



Crime (Sentences) Act 1997

1997 CHAPTER 43

An Act to make further provision with respect to the treatment of offenders; and for connected purposes. [21st March 1997]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

^{F1}PART I

Textual Amendments

F1 Pt. I (ss. 1-7) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

*Status: Point in time view as at 01/04/2009. This version of this Act contains provisions that are prospective.
Changes to legislation: Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 09 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART II

EFFECT OF CUSTODIAL SENTENCES

Modifications etc. (not altering text)

C3 Pt. II applied in part (with modifications) (1.10.1997) by S.I. 1997/1776, art. 2, **Sch. 1 paras. 2-4**; S.I. 1997/2200, **art. 2(1)**

CHAPTER I

DETERMINATE SENTENCES

General

F⁹8

Textual Amendments

F9 S. 8 repealed (30.9.1998) by 1998 c. 37, s. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 22(1)(w)(3)(x)**.

F¹⁰9

Textual Amendments

F10 S. 9 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F¹¹9A

Textual Amendments

F11 S. 9A repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Early release

F¹²10

Textual Amendments

F12 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

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F13 **11**

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Textual Amendments

F13 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

F14 **12**

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Textual Amendments

F14 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

F15 **13**

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Textual Amendments

F15 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

Additional days

F16 **14**

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Textual Amendments

F16 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

F17 **15**

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Textual Amendments

F17 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

Supervision after release

F18 **16**

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Textual Amendments

F18 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

F19 **17**

Textual Amendments

F19 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

F20 **18**

Textual Amendments

F20 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

Special cases

F21 **19**

Textual Amendments

F21 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

F22 **20**

Textual Amendments

F22 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

F23 **21**

Textual Amendments

F23 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

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F24 **22**

Textual Amendments

F24 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

F25 **23**

Textual Amendments

F25 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

F26 **24**

Textual Amendments

F26 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

F27 **25**

Textual Amendments

F27 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

Supplemental

F28 **26**

Textual Amendments

F28 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

F29 **27**

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Textual Amendments

- F29** Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

CHAPTER II

LIFE SENTENCES

Modifications etc. (not altering text)

- C4** Pt. II Ch. II excluded (1.9.2001) by 2001 c. 17, s. 42, **Sch. 7 para. 3(1)** (with s. 78); S.I. 2001/2161, **art. 2**

Release on licence

28 Duty to release certain life prisoners.

[^{F30}[^{F31}(1A) This section applies to a life prisoner in respect of whom a minimum term order has been made; and any reference in this section to the relevant part of such a prisoner's sentence is a reference to the part of the sentence specified in the order.]

(1B) But if a life prisoner is serving two or more life sentences—

- (a) [^{F32}this section does not apply to him] unless [^{F33}a minimum term order has been made in respect of each of those sentences]; and
- (b) the provisions of subsections (5) to (8) below do not apply in relation to him until he has served the relevant part of each of them.

(5) As soon as—

- (a) a life prisoner to whom this section applies has served the relevant part of his sentence; and]
- (b) the Parole Board has directed his release under this section,

it shall be the duty of the Secretary of State to release him on licence.

(6) The Parole Board shall not give a direction under subsection (5) above with respect to a life prisoner to whom this section applies unless—

- (a) the Secretary of State has referred the prisoner's case to the Board; and
- (b) the Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined.

(7) A life prisoner to whom this section applies may require the Secretary of State to refer his case to the Parole Board at any time—

- (a) after he has served the relevant part of his sentence; and
- (b) where there has been a previous reference of his case to the Board, after the end of the period of two years beginning with the disposal of that reference; and
- (c) where he is also serving a sentence of imprisonment or detention for a term, after [^{F34}he has served one-half of that sentence];

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and in this subsection “previous reference” means a reference under subsection (6) above or section 32(4) below.

(8) In determining for the purpose of subsection (5) or (7) above whether a life prisoner to whom this section applies has served the relevant part of his sentence, no account shall be taken of any time during which he was unlawfully at large within the meaning of section 49 of the ^{M17}Prison Act 1952.

[^{F35}(8A) In this section “minimum term order” means an order under—

- (a) subsection (2) of section 82A of the Powers of Criminal Courts (Sentencing) Act 2000 (determination of minimum term in respect of life sentence that is not fixed by law), or
- (b) subsection (2) of section 269 of the Criminal Justice Act 2003 (determination of minimum term in respect of mandatory life sentence).]

^{F36}(9)

Textual Amendments

- F30** S. 28(1A)(1B)-(5)(a) substituted for s. 28(1)-(5)(a) (30.11.2000 with effect as mentioned in Sch. 7 para. 145 of the substituting Act) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 136(a)**
- F31** S. 28(1A) substituted (18.12.2003) by **Criminal Justice Act 2003 (c. 44), s. 275(1)(2), 336(2)**
- F32** Words in s. 28(1B)(a) substituted (18.12.2003) by **Criminal Justice Act 2003 (c. 44), ss. 275(3)(a), 336(2)**
- F33** Words in s. 28(1B)(a) substituted (18.12.2003) by **Criminal Justice Act 2003 (c. 44), ss. 275(3)(b), 336(2)**
- F34** Words in s. 28(7)(c) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 130(2)**; S.I. 1998/2327, **art. 2(2)(II)**
- F35** S. 28(8A) inserted (18.12.2003) by **Criminal Justice Act 2003 (c. 44), s. 275(1)(4), 336(2)**
- F36** S. 28(9) repealed (30.11.2000 with effect as mentioned in Sch. 7 para. 145 and notes to Sch. 8 of the repealing Act) by 2000 c. 43, ss. 74, 75, **Sch. 7 Pt. II para. 136(b), Sch. 8**

Modifications etc. (not altering text)

- C5** S. 28: exercise of functions restricted in or as regards Scotland (30.6.1999) by S.I. 1999/1748, **art. 8(2), Sch. 4 Pt. I para. 1(1)**
- C6** S. 28 modified (18.12.2003) by **Criminal Justice Act 2003 (c. 44), s. 336(2), Sch. 22 para. 16**
- C7** S. 28(1B) modified (30.11.2000) by 2000 c. 43, ss. 74, 80(3)(d), **Sch. 7 Pt. II para. 146-148**

Marginal Citations

- M17** 1952 c.52.

^{F37}**29 Power to release other life prisoners.**

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Textual Amendments

- F37** S. 29 repealed (18.12.2003) by **Criminal Justice Act 2003 (c. 44), ss. 303(b)(i), 336(2), Sch. 37 Pt. 8**

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30 Power to release life prisoners on compassionate grounds.

- (1) The Secretary of State may at any time release a life prisoner on licence if he is satisfied that exceptional circumstances exist which justify the prisoner’s release on compassionate grounds.
- (2) Before releasing a life prisoner under subsection (1) above, the Secretary of State shall consult the Parole Board, unless the circumstances are such as to render such consultation impracticable.

