Ireland, if a publication includes any matter in contravention of a direction under section 45A(2) made by a service court;
 - (b) in England and Wales, if a publication includes any matter in contravention of a direction under section 45A(2) made by a court other than a service court.”, and
 - (b) at the end insert—

“(7) Schedule 2A makes special provision in connection with the operation of this section, so far as it relates to a publication that includes matter in contravention of a direction under section 45A(2), in relation to persons providing information society services.”
- (4) In section 50 (defences)—
- (a) after subsection (6) insert—

“(6A) Where—

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

- (a) a person is charged with an offence under section 49, and
- (b) the offence relates to the inclusion of any matter in a publication in contravention of a direction under section 45A(2),

it shall be a defence, unless subsection (6B) or (8) applies, to prove that the person in relation to whom the direction was given had given written consent to the inclusion of that matter in the publication.

(6B) Written consent is not a defence by virtue of subsection (6A) if the person was under the age of 18 at the time the consent was given.”, and

- (b) in subsection (8), after “defence” insert “by virtue of subsections (5) to (7)”.

79 Reporting restrictions in proceedings other than criminal proceedings

(1) Section 39 of the Children and Young Persons Act 1933 (power to prohibit publication of certain matter in newspapers) is amended as follows.

(2) In subsection (1)—

- (a) after “any proceedings” insert “, other than criminal proceedings,”, and
- (b) after “direct that” insert “the following may not be included in a publication”.

(3) In subsection (1)(a)—

- (a) omit “no newspaper report of the proceedings shall reveal”, and
- (b) omit “, or include any particulars calculated to lead to the identification,”.

(4) In subsection (1), after paragraph (a) insert—

“(aa) any particulars calculated to lead to the identification of a child or young person so concerned in the proceedings;”.

(5) In subsection (1)(b)—

- (a) for “no picture shall be published in any newspaper as being or including” substitute “a picture that is or includes”, and
- (b) omit “as aforesaid”.

(6) In subsection (2), for “publishes any matter” substitute “includes matter in a publication”.

(7) After subsection (2) insert—

“(3) In this section—

“publication” includes any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public (and for this purpose every relevant programme shall be taken to be so addressed), but does not include a document prepared for use in particular legal proceedings;

“relevant programme” means a programme included in a programme service within the meaning of the Broadcasting Act 1990.”

(8) In the heading of that section, omit “in newspapers”.

(9) After that section insert—

“39A Prohibition on publication of certain matters: providers of information society services

Schedule 1A makes special provision in connection with the operation of section 39 in relation to persons providing information society services.”

- (10) In section 57(3) of the Children and Young Persons Act 1963 (extending section 39 of the Children and Young Persons Act 1933 to Scotland) after paragraph (a) (but before “and”) insert—
- “(aa) as it extends to Scotland, the said section 39 has effect as if the references to a publication were references to a newspaper;”.
- (11) In consequence of the amendment made by subsection (2)(a), omit paragraph 2 of Schedule 2 to the Youth Justice and Criminal Evidence Act 1999.
- (12) Subsection (2)(a) does not affect the operation of section 39 of the Children and Young Persons Act 1933 in relation to criminal proceedings instituted before the day on which it comes into force.
- (13) For the purposes of subsection (12)—
- (a) proceedings other than proceedings on appeal are instituted when proceedings are instituted for the purposes of Part 1 of the Prosecution of Offences Act 1985, in accordance with section 15(2) of that Act;
 - (b) proceedings on appeal are instituted when the notice of appeal is given or the reference under section 9 or 11 of the Criminal Appeal Act 1995 is made.

80 Reporting restrictions: information society services

Schedule 15 makes special provision in connection with the operation of the following in relation to persons providing information society services—

- (a) section 39 of the Children and Young Persons Act 1933;
- (b) section 49 of the Youth Justice and Criminal Evidence Act 1999 as it applies to a publication that includes matter in contravention of a direction under section 45A(2) of that Act.

