

Status: Point in time view as at 20/03/2015.

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice and Courts Act 2015, SCHEDULE 10. (See end of Document for details)

SCHEDULES

SCHEDULE 10

Section 39

CONTRACTING OUT SECURE COLLEGES

PART 1

CONTRACTING OUT PROVISION AND RUNNING OF SECURE COLLEGES

Power to contract out

- 1 (1) The Secretary of State may enter into a contract with another person for the other person to do either or both of the following—
- (a) provide a secure college or part of such a college;
 - (b) run a secure college or part of such a college.
- (2) The contract may provide for the running of the secure college, or the part of the college, to be sub-contracted.
- (3) In this Schedule—
- “contracted-out secure college” means a secure college or part of a secure college in respect of which a contract under this Part of this Schedule is for the time being in force;
 - “the contractor”, in relation to a contracted-out secure college, means the person who has contracted with the Secretary of State for the provision or running (or both) of the college;
 - “sub-contractor”, in relation to a contracted-out secure college, means a person who has contracted with the contractor for the running of the college or any part of it.

Commencement Information

II Sch. 10 para. 1 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

Running a contracted-out secure college

- 2 A contracted-out secure college must be run in accordance with—
- (a) this Schedule,
 - (b) the Prison Act 1952 as it applies to contracted-out secure colleges by virtue of section 43 of that Act and this Schedule, and
 - (c) secure college rules.

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Commencement Information

I2 Sch. 10 para. 2 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

Leases and tenancies of land

- 3 (1) Where the Secretary of State grants a lease or tenancy of land for the purposes of a contract under this Part of this Schedule, none of the following enactments apply to the lease or tenancy—
- (a) Part 2 of the Landlord and Tenant Act 1954 (security of tenure);
 - (b) section 146 of the Law of Property Act 1925 (restrictions on and relief against forfeiture);
 - (c) section 19 of the Landlord and Tenant Act 1927 (covenants not to assign etc);
 - (d) the Landlord and Tenant Act 1988 (consent to assigning etc);
 - (e) the Agricultural Holdings Act 1986.
- (2) In this paragraph—
- “lease” includes an underlease;
 - “tenancy” includes a sub-tenancy.

Commencement Information

I3 Sch. 10 para. 3 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

Principal

- 4 (1) The principal of a contracted-out secure college must be a secure college custody officer who is—
- (a) appointed by the contractor, and
 - (b) specially approved for the purposes of this paragraph by the Secretary of State.
- (2) The principal has the functions conferred on the principal by—
- (a) the Prison Act 1952 as it applies to contracted-out secure colleges, and
 - (b) secure college rules.

Commencement Information

I4 Sch. 10 para. 4 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

Monitor

- 5 (1) Every contracted-out secure college must have a monitor.
- (2) The monitor must be a Crown servant appointed by the Secretary of State.
- (3) The monitor must—
- (a) keep the running of the secure college by or on behalf of the principal under review,

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- (b) investigate any allegations made against secure college custody officers performing custodial duties at the secure college or officers of directly managed secure colleges who are temporarily attached to the secure college, and
 - (c) report to the Secretary of State on the matters described in paragraphs (a) and (b).
- (4) The monitor also has the other functions conferred on the monitor by secure college rules.
- (5) The contractor and any sub-contractor must take all reasonable steps to facilitate the carrying out by the monitor of the functions described in this paragraph.
- (6) They may do so by giving directions to officers of the secure college or otherwise.

Commencement Information

I5 Sch. 10 para. 5 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

Officers

- 6 (1) Section 8 of the Prison Act 1952 (powers of prison officers) does not apply in relation to officers of a contracted-out secure college.
- (2) Sub-paragraph (1) does not affect the powers of an officer of a directly managed secure college who is temporarily attached to a contracted-out secure college.

Commencement Information

I6 Sch. 10 para. 6 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

Officers who perform custodial duties

- 7 Every officer of a contracted-out secure college who performs custodial duties at the college must be—
- (a) a secure college custody officer, or
 - (b) an officer of a directly managed secure college who is temporarily attached to the contracted-out secure college.