Modifications etc. (not altering text)
C8 S. 30: exercise of functions restricted in or as regards Scotland (30.6.1999) by S.I. 1999/1748, art. 8(2), Sch. 4 Pt. I para. 1(1)

Licences and recall

31 Duration and conditions of licences.

- (1) Where a life prisoner [^{F38}, other than a prisoner to whom section 31A below applies,] is released on licence, the licence shall, unless previously revoked under section 32 ^{F39}... below, remain in force until his death.
- [^{F40}(1A) Where a prisoner to whom section 31A below applies is released on licence, the licence shall remain in force until his death unless—
 - (a) it is previously revoked under section 32(1) or (2) below; or
 - (b) it ceases to have effect in accordance with an order made by the Secretary of State under section 31A below.]
- (2) A life prisoner subject to a licence shall comply with such conditions ^{F41}... as may for the time being be specified in the licence; and the Secretary of State may make rules for regulating the supervision of any description of such persons.
- [^{F42}(2A) The conditions so specified shall include on the prisoner’s release conditions as to his supervision by—
 - (a) [^{F43}an officer of a local probation board] appointed for or assigned to the [^{F44}local justice area] within which the prisoner resides for the time being [^{F45}or (as the case may be) an officer of a provider of probation services acting in the local justice area within which the prisoner resides for the time being];
 - (b) where the prisoner is under the age of 22, a social worker of the ^{F46}... local authority within whose area the prisoner resides for the time being; or
 - (c) where the prisoner is under the age of 18, a member of a youth offending team established by that local authority under section 39 of the Crime and Disorder Act 1998.]
- (3) The Secretary of State shall not include on release, or subsequently insert, a condition in the licence of a life prisoner, or vary or cancel any such condition, [^{F47}except in accordance with recommendations of the Parole Board].
- ^{F48}(4)

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- (5) The power to make rules under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In relation to a life prisoner who is liable to removal from the United Kingdom (within the meaning given by ^{F49}section 259 of the Criminal Justice Act 2003]), subsection (2) above shall have effect as if ^{F50}subsection (2A) above] were omitted.

Textual Amendments

- F38** Words in s. 31(1) inserted (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 18 para. 1(2)**; S.I. 2005/950, art. 2(1), Sch. 1 para. 40 (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(1))
- F39** Words in s. 31(1) repealed (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 28 Pt. 2**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 50(2)(b)
- F40** S. 31(1A) inserted (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 18 para. 1(3)**; S.I. 2005/950, art. 2(1), Sch. 1 para. 40 (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(1))
- F41** Words in s. 31(2) repealed (30.9.1998 in the areas specified in S.I. 1998/2327, **Sch. 1** and otherwise 1.4.2000) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 131(1), **Sch. 10**; S.I. 1998/2327, art. 3(1)(b)(c), **Sch. 1**; S.I. 2000/924, **art. 3**
- F42** S. 31(2A) inserted (30.9.1998 in the areas specified in S.I. 1998/2327, **Sch. 1** and otherwise 1.4.2000) by 1998 c. 37, s. 119, **Sch. 8 para. 131(2)**; S.I. 1998/2327, art. 3(1)(b), **Sch. 1**; S.I. 2000/924, **art. 3**
- F43** Words in s. 31(2A)(a) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. 1 para. 4(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**
- F44** Words in s. 31(2A)(a) substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 1, **Sch. para. 53**
- F45** Words in s. 31(2A)(a) inserted (1.4.2008) by The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), **Sch. 1 para. 12(2)**
- F46** Words in s. 31(2A)(b) repealed (1.4.2005 for E., 1.4.2006 for W.) by Children Act 2004 (c. 31), **Sch. 5 Pt. 4**; S.I. 2005/394, **art. 2(2)(g)**; S.I. 2006/885, **art. 2(2)**
- F47** Words in s. 31(3) substituted (18.12.2003) by Criminal Justice Act 2003 (c. 44), s. 336(2), **Sch. 32 para. 83(2)**
- F48** S. 31(4) repealed (18.12.2003) by Criminal Justice Act 2003 (c. 44), s. 336(2), Sch. 32 para. 83(3), **Sch. 37 Pt. 8**
- F49** Words in s. 31(6) substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 32 para. 83(4)**; S.I. 2005/950, art. 2(1), Sch. 1 para. 42(32) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(1))
- F50** Words in s. 31(6) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 131(3)**; S.I. 1998/2327, **art. 2(2)(mm)**.

Modifications etc. (not altering text)

- C9** S. 31: exercise of functions restricted in or as regards Scotland (30.6.1999) by S.I. 1999/1748, art. 8(2), **Sch. 4 Pt. 1 para. 1**
- C10** S. 31(6) modified (1.1.1998) by S.I. 1997/2200, **art. 5(3)(a)**
S. 31(6) modified (19.9.1998) by S.I. 1998/2327, **art. 5(1)(b)**.

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[^{F51}31A Imprisonment or detention for public protection: termination of licences

- (1) This section applies to a prisoner who—
 - (a) is serving one or more preventive sentences, and
 - (b) is not serving any other life sentence.
- (2) Where—
 - (a) the prisoner has been released on licence under this Chapter; and
 - (b) the qualifying period has expired,
 the Secretary of State shall, if directed to do so by the Parole Board, order that the licence is to cease to have effect.
- (3) Where—
 - (a) the prisoner has been released on licence under this Chapter;
 - (b) the qualifying period has expired; and
 - (c) if he has made a previous application under this subsection, a period of at least twelve months has expired since the disposal of that application,
 the prisoner may make an application to the Parole Board under this subsection.
- (4) Where an application is made under subsection (3) above, the Parole Board—
 - (a) shall, if it is satisfied that it is no longer necessary for the protection of the public that the licence should remain in force, direct the Secretary of State to make an order that the licence is to cease to have effect;
 - (b) shall otherwise dismiss the application.
- (5) In this section—

“preventive sentence” means a sentence of imprisonment for public protection under section 225 of the Criminal Justice Act 2003 or a sentence of detention for public protection under section 226 of that Act [^{F52}(including such a sentence of imprisonment or detention passed as a result of section 219 or 221 of the Armed Forces Act 2006)] ;

“the qualifying period”, in relation to a prisoner who has been released on licence, means the period of ten years beginning with the date of his release.]

Textual Amendments

- F51** S. 31A inserted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 18 para. 2](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 40](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(1))
- F52** Words in s. 31A(5) inserted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 141](#); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4

32 Recall of life prisoners while on licence.

- [^{F53}(1) The Secretary of State may, in the case of any life prisoner who has been released on licence under this Chapter, revoke his licence and recall him to prison.]
- (3) A life prisoner recalled to prison under [^{F54}this section]—

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- (a) may make representations in writing with respect to his recall; and
 - (b) on his return to prison, shall be informed of the reasons for his recall and of his right to make representations.
- (4) The Secretary of State shall refer to the Parole Board [F55 the case of a life prisoner recalled under this section].
- [F56(5) Where on a reference under subsection (4) above the Parole Board directs the immediate release on licence under this section of the life prisoner, the Secretary of State shall give effect to the direction.]
- (6) On the revocation of the licence of any life prisoner under this section, he shall be liable to be detained in pursuance of his sentence and, if at large, shall be deemed to be unlawfully at large.

Textual Amendments

- F53** S. 32(1) substituted for s. 32(1)(2) (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 31(2), 153(7); S.I. 2008/1586, art. 2(1), Sch. 1 para. 17
- F54** Words in s. 32(3) substituted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 31(3), 153(7); S.I. 2008/1586, art. 2(1), Sch. 1 para. 17
- F55** Words in s. 32(4) substituted for s. 32(4)(a)(b) (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 31(4), 153(7); S.I. 2008/1586, art. 2(1), Sch. 1 para. 17
- F56** S. 32(5) substituted (18.12.2003) by Criminal Justice Act 2003 (c. 44), s. 336(2), Sch. 32 para. 84

Modifications etc. (not altering text)

- C11** S. 32: exercise of functions restricted in or as regards Scotland (30.6.1999) by S.I. 1999/1748, art. 8(2), Sch. 4 Pt. 1 para. 1

Miscellaneous and supplemental

F57 33 Life prisoners transferred to England and Wales.