Other matters

81 Representations to Parliament by the President of the Supreme Court

- (1) Section 5 of the Constitutional Reform Act 2005 (representations to Parliament) is amended as follows.
- (2) At the beginning insert—
- “(A1) The President of the Supreme Court may lay before Parliament written representations on matters that appear to the President to be matters of importance relating to the Supreme Court or to the jurisdiction it exercises.”
- (3) In subsections (2) and (3), for “those matters” substitute “the matters mentioned in subsections (A1) and (1)”.

82 The supplementary panel of the Supreme Court

In section 39(4) of the Constitutional Reform Act 2005 (circumstances in which a judge of the Supreme Court or a senior territorial judge becomes a member of the supplementary panel), after “while he holds such office” insert “or within 2 years of ceasing to hold such office”.

83 Minor amendments

- (1) In section 132(4A) of the Powers of Criminal Courts (Sentencing) Act 2000 (compensation orders: appeals etc), for “House of Lords” substitute “the Supreme Court”.
- (2) In section 13(6A)(a) of the Tribunals, Courts and Enforcement Act 2007 (rules of court about when the Court of Session may grant permission to appeal against a decision of the Upper Tribunal), after “principle” insert “or practice”.

PART 4

JUDICIAL REVIEW

*Judicial review in the High Court and Upper Tribunal***84 Likelihood of substantially different outcome for applicant**

- (1) In section 31 of the Senior Courts Act 1981 (applications for judicial review), after subsection (2) insert—
 - “(2A) The High Court—
 - (a) must refuse to grant relief on an application for judicial review, and
 - (b) may not make an award under subsection (4) on such an application, if it appears to the court to be highly likely that the outcome for the applicant would not have been substantially different if the conduct complained of had not occurred.
 - (2B) The court may disregard the requirements in subsection (2A)(a) and (b) if it considers that it is appropriate to do so for reasons of exceptional public interest.
 - (2C) If the court grants relief or makes an award in reliance on subsection (2B), the court must certify that the condition in subsection (2B) is satisfied.”
- (2) In that section, before subsection (4) insert—
 - “(3C) When considering whether to grant leave to make an application for judicial review, the High Court—
 - (a) may of its own motion consider whether the outcome for the applicant would have been substantially different if the conduct complained of had not occurred, and
 - (b) must consider that question if the defendant asks it to do so.

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

- (3D) If, on considering that question, it appears to the High Court to be highly likely that the outcome for the applicant would not have been substantially different, the court must refuse to grant leave.
- (3E) The court may disregard the requirement in subsection (3D) if it considers that it is appropriate to do so for reasons of exceptional public interest.
- (3F) If the court grants leave in reliance on subsection (3E), the court must certify that the condition in subsection (3E) is satisfied.”
- (3) In that section, after subsection (7) insert—
- “(8) In this section “the conduct complained of”, in relation to an application for judicial review, means the conduct (or alleged conduct) of the defendant that the applicant claims justifies the High Court in granting relief.”
- (4) In section 15 of the Tribunals, Courts and Enforcement Act 2007 (the Upper Tribunal’s “judicial review” jurisdiction), after subsection (5) insert—
- “(5A) In cases arising under the law of England and Wales, subsections (2A) and (2B) of section 31 of the Senior Courts Act 1981 apply to the Upper Tribunal when deciding whether to grant relief under subsection (1) as they apply to the High Court when deciding whether to grant relief on an application for judicial review.
- (5B) If the tribunal grants relief in reliance on section 31(2B) of the Senior Courts Act 1981 as applied by subsection (5A), the tribunal must certify that the condition in section 31(2B) as so applied is satisfied.”
- (5) In section 16 of the Tribunals, Courts and Enforcement Act 2007 (application for relief under section 15(1)), before subsection (4) insert—
- “(3C) In cases arising under the law of England and Wales, when considering whether to grant permission to make the application, the tribunal—
- (a) may of its own initiative consider whether the outcome for the applicant would have been substantially different if the conduct complained of had not occurred, and
- (b) must consider that question if the respondent asks it to do so.
- (3D) In subsection (3C) “the conduct complained of” means the conduct (or alleged conduct) of the respondent that the applicant claims justifies the tribunal in granting relief.
- (3E) If, on considering the question mentioned in subsection (3C)(a) and (b), it appears to the tribunal to be highly likely that the outcome for the applicant would not have been substantially different, the tribunal must refuse to grant permission.
- (3F) The tribunal may disregard the requirement in subsection (3E) if it considers that it is appropriate to do so for reasons of exceptional public interest.
- (3G) If the tribunal grants permission in reliance on subsection (3F), the tribunal must certify that the condition in subsection (3F) is satisfied.”
- (6) In that section, after subsection (6) insert—