Commencement Information

I7 Sch. 10 para. 7 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

- 8 A secure college custody officer performing custodial duties at a contracted-out secure college has the following duties in relation to persons detained there—
- (a) to prevent their escape from lawful custody,
 - (b) to prevent, or detect and report on, the commission or attempted commission by them of other unlawful acts,
 - (c) to ensure good order and discipline on their part, and
 - (d) to attend to their well-being.

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 Criminal Justice and Courts Act 2015, SCHEDULE 10. (See end of Document for details)*

Commencement Information

I8 Sch. 10 para. 8 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

- 9 (1) A secure college custody officer performing custodial duties at a contracted-out secure college may search the following in accordance with secure college rules—
- (a) a person who is detained in the secure college,
 - (b) any other person who is in the secure college or who is seeking to enter the secure college, and
 - (c) an article in the possession of a person described in paragraph (b).
- (2) The power under sub-paragraph (1)(b) does not include power to require a person to submit to an intimate search (within the meaning of section 164(5) of the Customs and Excise Management Act 1979).

Commencement Information

I9 Sch. 10 para. 9 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

- 10 If authorised to do so by secure college rules, a secure college custody officer may use reasonable force where necessary in carrying out functions under paragraph 8 or 9.

Commencement Information

I10 Sch. 10 para. 10 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

- 11 (1) This paragraph applies where a secure college custody officer performing custodial duties at a contracted-out secure college has reason to believe that a person who is in the college or seeking to enter the college, other than a person detained there, is committing or has committed an offence under any of sections 39 to 40D of the Prison Act 1952.
- (2) The officer may require the person to wait with the officer for the arrival of a constable for such period as is necessary, except that the person may not be required to wait for longer than 2 hours.
- (3) The officer may use reasonable force to prevent the person from making off during that period.
- (4) A person who makes off during that period is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (5) In sub-paragraph (1), the reference to an offence under any of sections 39 to 40D of the Prison Act 1952 (a “1952 Act offence”) includes—
- (a) an offence of attempting to commit a 1952 Act offence,
 - (b) an offence of conspiracy to commit a 1952 Act offence, and
 - (c) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) in relation to which a 1952 Act offence is the offence which the person intended or believed would be committed.

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Commencement Information

I11 Sch. 10 para. 11 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

Intervention by Secretary of State

- 12 (1) This paragraph applies where it appears to the Secretary of State that—
- (a) the principal of a contracted-out secure college has lost effective control of the secure college or a part of it or is likely to do so, and
 - (b) it is necessary for the Secretary of State to exercise the power under sub-paragraph (2) in the interests of preserving a person's safety or preventing serious damage to property.
- (2) The Secretary of State may appoint a Crown servant (the “appointed person”) to act as principal of the secure college for the period—
- (a) beginning at the time specified in the appointment, and
 - (b) ending at the time specified in the notice of termination under sub-paragraph (4).
- (3) During that period—
- (a) all of the functions of the principal or monitor are to be carried out by the appointed person,
 - (b) the contractor and any sub-contractor must take all reasonable steps to facilitate the carrying out by the appointed person of those functions, and
 - (c) the officers of the secure college must comply with any directions given by the appointed person in carrying out those functions.
- (4) The Secretary of State must, by notice to the appointed person, terminate the person's appointment if satisfied that—
- (a) the person has secured effective control of the secure college or, as the case may be, the relevant part of it, and
 - (b) the person's appointment is no longer necessary as mentioned in sub-paragraph (1)(b).
- (5) The Secretary of State must—
- (a) give notice of an appointment under this paragraph to the persons listed in sub-paragraph (6) as soon as practicable after making the appointment, and
 - (b) give a copy of a notice of termination of such an appointment to those persons as soon as practicable after terminating it.
- (6) Those persons are—
- (a) the contractor,
 - (b) any sub-contractor,
 - (c) the principal, and
 - (d) the monitor.