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Textual Amendments

- F57** S. 33 repealed (18.12.2003) by Criminal Justice Act 2003 (c. 44), ss. 303(b)(ii), 336(2), Sch. 37 Pt. 8

34 Interpretation of Chapter II.

- (1) In this Chapter “life prisoner” means a person serving one or more life sentences [F58 and includes a transferred life prisoner as defined by section 273 of the Criminal Justice Act 2003]; F59 ...
- (2) In this section “life sentence” means any of the following imposed for an offence, whether committed before or after the commencement of this Chapter, namely—
- (a) a sentence of imprisonment for life;
 - (b) a sentence of detention during Her Majesty’s pleasure or for life under [F60 section 90 or 91 of the Powers of Criminal Courts (Sentencing) Act 2000]; and

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- (c) a sentence of custody for life under ^{F60}section 93 or 94 of that Act].
 - ^{F61}(d) a sentence of imprisonment for public protection under section 225 of the Criminal Justice Act 2003 ^{F62}(including one passed as a result of section 219 of the Armed Forces Act 2006], ^{F63}and]
 - (e) a sentence of detention for public protection under section 226 of that Act ^{F64}(including one passed as a result of section 221 of the Armed Forces Act 2006)] .]
 - ^{F65}(f) a sentence of detention for life under section 209 of the Armed Forces Act 2006;
 - (g) a sentence under section 218 of that Act (detention at Her Majesty's pleasure).]
- (3) ^{F66}^{F67}... in subsection (2) above—
- (a) the reference to ^{F60}section 90 or 91 of the Powers of Criminal Courts (Sentencing) Act 2000] includes a reference to subsections (3) and (4) of section 71A of the ^{M18}Army Act 1955 and the ^{M19}Air Force Act 1955 and section 43A of the ^{M20}Naval Discipline Act 1957; and
 - (b) the reference to ^{F60} section 93 or 94 of that Act of 2000] includes a reference to subsections (1A) and (1B) of ^{F60}section 71A of the Army Act 1955 and the Air Force Act 1955 and section 43A of the Naval Discipline Act 1957.]]
- ^{F68}(4) Where a person has been sentenced to one or more life sentences and to one or more terms of imprisonment, nothing in this Chapter shall require the Secretary of State to release the person in respect of any of the life sentences unless and until the Secretary of State is required to release him in respect of each of the terms.]

Textual Amendments

- F58** Words in s. 34(1) inserted (18.12.2003) by [Criminal Justice Act 2003 \(c. 44\)](#), [ss. 273\(4\)](#), [336\(2\)](#)
- F59** Word in s. 34(1) repealed (30.11.2000 with effect as mentioned in Sch. 7 para. 145 and notes to Sch. 8 of the repealing Act) by [2000 c. 43](#), [ss. 74, 75, 80\(3\)\(d\)](#), [Sch. 7 Pt. II para. 138](#), [Sch. 8](#)
- F60** Words in s. 34(2)(3) substituted (25.8.2000) by [2000 c. 6](#), [ss. 165, 168\(1\)](#), [Sch. 9 para. 183\(2\)\(3\)](#)
- F61** S. 34(2)(d)(e) inserted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), [s. 336\(3\)\(4\)](#), [Sch. 18 para. 3](#); [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 40](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), [art. 2](#); and as amended: (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111](#), [art. 2](#); (3.12.2012) by [S.I. 2012/2905](#), [art. 4](#); (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); [S.I. 2012/2906](#), [art. 2\(1\)](#))
- F62** Words in s. 34(2)(d) inserted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), [s. 383\(2\)](#), [Sch. 16 para. 142\(2\)\(a\)](#); [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)
- F63** Word in s. 34(2)(d) repealed (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), [s. 383\(2\)](#), [Sch. 17](#); [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)
- F64** Words in s. 34(2)(e) inserted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), [s. 383\(2\)](#), [Sch. 16 para. 142\(2\)\(b\)](#); [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)
- F65** S. 34(2)(f)(g) added (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), [s. 383\(2\)](#), [Sch. 16 para. 142\(2\)\(c\)](#); [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)
- F66** Words in s. 34(3) repealed (18.12.2003) by [Criminal Justice Act 2003 \(c. 44\)](#), [s. 336\(2\)](#), [Sch. 37 Pt. 8](#)
- F67** S. 34(3) repealed (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), [s. 383\(2\)](#), [Sch. 16 para. 142\(3\)](#), [Sch. 17](#); [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

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F68 S. 34(4) inserted (30.9.1998) by 1998 c. 37, ss. 101(2), 120(1), **Sch. 9 para. 11**; S.I. 1998/2327, **art. 2(1)(v)**.

Modifications etc. (not altering text)

C12 S. 34: exercise of functions restricted in or as regards Scotland (30.6.1999) by S.I. 1999/1748, **art. 8(2)**, **Sch. 4 Pt. 1 para. 1**

C13 S. 34(1) extended (18.12.2003) by **Criminal Justice Act 2003 (c. 44)**, s. 336(2), **Sch. 22 para. 17**

Marginal Citations

M18 1955 c.18.

M19 1955 c.19.

M20 1957 c.53.

PART III

MISCELLANEOUS AND SUPPLEMENTAL

Community sentences

35 Fine defaulters: general.

- (1) Subsection (2) below applies in any case where a magistrates' court—
- has power under Part III of [^{F69}the Magistrates' Courts Act 1980 (“the 1980 Act”)] to issue a warrant of commitment for default in paying a sum adjudged to be paid by a conviction of a magistrates' court (other than a sum ordered to be paid under section 71 of the ^{M21}Criminal Justice Act 1988 or section 2 of the ^{M22}Drug Trafficking Act 1994 [^{F70}or section 6 of the Proceeds of Crime Act 2002]); or
 - would, but for [^{F71}section 89 of the Powers of Criminal Courts (Sentencing) Act 2000] (restrictions on custodial sentences for persons under 21), have power to issue such a warrant for such default.
- (2) The magistrates' court may—
- subject to subsections (4) to (6) [^{F72}, (10) and (11)] below, make a community service order; or
 - subject to subsections (7) to (11) below, make a curfew order, in respect of the person in default instead of issuing a warrant of commitment or, as the case may be, proceeding under section 81 of the 1980 Act (enforcement of fines imposed on young offenders).
- (3) Where a magistrates' court has power to make an order under subsection (2)(a) or (b) above, it may, if it thinks it expedient to do so, postpone the making of the order until such time and on such conditions, if any, as it thinks just.
- [^{F73}(4) Section 46(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (community service orders) shall apply for the purposes of subsection (2)(a) above as if for the words from the beginning to “make” there were substituted “Where section 35(2) of the Crime (Sentences) Act 1997 applies, the court may make in respect of the offender”; and—
- section 46(3) and (4) of that Act, and

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(b) so far as applicable, the following provisions of section 46 of that Act and the other provisions of Part IV of that Act relating to community service orders, have effect in relation to a community service order made by virtue of this section as they have effect in relation to any community service order made under that Act, subject to the exceptions in subsection (5) below.

^{F73}(5) The following are the exceptions, namely—

- (a) the reference in section 46(3)(a) of that Act to 40 hours shall be construed as a reference to 20 hours;
- (b) section 46(8) of that Act shall not apply;
- (c) the power conferred by paragraph 4(1)(d) of Schedule 3 to that Act shall be construed as a power to revoke the order or deal with the person in respect of whom the order was made for his default in paying the sum in question or do both of those things;
- (d) paragraph 4(2)(a) and (3) of that Schedule shall not apply;
- (e) the reference in paragraph 10(1)(b) of that Schedule to the offence in respect of which the order was made shall be construed as a reference to the default in respect of which the order was made;
- (f) the power conferred by paragraph 10(3)(b) of that Schedule to deal with an offender for the offence in respect of which the order was made shall be construed as a power to deal with the person in respect of whom the order was made for his default in paying the sum in question; and
- (g) paragraph 11(2)(b) of that Schedule shall not apply.]