“(6A) In cases arising under the law of England and Wales, subsections (2A) and (2B) of section 31 of the Senior Courts Act 1981 apply to the Upper Tribunal as regards the making of an award under subsection (6) as they apply to the High Court as regards the making of an award under section 31(4) of the Senior Courts Act 1981.

(6B) If the tribunal makes an award in reliance on section 31(2B) of the Senior Courts Act 1981 as applied by subsection (6A), the tribunal must certify that the condition in section 31(2B) as so applied is satisfied.”

85 Provision of information about financial resources

(1) In section 31(3) of the Senior Courts Act 1981 (applications for leave to apply for judicial review)—

(a) after second “unless” insert “—

(a)”,

and

(b) at the end insert “, and

(b) the applicant has provided the court with any information about the financing of the application that is specified in rules of court for the purposes of this paragraph.”

(2) In that section, after subsection (3) insert—

“(3A) The information that may be specified for the purposes of subsection (3)(b) includes—

(a) information about the source, nature and extent of financial resources available, or likely to be available, to the applicant to meet liabilities arising in connection with the application, and

(b) if the applicant is a body corporate that is unable to demonstrate that it is likely to have financial resources available to meet such liabilities, information about its members and about their ability to provide financial support for the purposes of the application.

(3B) Rules of court under subsection (3)(b) that specify information identifying those who are, or are likely to be, sources of financial support must provide that only a person whose financial support (whether direct or indirect) exceeds, or is likely to exceed, a level set out in the rules has to be identified.

This subsection does not apply to rules that specify information described in subsection (3A)(b).”

(3) In section 16(3) of the Tribunals, Courts and Enforcement Act 2007 (applications for permission or leave to apply for relief under section 15(1): Upper Tribunal’s “judicial review” jurisdiction)—

(a) after “unless” insert “—

(a)”,

and

(b) at the end insert “, and

(b) in cases arising under the law of England and Wales, the applicant has provided the tribunal with any information

about the financing of the application that is specified in Tribunal Procedure Rules for the purposes of this paragraph.”

(4) In that section, after subsection (3) insert—

“(3A) The information that may be specified for the purposes of subsection (3)(b) includes—

- (a) information about the source, nature and extent of financial resources available, or likely to be available, to the applicant to meet liabilities arising in connection with the application, and
- (b) if the applicant is a body corporate that is unable to demonstrate that it is likely to have financial resources available to meet such liabilities, information about its members and about their ability to provide financial support for the purposes of the application.

(3B) Tribunal Procedure Rules under subsection (3)(b) that specify information identifying those who are, or are likely to be, sources of financial support must provide that only a person whose financial support (whether direct or indirect) exceeds, or is likely to exceed, a level set out in the rules has to be identified.

This subsection does not apply to rules that specify information described in subsection (3A)(b).”

86 Use of information about financial resources

(1) This section applies when the High Court, the Upper Tribunal or the Court of Appeal is determining by whom and to what extent costs of or incidental to judicial review proceedings are to be paid.