Commencement Information

I12 Sch. 10 para. 12 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

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Changes to legislation: There are currently no known outstanding effects for the Criminal Justice and Courts Act 2015, SCHEDULE 10. (See end of Document for details)

Obstruction etc of secure college custody officers

- 13 (1) A person who resists or wilfully obstructs a secure college custody officer performing custodial duties at a contracted-out secure college commits an offence.
- (2) A person who commits an offence under this paragraph is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

Commencement Information

I13 Sch. 10 para. 13 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

Assault of secure college custody officers

- 14 (1) A person who assaults a secure college custody officer performing custodial duties at a contracted-out secure college commits an offence.
- (2) A person who commits an offence under this paragraph is liable, on summary conviction, to imprisonment for a term not exceeding 51 weeks or a fine (or both).
- (3) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003, the reference in sub-paragraph (2) to 51 weeks is to be read as a reference to 6 months.
- (4) 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 sub-paragraph (2) to a fine is to be read as a reference to a fine not exceeding level 5 on the standard scale.

Commencement Information

I14 Sch. 10 para. 14 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

Wrongful disclosure of information relating to persons in youth detention accommodation

- 15 (1) A person who is or has been employed at a contracted-out secure college (whether as a secure college custody officer or otherwise) commits an offence if the person discloses information—
- (a) which the person acquired in the course of the employment, and
- (b) which relates to a particular person detained in youth detention accommodation.
- (2) It is not an offence under this paragraph for a person to disclose information—
- (a) in the course of the person's duty, or
- (b) when authorised to do so by the Secretary of State.
- (3) A person who commits an offence under this paragraph 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).

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- (4) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in sub-paragraph (3)(b) to 12 months is to be read as a reference to 6 months.
- (5) 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 sub-paragraph (3)(b) to a fine is to be read as a reference to a fine not exceeding the statutory maximum.

Commencement Information

I15 Sch. 10 para. 15 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

PART 2

CERTIFICATION OF SECURE COLLEGE CUSTODY OFFICERS

Meaning of “secure college custody officer”

- 16 In this Schedule, “secure college custody officer” means a person in respect of whom a certificate under this Part of this Schedule is for the time being in force certifying that the person has been approved by the Secretary of State for the purposes of performing custodial duties at secure colleges.

Commencement Information

I16 Sch. 10 para. 16 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

Issue of certificate

- 17 (1) The Secretary of State may, on an application by a person, issue a certificate in respect of the person if satisfied that the person—
- (a) is a fit and proper person to perform custodial duties at secure colleges, and
 - (b) has received training to such standard as the Secretary of State considers appropriate for the performance of those functions.
- (2) The certificate must state that it is to cease to be in force on a date or on the occurrence of an event.
- (3) Once issued, the certificate continues in force until that date or event, subject to any previous suspension or revocation under paragraph 18 or 19.

Commencement Information

I17 Sch. 10 para. 17 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

Suspension of certificate

- 18 (1) This paragraph applies where—

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- (a) in the case of a secure college custody officer performing custodial duties at a contracted-out secure college, it appears to the monitor of the college that the officer is not a fit and proper person to perform such duties at secure colleges, or
 - (b) in the case of a secure college custody officer performing contracted-out functions at a directly managed secure college, it appears to the principal of the college that the officer is not a fit and proper person to perform custodial duties at secure colleges.
- (2) The monitor or principal may—
- (a) refer the matter to the Secretary of State for a decision under paragraph 19, and
 - (b) in circumstances prescribed by regulations made by the Secretary of State, suspend the officer's certificate pending that decision.
- (3) Regulations under this paragraph may—
- (a) prescribe different circumstances for different cases;
 - (b) include transitional, transitory or saving provision.
- (4) Regulations under this paragraph are to be made by statutory instrument.
- (5) A statutory instrument containing regulations under this paragraph is subject to annulment in pursuance of a resolution of either House of Parliament.

Commencement Information

I18 Sch. 10 para. 18 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

Revocation of certificate

- 19 Where it appears to the Secretary of State that a secure college custody officer is not a fit and proper person to perform custodial duties at secure colleges, the Secretary of State may revoke the officer's certificate.

Commencement Information

I19 Sch. 10 para. 19 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

PART 3

CONTRACTING OUT FUNCTIONS AT DIRECTLY MANAGED SECURE COLLEGES

Power to contract out functions at directly managed secure college

- 20 (1) The Secretary of State may enter into a contract with another person for functions to be carried out at a directly managed secure college by secure college custody officers provided by that person.
- (2) In this Schedule, “contracted-out functions” means any functions which, by virtue of a contract under this paragraph, fall to be performed by secure college custody officers.