(6) In the case of an amount in default which is described in the first column of the following Table, the period of community service specified in an order under subsection (2)(a) above shall not exceed the number of hours set out opposite that amount in the second column of that Table.

TABLE

<i>Amount</i>	<i>Number of hours</i>
An amount not exceeding £200	40 hours
An amount exceeding £200 but not exceeding £500	60 hours
An amount exceeding £500	100 hours

[^{F74}(7) Section 37(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (curfew orders) shall apply for the purposes of subsection (2)(b) above as if for the words from the beginning to “make” there were substituted “Where section 35(2) of the Crime (Sentences) Act 1997 applies, the court may make in respect of the offender”; and—

- (a) section 37(3), (5) to (8) and (10) to (12) of that Act, and
- (b) so far as applicable, the other provisions of Part IV of that Act relating to curfew orders,

have effect in relation to a curfew order made by virtue of this section as they have effect in relation to any curfew order made under that Act, subject to the exceptions in subsection (8) below.

^{F74}(8) The following are the exceptions, namely—

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- (a) the power conferred by paragraph 4(1)(d) of Schedule 3 to that Act shall be construed as a power to revoke the order or deal with the person in respect of whom the order was made for his default in paying the sum in question or do both of those things;
 - (b) paragraph 4(2)(a) and (3) of that Schedule shall not apply;
 - (c) the reference in paragraph 10(1)(b) of that Schedule to the offence in respect of which the order was made shall be construed as a reference to the default in respect of which the order was made;
 - (d) the power conferred by paragraph 10(3)(b) of that Schedule to deal with an offender for the offence in respect of which the order was made shall be construed as a power to deal with the person in respect of whom the order was made for his default in paying the sum in question; and
 - (e) paragraph 11(2)(b) of that Schedule shall not apply.]
- (9) In the case of an amount in default which is described in the first column of the following Table, the number of days to which an order under subsection (2)(b) above relates shall not exceed the number of days set out opposite that amount in the second column of that Table.

TABLE

<i>Amount</i>	<i>Number of days</i>
An amount not exceeding £200	20 days
An amount exceeding £200 but not exceeding £500	30 days
An amount exceeding £500 but not exceeding £1,000	60 days
An amount exceeding £1,000 but not exceeding £2,500	90 days
An amount exceeding £2,500	180 days

- (10) A magistrates' court shall not make an order under [F75 subsection (2)(a) or (b)] above in respect of a person who is under 16.
- (11) A magistrates court shall not make an order under subsection (2)(a) or (b) above unless the court has been notified by the Secretary of State that arrangements for implementing such orders are available in the relevant area and the notice has not been withdrawn.
- (12) In subsection (11) above “the relevant area” means—
- (a) in relation to an order under subsection (2)(a) above, the area proposed to be specified in the order;
 - (b) in relation to an order under subsection (2)(b) above, the area in which the place proposed to be specified in the order is situated.
- [F76(12A) Sections 35 and 36 of the Powers of Criminal Courts (Sentencing) Act 2000 (restrictions and procedural requirements for community sentences) do not apply in relation to an order under subsection (2)(a) or (b) above.]
- (13) Where an order has been made under subsection (2)(a) or (b) above for default in paying any sum—

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- (a) on payment of the whole sum to any person authorised to receive it, the order shall cease to have effect;
- (b) on payment of a part of that sum to any such person, the total number of hours or days to which the order relates shall be reduced proportionately;

and the total number is so reduced if it is reduced by such number of complete hours or days as bears to the total number the proportion most nearly approximating to, without exceeding, the proportion which the part paid bears to the whole sum.

- (14) The Secretary of State may by order direct that subsection (5)(a), (6) or (9) above shall be amended by substituting for any number of hours or days there specified such number of hours or days as may be specified in the order.
- (15) The power to make an order under this section shall be exercisable by statutory instrument; but no such order shall be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.

Textual Amendments

- F69** Words in s. 35(1)(a) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 132(1)**; S.I. 1998/2327, **art. 2(2)(nn)**.
- F70** Words in s. 35(1)(a) inserted (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 11 para. 32(2)**; S.I. 2003/333, art. 2, Sch.
- F71** Words in s. 35(1)(b) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 184(2)**
- F72** Words in s. 35(2)(a) substituted (30.9.1998) by 1998 c. 37, s. 106, **Sch. 7 para. 50(1)**; S.I. 1998/2327, **art. 2(1)(w)**.
- F73** S. 35(4)(5) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 184(3)**
- F74** S. 35(7)(8) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 184(4)**
- F75** Words in s. 35(10) substituted (30.9.1998) by 1998 c. 37, s. 106, **Sch. 7 para. 50(6)**; S.I. 1998/2327, **art. 2(1)(w)**.
- F76** S. 35(12A) inserted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 184(5)**

Commencement Information

- I4** S. 35 not in force at Royal Assent, see s. 57(2). S. 35 in force at 1.1.1998 by 1997/2200, art. 3 (subject to savings in art. 5)

Marginal Citations

- M21** 1988 c.33.
- M22** 1994 c.37.

^{F77}**36**

Textual Amendments

- F77** S. 36 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

^{F78}**37**

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Textual Amendments

F78 S. 37 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F79 **38**

Textual Amendments

F79 S. 38 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Driving disqualifications

F80 **39**

Textual Amendments

F80 S. 39 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

40 Fine defaulters.

- (1) This section applies in any case where a magistrates' court—
 - (a) has power under Part III of the 1980 Act to issue a warrant of commitment for default in paying a sum adjudged to be paid by a conviction of a magistrates' court (other than a sum ordered to be paid under section 71 of the ^{M23}Criminal Justice Act 1988 or section 2 of the ^{M24}Drug Trafficking Act 1994 [^{F81}or section 6 of the Proceeds of Crime Act 2002]); or
 - (b) would, but for [^{F82}section 89 of the Powers of Criminal Courts (Sentencing) Act 2000] (restrictions on custodial sentences for persons under 21), have power to issue such a warrant for such default.
- (2) Subject to subsection (3) below, the magistrates' court may, instead of issuing a warrant of commitment or, as the case may be, proceeding under section 81 of the 1980 Act (enforcement of fines imposed on young offenders), order the person in default to be disqualified, for such period not exceeding twelve months as it thinks fit, for holding or obtaining a driving licence.
- (3) A magistrates court shall not make an order under subsection (2) above unless the court has been notified by the Secretary of State that the power to make such orders is exercisable by the court and the notice has not been withdrawn.
- (4) Where an order has been made under subsection (2) above for default in paying any sum—
 - (a) on payment of the whole sum to any person authorised to receive it, the order shall cease to have effect;
 - (b) on payment of a part of that sum to any such person, the number of weeks or months to which the order relates shall be reduced proportionately;

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and the total number is so reduced if it is reduced by such number of complete weeks or months as bears to the total number the proportion most nearly approximating to, without exceeding, the proportion which the part paid bears to the whole sum.

(5) The Secretary of State may by order made by statutory instrument vary the period specified in subsection (2) above; but no such order shall be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.

[^{F83}(6) A court which makes an order under this section disqualifying a person for holding or obtaining a driving licence shall require him to produce any such licence held by him together with its counterpart.

(7) In this section—

“driving licence” means a licence to drive a motor vehicle granted under Part III of the Road Traffic Act 1988;

“counterpart”, in relation to a driving licence, has the meaning given in relation to such a licence by section 108(1) of that Act.]

Textual Amendments

F81 Words in s. 40(1)(a) inserted (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), s. 458(1), [Sch. 11 para. 32\(3\)](#); S.I. 2003/333, art. 2, Sch.