(2) The information to which the court or tribunal must have regard includes—

- (a) information about the financing of the proceedings provided in accordance with section 31(3)(b) of the Senior Courts Act 1981 or section 16(3)(b) of the Tribunals, Courts and Enforcement Act 2007, and
- (b) any supplement to that information provided in accordance with rules of court or Tribunal Procedure Rules.

(3) The court or tribunal must consider whether to order costs to be paid by a person, other than a party to the proceedings, who is identified in that information as someone who is providing financial support for the purposes of the proceedings or likely or able to do so.

(4) In this section “judicial review proceedings” means—

- (a) proceedings on an application for leave to apply for judicial review,
- (b) proceedings on an application for judicial review,
- (c) proceedings on an application for permission to apply for relief under section 15 of the Tribunals, Courts and Enforcement Act 2007 in a case arising under the law of England and Wales,
- (d) proceedings on an application for such relief in such a case,
- (e) any proceedings on an application for leave to appeal from a decision in proceedings described in paragraph (a), (b), (c) or (d), and
- (f) proceedings on an appeal from such a decision.

87 Interveners and costs

- (1) This section applies where—
 - (a) a person is granted permission to file evidence or make representations in judicial review proceedings, and
 - (b) at that time, the person is not a relevant party to the proceedings.
- (2) That person is referred to in this section as an “intervener”.
- (3) A relevant party to the proceedings may not be ordered by the High Court or the Court of Appeal to pay the intervener’s costs in connection with the proceedings.
- (4) Subsection (3) does not prevent the court making an order if it considers that there are exceptional circumstances that make it appropriate to do so.
- (5) On an application to the High Court or the Court of Appeal by a relevant party to the proceedings, if the court is satisfied that a condition described in subsection (6) is met in a stage of the proceedings that the court deals with, the court must order the intervener to pay any costs specified in the application that the court considers have been incurred by the relevant party as a result of the intervener’s involvement in that stage of the proceedings.
- (6) Those conditions are that—
 - (a) the intervener has acted, in substance, as the sole or principal applicant, defendant, appellant or respondent;
 - (b) the intervener’s evidence and representations, taken as a whole, have not been of significant assistance to the court;
 - (c) a significant part of the intervener’s evidence and representations relates to matters that it is not necessary for the court to consider in order to resolve the issues that are the subject of the stage in the proceedings;
 - (d) the intervener has behaved unreasonably.
- (7) Subsection (5) does not require the court to make an order if it considers that there are exceptional circumstances that make it inappropriate to do so.
- (8) In determining whether there are exceptional circumstances that are relevant for the purposes of subsection (4) or (7), the court must have regard to criteria specified in rules of court.
- (9) In this section, “judicial review proceedings” means—
 - (a) proceedings on an application for leave to apply for judicial review,
 - (b) proceedings on an application for judicial review,
 - (c) any proceedings on an application for leave to appeal from a decision in proceedings described in paragraph (a) or (b), and
 - (d) proceedings on an appeal from such a decision,and the proceedings described in paragraphs (a) to (d) are “stages” of judicial review proceedings.
- (10) For the purposes of this section, “a relevant party” to judicial review proceedings means any of the following—
 - (a) a person who is or has been an applicant or defendant in the proceedings described in subsection (9)(a), (b) or (c);
 - (b) a person who is or has been an appellant or respondent in the proceedings described in subsection (9)(d);

- (c) any other person who is or has been directly affected by the proceedings and on whom the application for judicial review, or for leave to apply for judicial review, has been served.
- (11) If a person who is an intervener in judicial review proceedings becomes a relevant party to the proceedings, the person is to be treated for the purposes of subsections (3) and (5) as having been a relevant party, rather than an intervener, at all times when involved in the proceedings.