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Commencement Information

I20 Sch. 10 para. 20 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

Powers of officers carrying out contracted-out functions

- 21 Paragraphs 6(1) and 8 to 11 apply in relation to a secure college custody officer carrying out contracted-out functions at a directly managed secure college as they apply in relation to a secure college custody officer carrying out functions at a contracted-out secure college.

Commencement Information

I21 Sch. 10 para. 21 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

- 22 In relation to a directly managed secure college, the reference to an officer of the prison in section 13(2) of the Prison Act 1952 (legal custody of prisoners), as it applies to secure colleges, includes a reference to a secure college custody officer performing custodial duties at the secure college in accordance with a contract under paragraph 20.

Commencement Information

I22 Sch. 10 para. 22 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

Obstruction etc of secure college custody officers

- 23 (1) A person who resists or wilfully obstructs a secure college custody officer performing contracted-out functions at a directly managed secure college commits an offence.
- (2) A person who commits an offence under this paragraph is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

Commencement Information

I23 Sch. 10 para. 23 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

Assault of secure college custody officers

- 24 (1) A person who assaults a secure college custody officer performing contracted-out functions at a directly managed secure college commits an offence.
- (2) A person who commits an offence under this paragraph is liable, on summary conviction, to imprisonment for a term not exceeding 51 weeks or a fine (or both).
- (3) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003, the reference in sub-paragraph (2) to 51 weeks is to be read as a reference to 6 months.
- (4) 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 sub-

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paragraph (2) to a fine is to be read as a reference to a fine not exceeding level 5 on the standard scale.

Commencement Information

I24 Sch. 10 para. 24 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

Wrongful disclosure of information relating to persons in youth detention accommodation

- 25 (1) A person who is or has been employed to perform contracted-out functions at a directly managed secure college commits an offence if the person discloses any information—
- (a) which the person acquired in the course of the employment, and
 - (b) which relates to a particular person detained in youth detention accommodation.
- (2) It is not an offence under this paragraph for a person to disclose information—
- (a) in the course of the person's duty, or
 - (b) when authorised to do so by the Secretary of State.
- (3) A person who commits an offence under this paragraph 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).
- (4) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in sub-paragraph (3)(b) to 12 months is to be read as a reference to 6 months.
- (5) 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 sub-paragraph (3)(b) to a fine is to be read as a reference to a fine not exceeding the statutory maximum.

Commencement Information

I25 Sch. 10 para. 25 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

Supplementary

- 26 The references in paragraphs 20, 21 and 22 to the carrying out of functions or the performance of custodial duties at a secure college include references to the carrying out of functions or the performance of such duties for the purposes of, or for purposes connected with, a secure college.

Commencement Information

I26 Sch. 10 para. 26 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

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PART 4

DEFINITIONS

- 27 In this Schedule—
- “contracted-out functions” has the meaning given in paragraph 20;
 - “contracted-out secure college” has the meaning given in paragraph 1;
 - “the contractor”, in relation to a contracted-out secure college, has the meaning given in paragraph 1;
 - “directly managed secure college” means a secure college which is not a contracted-out secure college;
 - “secure college custody officer” has the meaning given in paragraph 16;
 - “secure college rules” means rules made under section 47 of the Prison Act 1952 for the regulation and management of secure colleges;
 - “sub-contractor”, in relation to a contracted-out secure college, has the meaning given in paragraph 1.

Commencement Information

I27 Sch. 10 para. 27 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

PART 5

FURTHER AMENDMENTS

Prison Act 1952 (c. 52)

- 28 In section 52 of the Prison Act 1952 (exercise of power to make rules etc), after subsection (3) insert—
- “(4) A statutory instrument containing rules under section 47 or 47A is subject to annulment in pursuance of a resolution of either House of Parliament, subject to subsection (5).
 - (5) A statutory instrument containing rules under section 47 that (whether alone or with other provision)—
 - (a) authorise a secure college custody officer performing custodial duties at a secure college to use reasonable force, or
 - (b) otherwise make a substantive change to the circumstances in which such an officer is authorised to do so,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 subsection (5), “secure college custody officer” has the same meaning as in Schedule 10 to the Criminal Justice and Courts Act 2015.”