F82 Words in s. 40(1)(b) substituted (25.8.2000) by [2000 c. 6](#), ss. 165, 168(1), [Sch. 9 para. 185\(2\)](#)

F83 S. 40(6)(7) substituted (25.8.2000) for s. 40(6) by [2000 c. 6](#), ss. 165, 168(1), [Sch. 9 para. 185\(3\)](#)

Commencement Information

I5 S. 40 not in force at Royal Assent, see s. 57(2). S. 40 in force at 1.1.1998 by [1997/2200](#), art. 3 (subject to savings in art. 5)

Marginal Citations

M23 [1988 c.33](#).

M24 [1994 c.37](#).

Transfer and repatriation of prisoners

41 Transfer of prisoners within the British Islands.

Schedule 1 to this Act (which makes provision with respect to the transfer of prisoners within the British Islands) shall have effect.

42 Repatriation of prisoners to the British Islands.

Schedule 2 to this Act (which makes provision, including retrospective provision, with respect to prisoners repatriated to the British Islands) shall have effect.

Young offenders

^{F84}**43**

Status: Point in time view as at 01/04/2009. This version of this Act contains provisions that are prospective.
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Textual Amendments

F84 S. 43 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

^{F85} 44

Textual Amendments

F85 S. 44 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. II paras. 1, 2)

45 Publication of reports.

(1) After subsection (4) of section 49 of the 1933 Act (restrictions on reports of proceedings in which children or young persons are concerned) there shall be inserted the following subsections—

“(4A) If a court is satisfied that it is in the public interest to do so, it may, in relation to a child or young person who has been convicted of an offence, by order dispense to any specified extent with the requirements of this section in relation to any proceedings before it to which this section applies by virtue of subsection (2)(a) or (b) above, being proceedings relating to—

- (a) the prosecution or conviction of the offender for the offence;
- (b) the manner in which he, or his parent or guardian, should be dealt with in respect of the offence;
- (c) the enforcement, amendment, variation, revocation or discharge of any order made in respect of the offence;
- (d) where an attendance centre order is made in respect of the offence, the enforcement of any rules made under section 16(3) of the ^{M25}Criminal Justice Act 1982; or
- (e) where a secure training order is so made, the enforcement of any requirements imposed under section 3(7) of the ^{M26}Criminal Justice and Public Order Act 1994.

(4B) A court shall not exercise its power under subsection (4A) above without—

- (a) affording the parties to the proceedings an opportunity to make representations; and
- (b) taking into account any representations which are duly made.”

(2) Subsection (1) above shall not apply where the offence was committed before the commencement of this section.

Marginal Citations

M25 1982 c.48.

M26 1994 c.33.

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Mentally disordered offenders

46 Power to make hospital and limitation directions.

After section 45 of the 1983 Act there shall be inserted the following sections—

“ Hospital and limitation directions

45A Power of higher courts to direct hospital admission.

- (1) This section applies where, in the case of a person convicted before the Crown Court of an offence the sentence for which is not fixed by law—
 - (a) the conditions mentioned in subsection (2) below are fulfilled; and
 - (b) except where the offence is one the sentence for which falls to be imposed under section 2 of the Crime (Sentences) Act 1997, the court considers making a hospital order in respect of him before deciding to impose a sentence of imprisonment (“the relevant sentence”) in respect of the offence.
- (2) The conditions referred to in subsection (1) above are that the court is satisfied, on the written or oral evidence of two registered medical practitioners—
 - (a) that the offender is suffering from psychopathic disorder;
 - (b) that the mental disorder from which the offender is suffering is of a nature or degree which makes it appropriate for him to be detained in a hospital for medical treatment; and
 - (c) that such treatment is likely to alleviate or prevent a deterioration of his condition.
- (3) The court may give both of the following directions, namely—
 - (a) a direction that, instead of being removed to and detained in a prison, the offender be removed to and detained in such hospital as may be specified in the direction (in this Act referred to as a “hospital direction”); and
 - (b) a direction that the offender be subject to the special restrictions set out in section 41 above (in this Act referred to as a “limitation direction”).
- (4) A hospital direction and a limitation direction shall not be given in relation to an offender unless at least one of the medical practitioners whose evidence is taken into account by the court under subsection (2) above has given evidence orally before the court.
- (5) A hospital direction and a limitation direction shall not be given in relation to an offender unless the court is satisfied on the written or oral evidence of the registered medical practitioner who would be in charge of his treatment, or of some other person representing the managers of the hospital that arrangements have been made—
 - (a) for his admission to that hospital; and
 - (b) for his admission to it within the period of 28 days beginning with the day of the giving of such directions;

and the court may, pending his admission within that period, give such directions as it thinks fit for his conveyance to and detention in a place of safety.

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- (6) If within the said period of 28 days it appears to the Secretary of State that by reason of an emergency or other special circumstances it is not practicable for the patient to be received into the hospital specified in the hospital direction, he may give instructions for the admission of the patient to such other hospital as appears to be appropriate instead of the hospital so specified.
- (7) Where such instructions are given—
 - (a) the Secretary of State shall cause the person having the custody of the patient to be informed, and
 - (b) the hospital direction shall have effect as if the hospital specified in the instructions were substituted for the hospital specified in the hospital direction.
- (8) Section 38(1) and (5) and section 39 above shall have effect as if any reference to the making of a hospital order included a reference to the giving of a hospital direction and a limitation direction.
- (9) A hospital direction and a limitation direction given in relation to an offender shall have effect not only as regards the relevant sentence but also (so far as applicable) as regards any other sentence of imprisonment imposed on the same or a previous occasion.
- (10) The Secretary of State may by order provide that this section shall have effect as if the reference in subsection (2) above to psychopathic disorder included a reference to a mental disorder of such other description as may be specified in the order.
- (11) An order made under this section may—
 - (a) apply generally, or in relation to such classes of offenders or offences as may be specified in the order;
 - (b) provide that any reference in this section to a sentence of imprisonment, or to a prison, shall include a reference to a custodial sentence, or to an institution, of such description as may be so specified; and
 - (c) include such supplementary, incidental or consequential provisions as appear to the Secretary of State to be necessary or expedient.

45B Effect of hospital and limitation directions.

- (1) A hospital direction and a limitation direction shall be sufficient authority—
 - (a) for a constable or any other person directed to do so by the court to convey the patient to the hospital specified in the hospital direction within a period of 28 days; and
 - (b) for the managers of the hospital to admit him at any time within that period and thereafter detain him in accordance with the provisions of this Act.
- (2) With respect to any person—
 - (a) a hospital direction shall have effect as a transfer direction; and
 - (b) a limitation direction shall have effect as a restriction direction.
- (3) While a person is subject to a hospital direction and a limitation direction the responsible medical officer shall at such intervals (not exceeding one year) as the Secretary of State may direct examine and report to the Secretary of State

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on that person; and every report shall contain such particulars as the Secretary of State may require.”

Modifications etc. (not altering text)

C14 S. 46 excluded (1.1.1998) by S.I. 1997/2200, art. 5(1)

47 Power to specify hospital units.

(1) Subject to subsection (2) below, any power to specify a hospital which is conferred by—

- (a) section 37 of the 1983 Act (hospital orders);
- (b) section 45A of that Act (hospital and limitation directions);
- (c) section 47 of that Act (transfer directions); ^{F86}...

^{F87}(d)

includes power to specify a hospital unit; and where such a unit is specified in relation to any person in the exercise of such a power, any reference in any enactment (including one contained in this Act) to him being, or being liable to be, detained in a hospital shall be construed accordingly.

(2) In subsection (1) above—

- (a) paragraph (a) shall not apply unless the court also makes an order under section 41 of the 1983 Act (restriction orders);
- (b) paragraph (c) shall not apply unless the Secretary of State also gives a direction under section 49 of that Act (restriction directions); ^{F88} ...