88 Capping of costs

- (1) A costs capping order may not be made by the High Court or the Court of Appeal in connection with judicial review proceedings except in accordance with this section and sections 89 and 90.
- (2) A “costs capping order” is an order limiting or removing the liability of a party to judicial review proceedings to pay another party’s costs in connection with any stage of the proceedings.
- (3) The court may make a costs capping order only if leave to apply for judicial review has been granted.
- (4) The court may make a costs capping order only on an application for such an order made by the applicant for judicial review in accordance with rules of court.
- (5) Rules of court may, in particular, specify information that must be contained in the application, including—
 - (a) information about the source, nature and extent of financial resources available, or likely to be available, to the applicant to meet liabilities arising in connection with the application, and
 - (b) if the applicant is a body corporate that is unable to demonstrate that it is likely to have financial resources available to meet such liabilities, information about its members and about their ability to provide financial support for the purposes of the application.
- (6) The court may make a costs capping order only if it is satisfied that—
 - (a) the proceedings are public interest proceedings,
 - (b) in the absence of the order, the applicant for judicial review would withdraw the application for judicial review or cease to participate in the proceedings, and
 - (c) it would be reasonable for the applicant for judicial review to do so.
- (7) The proceedings are “public interest proceedings” only if—
 - (a) an issue that is the subject of the proceedings is of general public importance,
 - (b) the public interest requires the issue to be resolved, and
 - (c) the proceedings are likely to provide an appropriate means of resolving it.
- (8) The matters to which the court must have regard when determining whether proceedings are public interest proceedings include—
 - (a) the number of people likely to be directly affected if relief is granted to the applicant for judicial review,
 - (b) how significant the effect on those people is likely to be, and

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- (c) whether the proceedings involve consideration of a point of law of general public importance.
- (9) The Lord Chancellor may by regulations amend this section by adding, omitting or amending matters to which the court must have regard when determining whether proceedings are public interest proceedings.
- (10) Regulations under this section are to be made by statutory instrument.
- (11) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (12) In this section and sections 89 and 90—
 - “costs capping order” has the meaning given in subsection (2);
 - “the court” means the High Court or the Court of Appeal;
 - “judicial review proceedings” means—
 - (a) proceedings on an application for leave to apply for judicial review,
 - (b) proceedings on an application for judicial review,
 - (c) any proceedings on an application for leave to appeal from a decision in proceedings described in paragraph (a) or (b), and
 - (d) proceedings on an appeal from such a decision,
 and the proceedings described in paragraphs (a) to (d) are “stages” of judicial review proceedings.
- (13) For the purposes of this section and section 89, in relation to judicial review proceedings—
 - (a) the applicant for judicial review is the person who is or was the applicant in the proceedings on the application for judicial review, and
 - (b) references to relief being granted to the applicant for judicial review include the upholding on appeal of a decision to grant such relief at an earlier stage of the proceedings.

89 Capping of costs: orders and their terms

- (1) The matters to which the court must have regard when considering whether to make a costs capping order in connection with judicial review proceedings, and what the terms of such an order should be, include—
 - (a) the financial resources of the parties to the proceedings, including the financial resources of any person who provides, or may provide, financial support to the parties;
 - (b) the extent to which the applicant for the order is likely to benefit if relief is granted to the applicant for judicial review;
 - (c) the extent to which any person who has provided, or may provide, the applicant with financial support is likely to benefit if relief is granted to the applicant for judicial review;
 - (d) whether legal representatives for the applicant for the order are acting free of charge;
 - (e) whether the applicant for the order is an appropriate person to represent the interests of other persons or the public interest generally.

- (2) A costs capping order that limits or removes the liability of the applicant for judicial review to pay the costs of another party to the proceedings if relief is not granted to the applicant for judicial review must also limit or remove the liability of the other party to pay the applicant's costs if it is.
- (3) The Lord Chancellor may by regulations amend this section by adding to, omitting or amending the matters listed in subsection (1).
- (4) Regulations under this section are to be made by statutory instrument.
- (5) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (6) In this section—
 - “free of charge” means otherwise than for or in expectation of fee, gain or reward;
 - “legal representative”, in relation to a party to proceedings, means a person exercising a right of audience or conducting litigation on the party's behalf.