Commencement Information

I28 Sch. 10 para. 28 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

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Criminal Justice Act 1967 (c. 80)

- 29 Omit section 66(4) of the Criminal Justice Act 1967 (exercise of powers to make rules under sections 47 and 47A of the Prison Act 1952).

Commencement Information

I29 Sch. 10 para. 29 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

Firearms Act 1968 (c. 27)

- 30 (1) Schedule 1 to the Firearms Act 1968 (offences to which section 17(2) of that Act applies) is amended as follows.
- (2) After paragraph 6 insert—
- “6A An offence under paragraph 14 or 24 of Schedule 10 to the Criminal Justice and Courts Act 2015 (assaulting secure college custody officer).”
- (3) In paragraph 8, for “6” substitute “ 6A ”.

Commencement Information

I30 Sch. 10 para. 30 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

Criminal Justice Act 1988 (c. 33)

- 31 In section 40(3) of the Criminal Justice Act 1988 (powers to join in indictment count for certain offences), after paragraph (ab) insert—
- “(ac) an offence under paragraph 14 or 24 of Schedule 10 to the Criminal Justice and Courts Act 2015 (assaulting secure college custody officer);”.

Commencement Information

I31 Sch. 10 para. 31 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

Private Security Industry Act 2001 (c. 12)

- 32 In paragraph 2(7) of Schedule 2 to the Private Security Industry Act 2001 (manned guarding activities not liable to control), after paragraph (c) insert—
- “(cza) activities that are carried out for the purposes of the performance of a contract entered into under, or for the purposes of, paragraph 1 of Schedule 10 to the Criminal Justice and Courts Act 2015 (contracting out of secure colleges) or paragraph 20 of that Schedule (contracted-out functions at directly managed secure colleges);”.

Commencement Information

I32 Sch. 10 para. 32 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

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Changes to legislation: There are currently no known outstanding effects for the Criminal Justice and Courts Act 2015, SCHEDULE 10. (See end of Document for details)

Children Act 2004 (c. 31)

33 The Children Act 2004 is amended as follows.

Commencement Information

I33 Sch. 10 para. 33 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

34 In section 15(3) (funding of Local Safeguarding Children Boards)—

- (a) in paragraph (c), after “principal of a” insert “ directly managed ”, and
- (b) in paragraph (d), after “or prison” insert “ or the principal of a contracted-out secure college ”.

Commencement Information

I34 Sch. 10 para. 34 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

35 In section 33(3) (funding of Local Safeguarding Children Boards in Wales)—

- (a) in paragraph (c), after “principal of a” insert “ directly managed ”, and
- (b) in paragraph (d), after “or prison” insert “ or the principal of a contracted-out secure college ”.

Commencement Information

I35 Sch. 10 para. 35 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

36 (1) Section 65 (interpretation) is amended as follows.

(2) In subsection (3), at the end insert—

“(d) references to a directly managed secure college and to a contracted-out secure college, and to the contractor in relation to a contracted-out secure college, have the meanings given by paragraph 27 of Schedule 10 to the Criminal Justice and Courts Act 2015.”

(3) In subsection (4)—

- (a) in paragraph (a), omit “or”,
- (b) at the end of paragraph (b), insert “ or ”,
- (c) after paragraph (b) insert—
 - “(c) a contract under paragraph 1 of Schedule 10 to the Criminal Justice and Courts Act 2015 is for the time being in force in relation to part of a secure college”, and”
- (d) for “or prison” substitute “ , prison or secure college ”.

Commencement Information

I36 Sch. 10 para. 36 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

Offender Management Act 2007 (c. 21)

37 In section 14(9) of the Offender Management Act 2007 (disclosure)—

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- (a) in paragraph (a), after sub-paragraph (ii) insert—
 - “(iii) a secure college under paragraph 1 of Schedule 10 to the Criminal Justice and Courts Act 2015;”;
- (b) in paragraph (a), for “section in question” substitute “provision in question”;
- (c) in paragraph (b)(ii), omit the words from “for offenders” to the end.

Commencement Information

I37 Sch. 10 para. 37 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

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Changes to legislation:

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