^{F89}(c)

(3) In this section—

“hospital”, in relation to any exercise of a power, has the same meaning as in the enactment which confers the power;

“hospital unit” means any part of a hospital which is treated as a separate unit.

^{F90}(4) A reference in this section to section 37 or 41 of the 1983 Act includes a reference to that section as it applies by virtue of—

- (a) section 5 of the Criminal Procedure (Insanity) Act 1964,
- (b) section 6 or 14 of the Criminal Appeal Act 1968, [^{F91}or]
- (c) [^{F92}Schedule 4 to the Armed Forces Act 2006 (including as applied by section 16(2) of the Court Martial Appeals Act 1968).]
- (d) section 16 or 23 of the Courts-Martial (Appeals) Act 1968.]

Textual Amendments

F86 Word in s. 47(1) repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), s. 60, [Sch. 11](#); S.I. 2005/579, art. 3(i)

F87 S. 47(1)(d) repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), s. 60, [Sch. 10 para. 45\(2\)](#), [Sch. 11](#) (with [Sch. 12 para. 8](#)); S.I. 2005/579, art. 3(g)(i)

F88 Word in s. 47(2) repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), s. 60, [Sch. 11](#); S.I. 2005/579, art. 3(i)

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- F89** S. 47(2)(c) repealed (31.3.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), s. 60, Sch. 10 para. 45(2), **Sch. 11** (with Sch. 12 para. 8); S.I. 2005/579, art. 3(g)(i)
- F90** S. 47(4) substituted (31.3.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), s. 60, **Sch. 10 para. 45(3)** (with Sch. 12 para. 8); S.I. 2005/579, art. 3(g)
- F91** Word in s. 47(4)(b) inserted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 16 para. 143**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F92** S. 47(4)(c) substituted for s. 47(4)(c)(d) (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 16 para. 143**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

48 Offenders conditionally discharged from hospital.

- (1) The 1983 Act and the 1984 Act shall have effect subject to the amendments specified in Schedule 3 to this Act, being amendments making provision with respect to transfers within the British Islands of responsibility for offenders conditionally discharged from hospital.
- (2) In this section and that Schedule “the 1984 Act” means the ^{M27}Mental Health (Scotland) Act 1984.

Marginal Citations

M27 1984 c.36.

49 Other amendments of the 1983 Act.

- (1) In subsection (5) of section 38 of the 1983 Act (interim hospital orders), for the words “six months” there shall be substituted the words “twelve months”.
- (2) In subsection (3) of section 41 of that Act (power of higher courts to restrict discharge from hospital), in paragraph (c)(ii), after the words “section 19 above” there shall be inserted the words “or in pursuance of subsection (3) of that section”.
- (3) In subsection (1) of section 47 of that Act (removal to hospital of persons serving sentences of imprisonment etc.), the words “(not being a mental nursing home)” shall cease to have effect.
- (4) In paragraph 5 of Part II of Schedule 1 to that Act (patients subject to hospital and guardianship orders)—
 - (a) the word “and” immediately following sub-paragraph (a) shall cease to have effect; and
 - (b) after sub-paragraph (b) there shall be inserted the words “and
 - (c) in subsection (3) after the words “may at any time” there shall be inserted the words “, with the consent of the Secretary of State,.”

Miscellaneous

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Textual Amendments
F93 S. 50 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F94 **51**

Textual Amendments
F94 S. 51 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F95 **52 Increased penalty for offence of indecency with children.**

.....

Textual Amendments
F95 S. 52 repealed (1.5.2004) by Sexual Offences Act 2003 (c. 42), s. 141, **Sch. 7**; S.I. 2004/874, art. 2

Supplemental

53 Financial provisions.

There shall be paid out of money provided by Parliament any increase attributable to this Act in the sums payable out of money so provided under any other Act.

54 General interpretation.

(1) In this Act—

- “the 1933 Act” means the ^{M28}Children and Young Persons Act 1933;
- “the 1969 Act” means the ^{M29}Children and Young Persons Act 1969;
- “the 1973 Act” means the ^{M30}Powers of Criminal Courts Act 1973;
- “the 1980 Act” means the ^{M31}Magistrates’ Courts Act 1980;
- “the 1982 Act” means the ^{M32}Criminal Justice Act 1982;
- “the 1983 Act” means the ^{M33}Mental Health Act 1983;
- “the 1991 Act” means the ^{M34}Criminal Justice Act 1991.

[^{F96}“local probation board” means a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000;]

F97 (2)

(3) 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 Act to have been committed on the last of those days.

[^{F98}(4) For the purposes of any provision of this Act which requires the determination of the age of a person by the court, his age shall be deemed to be that which it appears to the court to be after considering any available evidence.]

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Textual Amendments

- F96** S. 54(1): definition of “local probation board” inserted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 141**; S.I. 2001/919, **art. 2(f)(ii)**
- F97** S. 54(2) repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 133, **Sch. 10**; S.I. 1998/2327, **art. 2(2)(nn)(3)(x)**.
- F98** S. 54(4) added (30.9.1998) by 1998 c. 37, s. 106, **Sch. 7 para. 53**; S.I. 1998/2327, **art. 2(1)(w)**.

Marginal Citations

- M28** 1933 c.12.
M29 1969 c.54.
M30 1973 c.62.
M31 1980 c.43.
M32 1982 c.48.
M33 1983 c.20.
M34 1991 c.53.

55 Minor and consequential amendments. **E+W**

- (1) The enactments mentioned in Schedule 4 to this Act shall have effect subject to the amendments there specified, being minor amendments and amendments consequential on the provisions of this Act.
- (2) For the purposes of any of those enactments as so amended—
- ^{F99}(a)
- (b) a sentence falls to be imposed under subsection (3A) of section 70 of the ^{M35}Army Act 1955 or the ^{M36}Air Force Act 1955 or subsection (1A) of section 42 of the ^{M37}Naval Discipline Act 1957 if it is required by that subsection [^{F100}and] the court-martial is not of the opinion there mentioned.

Extent Information

- E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland and Northern Ireland only.

Textual Amendments

- F99** S. 55(2)(a) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)
- F100** Word in s. 55(2)(b) substituted (E.W.) (30.9.1998) by 1998 c. 37, s. 106, **Sch. 7 para. 54**; S.I. 1998/2327, **art. 2(1)(w)**.

Commencement Information

- I6** S. 55 wholly in force at 1.12.1999; S. 55 not in force at Royal Assent, see s. 57(2); S. 55(1)(2)(b) (and 55(2)(a) for specified purposes) in force at 1.10.1997 by S.I. 1997/2200, **art. 2(1)**; S. 55 in force at 1.12.1999 to the extent not already in force at 1.12.1999 by S.I. 1999/3096, **art. 2(d)**

Marginal Citations

- M35** 1955 c.18.
M36 1955 c.19.
M37 1957 c.53.

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55 Minor and consequential amendments. **S+N.I.**

- (1) The enactments mentioned in Schedule 4 to this Act shall have effect subject to the amendments there specified, being minor amendments and amendments consequential on the provisions of this Act.
- (2) For the purposes of any of those enactments as so amended—
 - ^{F218}(a)
 - (b) a sentence falls to be imposed under subsection (3A) of section 70 of the ^{M62}Army Act 1955 or the ^{M63}Air Force Act 1955 or subsection (1A) of section 42 of the ^{M64}Naval Discipline Act 1957 if it is required by that subsection in any case where the court-martial is not of the opinion there mentioned.

Extent Information

E2 This version of this provision extends to Scotland and Northern Ireland only; a separate version has been created for England and Wales only.