90 Capping of costs: environmental cases

- (1) The Lord Chancellor may by regulations provide that sections 88 and 89 do not apply in relation to judicial review proceedings which, in the Lord Chancellor's opinion, have as their subject an issue relating entirely or partly to the environment.
- (2) Regulations under this section—
 - (a) may make provision generally or only in relation to proceedings described in the regulations, and
 - (b) may include transitional, transitory or saving provision.
- (3) Regulations under this section are to be made by statutory instrument.
- (4) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

Planning proceedings

91 Procedure for certain planning challenges

Schedule 16 contains amendments—

- (a) that require leave of court to be obtained before certain planning applications may be made, and
- (b) that set out a procedure for challenging costs orders made in connection with certain planning orders and decisions.

92 Periods of time for certain legal challenges

- (1) In section 61N of the Town and Country Planning Act 1990 (legal challenges relating to neighbourhood development orders)—
 - (a) in subsections (1)(b) and (2)(b), after “beginning with” insert “the day after”;
 - (b) in subsection (3)(b)—

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- (i) for “during” substitute “before the end of”;
 - (ii) after “beginning with” insert “the day after”.
- (2) In section 106C of that Act (legal challenges relating to development consent obligations)—
- (a) in subsection (1)(b)—
 - (i) for “during” substitute “before the end of”;
 - (ii) after “beginning with” insert “the day after”;
 - (b) in subsection (1A), after “begins with” insert “the day after”;
 - (c) in subsections (2)(b) and (3)(b)—
 - (i) for “during” substitute “before the end of”;
 - (ii) after “beginning with” insert “the day after”.
- (3) In section 13 of the Planning Act 2008 (legal challenges relating to national policy statements), in subsections (1)(b), (2)(b), (3)(b), (4)(b), (5)(b) and (6)(b)—
- (a) for “during” substitute “before the end of”;
 - (b) after “beginning with” insert “the day after”.
- (4) In section 118 of that Act (legal challenges relating to applications for orders granting development consent)—
- (a) in subsections (1)(b), (2)(b) and (3)(b)—
 - (i) for “during” substitute “before the end of”;
 - (ii) after “beginning with” insert “the day after”;
 - (b) in subsections (4)(b), (5)(b) and (6)(b)—
 - (i) for “during” substitute “before the end of”;
 - (ii) after “day”, wherever occurring, insert “after the day”;
 - (c) in subsection (7)(b)—
 - (i) for “during” substitute “before the end of”;
 - (ii) after “beginning with” insert “the day after”.

PART 5

FINAL PROVISIONS

93 **Power to make consequential and supplementary provision etc**

- (1) The Lord Chancellor or the Secretary of State may by regulations make consequential, supplementary, incidental, transitional, transitory or saving provision in relation to any provision of this Act.
- (2) The regulations may, in particular, amend, repeal or revoke legislation.
- (3) Regulations under this section are to be made by statutory instrument.
- (4) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament, subject to subsection (5).
- (5) A statutory instrument containing regulations under this section that amend or repeal a provision of an Act (whether alone or with other provision) may not be made unless

a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(6) In this section—

- “Act” includes an Act or Measure of the National Assembly for Wales;
“legislation”, in relation to regulations made under this section, means—
- (a) an Act passed before or in the same Session as this Act, or
 - (b) an instrument made under an Act before the regulations come into force.