Textual Amendments

F218 S. 55(2)(a) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Commencement Information

I18 S. 55 wholly in force at 1.12.1999; S. 55 not in force at Royal Assent, see s. 57(2); S. 55(1)(2)(b) (and 55(2)(a) for specified purposes) in force at 1.10.1997 by S.I. 1997/2200, **art. 2(1)**; s. 55 in force to the extent not already in force at 1.12.1999 by S.I. 1999/3096, **art. 2(d)**

Marginal Citations

M62 1955 c.18.

M63 1955 c.19.

M64 1957 c.53.

56 Transitional provisions, savings and repeals.

- (1) The transitional provisions and savings contained in Schedule 5 to this Act shall have effect; but nothing in this subsection shall be taken as prejudicing the operation of sections 16 and 17 of the ^{M38}Interpretation Act 1978 (which relate to the effect of repeals).
- (2) The enactments specified in Schedule 6 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

Commencement Information

I7 S. 56(1)(2) in force at 1.10.1997 for specified purposes by S.I. 1997/2200, **art. 2(1)**

I8 S. 56(2) in force at 4.4.2005 for specified purposes by S.I. 2005/932, **art. 2(1)(2)(a)** (with art. 2(3))

Marginal Citations

M38 1978 c.30.

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57 Short title, commencement and extent.

- (1) This Act may be cited as the Crime (Sentences) Act 1997.
- (2) This Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint; and different days may be appointed for different purposes.
- (3) Without prejudice to the provisions of Schedule 5 to this Act, an order under subsection (2) above may make such transitional provisions and savings as appear to the Secretary of State necessary or expedient in connection with any provision brought into force by the order.
- (4) Subject to subsections (5) to (8) below, this Act extends to England and Wales only.
- (5) The following provisions of this Act extend to Scotland, Northern Ireland and the Channel Islands, namely—
 - (a) section 41 and Schedule 1; and
 - (b) section 56(2) and Schedule 6 so far as relating to the repeal of Part III of the ^{M39}Criminal Justice Act 1961.
- (6) The following provisions of this Act extend to Scotland, namely—
 - (a) section 45;
 - (b) paragraphs 1 and 5 to 8 of Schedule 2 and section 42 so far as relating to those paragraphs;
 - (c) paragraphs 1 and 6 to 10 of Schedule 3 and section 48 so far as relating to those paragraphs;
 - (d) paragraph 16 of Schedule 4 to this Act and section 55 so far as relating to that paragraph; and
 - (e) paragraphs 9, 11 and 12 of Schedule 5 and section 56(1) so far as relating to those paragraphs.
- (7) The following provisions of this Act extend to Northern Ireland, namely—
 - (a) paragraphs 1, 9 and 10 of Schedule 2 and section 42 so far as relating to those paragraphs;
 - (b) paragraphs 2, 3, 7 and 8 of Schedule 3 and section 48 so far as relating to those paragraphs; and
 - (c) paragraphs 10 and 12 of Schedule 5 and section 56(1) so far as relating to those paragraphs.
- (8) [^{F102}or the extent of Chapter II of Part II so far as it relates to sentences passed by a court-martial].]
[^{F101}Nothing in subsection (4) above affects the extent of section 47 of this Act so far as it confers a power on the Court Martial or the Court Martial Appeal Court.]

Subordinate Legislation Made

- P1** S. 57(2)(3): Power partly exercised (23.6.1997): 25.6.1997 appointed for specified provisions by [S.I. 1997/1581](#) and (8.9.1997): 1.10.1997, 1.1.1998 and 1.3.1998 appointed for specified provisions by [S.I. 1997/2200](#)
- S. 57(2)(3); Power partly exercised (17.11.1999); 1.12.1999 appointed for specified provisions by [S.I. 1999/3096](#), [art. 2](#)

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Textual Amendments

F101 S. 57(8) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 144](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

F102 Words in s. 57(8) inserted (retrospectively) by [2000 c. 43](#), s. 74, [Sch. 7 para. 142](#)

Modifications etc. (not altering text)

C15 S. 57(5)(b) amended (30.9.1998) by [1998 c. 37](#), s. 119, [Sch. 8 para. 134](#); S.I. 1998/2327, [art. 2\(2\)\(nn\)](#).

Marginal Citations

M39 [1961 c.39](#).

M40 [1955 c.18](#).

M41 [1955 c.19](#).

M42 [1957 c.53](#).

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SCHEDULES

SCHEDULE 1

Section 41.

TRANSFER OF PRISONERS WITHIN THE BRITISH ISLANDS

Modifications etc. (not altering text)

- C16** Sch. 1: exercise of functions restricted in or as regards Scotland (30.6.1999) by S.I. 1999/1748, art. 4(1), Sch. 2 para. 3
- C17** Sch. 1 excluded (1.1.1998) by S.I. 1997/2200, art. 5(6)
Sch. 1 excluded (18.9.1998) by S.I. 1998/2251, art. 16(5).
Sch. 1 excluded (1.9.2001) by 2001 c. 17, s. 42(5) (with s. 78); S.I. 2001/2161, art. 2
Sch. 1 extended (1.9.2001) by 2001 c. 17, s. 46(1) (with s. 78); S.I. 2001/2161, art. 2

PART I

POWERS OF TRANSFER

Modifications etc. (not altering text)

- C18** Sch. 1 Pt. I extended (with modifications) (18.12.1998) by S.I. 1998/2798, arts. 2, 3, Schs.1, 2.

Transfer of prisoners: general

- 1 (1) The Secretary of State may, on the application of—
- (a) a person remanded in custody in any part of the United Kingdom in connection with an offence; or
 - (b) a person serving a sentence of imprisonment in any part of the United Kingdom,
- make an order for his transfer to another part of the United Kingdom or to any of the Channel Islands, there to be remanded in custody pending his trial for the offence or, as the case may be, to serve the whole or any part of the remainder of his sentence, and for his removal to an appropriate institution there.
- (2) Where—
- (a) a person is remanded in custody in any of the Channel Islands in connection with an offence; or
 - (b) a person has been sentenced to imprisonment in any of the Channel Islands,
- the Secretary of State may, without application in that behalf, make an order for his transfer to any part of the United Kingdom, there to be remanded in custody pending his trial for the offence or, as the case may be, to serve the whole or any part of his sentence or the remainder of his sentence, and for his removal to an appropriate institution there.

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- [^{F103}(2A) If it appears to the Secretary of State that—
- (a) a person remanded in custody in Northern Ireland in connection with an offence, or
 - (b) a person serving a sentence of imprisonment in Northern Ireland;
- should be transferred to another part of the United Kingdom in the interests of maintaining security or good order in any prison in Northern Ireland, the Secretary of State may make an order for his transfer to that other part, there to be remanded in custody pending his trial or, as the case may be, to serve the whole or any part of the remainder of his sentence, and for his removal to an appropriate institution there.]
- (3) In this paragraph “appropriate institution”—
- (a) in relation to a person remanded in custody, means any prison or other institution;
 - (b) in relation to a person sentenced to imprisonment, means, subject to sub-paragraph (4) below, any institution which would be appropriate for the detention of an offender of the same age serving an equivalent sentence passed by a court in the country or island to which he is transferred.
- (4) Sub-paragraph (3)(b) above shall have effect in relation to a person serving a sentence of a length which could not have been passed on an offender of his age by a court in the place to which he has been transferred as if it defined “appropriate institution” as meaning such place as the Secretary of State may direct.