94 Financial provision

There is to be paid out of money provided by Parliament—

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

95 Commencement

- (1) The provisions of this Act come into force on such day as the Lord Chancellor or the Secretary of State may appoint by order, subject to subsections (2) to (4).
- (2) Section 52 (low value shoplifting: mode of trial) comes into force at the end of the period of two months beginning with the day on which this Act is passed.
- (3) Section 62 (appeals from the Court of Protection) and this Part come into force on the day on which this Act is passed.
- (4) Paragraphs 23 to 25 of Schedule 7 (transition from EU Convention on driving disqualification to new agreement), and section 31(6)(b) so far as it relates to those paragraphs, come into force on the day on which this Act is passed.
- (5) An order under this section is to be made by statutory instrument.
- (6) An order under this section may—
 - (a) appoint different days for different purposes, and
 - (b) make transitional, transitory or saving provision.
- (7) An order under this section bringing into force section 16 (drugs for which prisoners etc may be tested) may appoint different days for different areas.
- (8) Subsection (9) applies to an order under this section the effect of which is to bring into force the Secretary of State’s power to provide secure colleges for the detention of any or all of the following—
 - (a) persons who are male and aged under 15;
 - (b) persons who are female.
- (9) A statutory instrument containing the order may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (10) The reference in subsection (8) to the Secretary of State’s power to provide secure colleges is to the power under section 43(1)(c) of the Prison Act 1952 (as inserted by section 38 of this Act).

96 Extent

- (1) An amendment or repeal made by this Act has the same extent as the provision amended or repealed (ignoring extent by virtue of an Order in Council), subject to subsections (2) to (4).
- (2) An amendment or repeal of a provision of the Armed Forces Act 2006 extends to England and Wales, Scotland and Northern Ireland.
- (3) An amendment or repeal of any other provision, so far as it is applied by the Armed Forces Act 2006, extends to England and Wales, Scotland and Northern Ireland (and section 385 of that Act does not apply in relation to the amendment or repeal).
- (4) Section 79(9) and paragraph 1 of Schedule 15 (operation of section 39 of the Children and Young Persons Act 1933 in relation to providers of information society services) extend to England and Wales only.
- (5) A provision of this Act, other than an amendment or repeal, extends to England and Wales, Scotland and Northern Ireland, subject to subsection (6).
- (6) The following provisions extend to England and Wales only—
 - (a) sections 17 and 18(1) to (4) (restrictions on use of cautions);
 - (b) sections 20 to 25 (offences involving ill-treatment or wilful neglect);
 - (c) sections 33 to 35 (disclosing private sexual photographs and films with intent to cause distress);
 - (d) sections 57 to 61 (personal injury claims: fundamental dishonesty and rules against inducements);
 - (e) sections 86 to 90 (judicial review: information about financial resources, interveners and capping of costs);
 - (f) Schedule 4 (ill-treatment or wilful neglect: excluded health care);
 - (g) Schedule 8 (disclosing private sexual photographs or films: providers of information society services);
 - (h) Parts 1 to 4 of Schedule 10 (contracting out secure colleges).

97 Channel Islands, Isle of Man and British overseas territories

- (1) The power conferred by paragraph 19 of Schedule 1 to the Crime (Sentences) Act 1997 (power to extend to Isle of Man) is exercisable in relation to any amendment of that Schedule that is made by or under this Act.
- (2) The power conferred by section 9(3) of the Special Immigration Appeals Commission Act 1997 (power to extend to Channel Islands and Isle of Man) is exercisable in relation to any amendment of that Act that is made by or under this Act.
- (3) The power conferred by section 338 of the Criminal Justice Act 2003 (power to extend to Channel Islands etc) is exercisable in relation to any amendment of that Act that is made by or under this Act.
- (4) The power conferred by section 39(6) of the Terrorism Act 2006 (power to extend to Channel Islands and Isle of Man) is exercisable in relation to any amendment of that Act that is made by or under this Act.
- (5) Her Majesty may by Order in Council provide for an armed forces provision to extend, with or without modifications, to—

- (a) any of the Channel Islands,
 - (b) the Isle of Man, or
 - (c) any of the British overseas territories.
- (6) “Armed forces provision” means—
- (a) an amendment or repeal made by or under this Act of a provision of the Armed Forces Act 2006;
 - (b) an amendment or repeal made by or under this Act of any other provision, so far as the provision is applied by the Armed Forces Act 2006.

98 Short title

This Act may be cited as the Criminal Justice and Courts Act 2015.