Textual Amendments

F103 Sch. 1 para. 1(2A) inserted (14.7.2004) by Justice (Northern Ireland) Act 2004 (c. 4), ss. 13(2), 19(1); S.R. 2004/267, art. 2

Modifications etc. (not altering text)

C19 Sch. 1 paras. 1-7 extended (with modifications) (1.10.1997) by S.I. 1997/1775, art. 2, Sch.; S.I. 1997/2200, art. 2

C20 Sch. 1 para. 1(1)(4) amended (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, Sch. 2 Pt. I para. 130(2); S.I. 1998/3178, art. 3

Transfer of prisoners for trial

- 2 (1) If it appears to the Secretary of State that—
- (a) a person remanded in custody in any part of the United Kingdom in connection with an offence; or
 - (b) a person serving a sentence of imprisonment in any part of the United Kingdom,
- should be transferred to another part of the United Kingdom or to any of the Channel Islands for the purpose of attending criminal proceedings against him there, the Secretary of State may make an order for his transfer to that other part or that island and for his removal to a prison or other institution there.
- (2) If it appears to the Secretary of State that—
- (a) a person remanded in custody in any of the Channel Islands in connection with an offence; or
 - (b) a person serving a sentence of imprisonment in any of the Channel Islands,

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should be transferred to a part of the United Kingdom for the purpose of attending criminal proceedings against him there, the Secretary of State may make an order for his transfer to that part and for his removal to a prison or other institution there.

- (3) Where a person has been transferred under sub-paragraph (1)(a) or (2)(a) above for the purpose of any proceedings, the Secretary of State may, if that person is not sentenced to imprisonment in those proceedings, make an order for his return to the country or island from which he was transferred under that sub-paragraph.
- (4) Where a person has been transferred under sub-paragraph (1)(b) or (2)(b) above for the purpose of any proceedings, the Secretary of State may—
 - (a) if that person is sentenced to imprisonment in those proceedings, make an order under paragraph 1(1)(b) or (2)(b) above (but without application in that behalf) transferring him back to the country or island from which he was transferred under that sub-paragraph;
 - (b) if he is not so sentenced, make an order for his return to the said country or island, there to serve the remainder of the sentence referred to in that sub-paragraph.

Modifications etc. (not altering text)

C21 Sch. 1 paras. 1-7 extended (with modifications) (1.10.1997) by [S.I. 1997/1775](#), [art. 2](#), Sch.; [S.I. 1997/2200](#), [art. 2](#)

C22 Sch. 1 para. 2(1)(3)(4) amended (1.7.1999) by [S.I. 1999/1820](#), [arts. 1\(2\), 4](#), [Sch. 2 Pt. I para. 130\(3\)](#); [S.I. 1998/3178](#), [art. 3](#)

Transfer of prisoners for other judicial purposes

- 3 (1) If the Secretary of State is satisfied, in the case of—
 - (a) a person remanded in custody in any part of the United Kingdom in connection with an offence;
 - (b) a person serving a sentence of imprisonment in any part of the United Kingdom; or
 - (c) a person not falling within paragraph (a) or (b) above who is detained in a prison in any part of the United Kingdom,that the attendance of that person at any place in that or any other part of the United Kingdom or in any of the Channel Islands is desirable in the interests of justice or for the purposes of any public inquiry, the Secretary of State may direct that person to be taken to that place.
- (2) If the Secretary of State is satisfied, in the case of—
 - (a) a person remanded in custody in any of the Channel Islands in connection with an offence;
 - (b) a person serving a sentence of imprisonment in any of the Islands; or
 - (c) a person not falling within paragraph (a) or (b) above who is detained in a prison in any of the Channel Islands,that the attendance of that person at any place in the United Kingdom is desirable in the interests of justice or for the purposes of any public inquiry, the Secretary of State may direct that person to be taken to that place.

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- (3) Where any person is directed under this paragraph to be taken to any place he shall, unless the Secretary of State otherwise directs, be kept in custody while being so taken, while at that place, and while being taken back to the prison or other institution or place in which he is required in accordance with law to be detained.

Modifications etc. (not altering text)

- C23** Sch. 1 paras. 1-7 extended (with modifications) (1.10.1997) by [S.I. 1997/1775](#), [art. 2](#), Sch.; [S.I. 1997/2200](#), [art. 2](#)
- C24** Sch. 1 para. 3(1)(3) amended (1.7.1999) by [S.I. 1999/1820](#), [arts. 1\(2\), 4](#), [Sch. 2 Pt. I para. 1\(4\)](#); [S.I. 1998/3178](#), [art. 3](#)

Transfer of supervision of released prisoners

- 4 (1) The Secretary of State may, on the application of a person undergoing or about to undergo supervision in any part of the United Kingdom, make an order for the transfer of his supervision to another part of the United Kingdom or to any of the Channel Islands, that is to say, an order—
- (a) for his supervision or, as the case may be, the remainder of his supervision to be undergone in that country or island; and
 - (b) for responsibility for his supervision to be transferred to an appropriate person there.
- (2) The Secretary of State may, on the application of a person undergoing or about to undergo supervision in any of the Channel Islands, make an order for the transfer of his supervision to any part of the United Kingdom, that is to say, an order—
- (a) for his supervision or, as the case may be, the remainder of his supervision to be undergone in that country; and
 - (b) for responsibility for his supervision to be transferred to an appropriate person there.

Modifications etc. (not altering text)

- C25** Sch. 1 paras. 1-7 extended (with modifications) (1.10.1997) by [S.I. 1997/1775](#), [art. 2](#), Sch.; [S.I. 1997/2200](#), [art. 2](#)
- C26** Sch. 1 para. 4(1) amended (1.7.1999) by [S.I. 1999/1820](#), [arts. 1\(2\), 4](#), [Sch. 2 Pt. I para. 130\(5\)](#); [S.I. 1998/3178](#), [art. 3](#)

Conditions of transfers

- 5 (1) A transfer under this Part [^{F104}(other than a transfer under paragraph 1(2A))] shall have effect subject to such conditions (if any) as the Secretary of State may think fit to impose.
- (2) Subject to sub-paragraph (3) below, a condition imposed under this paragraph may be varied or removed at any time.
- (3) Such a condition as is mentioned in paragraph 6(1)(a) below shall not be varied or removed except with the consent of the person to whom the transfer relates.

Status: Point in time view as at 01/04/2009. This version of this Act contains provisions that are prospective.
Changes to legislation: Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 09 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F104 Words in Sch. 1 para. 5(1) inserted (14.7.2004) by Justice (Northern Ireland) Act 2004 (c. 4), ss. 13(3), 19(1); S.R. 2004/267, art. 2

Modifications etc. (not altering text)

C27 Sch. 1 paras. 1-7 extended (with modifications) (1.10.1997) by S.I. 1997/1775, art. 2, Sch.; S.I. 1997/2200, art. 2

C28 Sch. 1 para. 5(1) amended (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, Sch. 2 Pt. I para. 130(6); S.I. 1998/3178, art. 3

[^{F105}Conditions of transfer under paragraph 1(2A)

Textual Amendments

F105 Sch. 1 para. 5A and cross-heading inserted (14.7.2004) by Justice (Northern Ireland) Act 2004 (c. 4), ss. 13(4), 19(1); S.R. 2004/267, art. 2

- 5A (1) A transfer under paragraph 1(2A) shall have effect subject to—
- (a) such a condition as is mentioned in paragraph 6(1)(a); and
 - (b) such other conditions (if any) as the Secretary of State may think fit to impose.
- (2) Such a condition as is mentioned in paragraph 6(1)(a) shall not be varied or removed.
- (3) A condition imposed under sub-paragraph (1)(b) may be varied or removed at any time.]

PART II

EFFECT OF TRANSFERS

Modifications etc. (not altering text)

C29 Sch. 1 Pt. II excluded (28.7.1998) by 1998 c. 35, s. 17, Sch. 3 para. 9(1); S.I. 1998/1858, art. 2.

Preliminary

PROSPECTIVE

- 6 (1) For the purposes of this Part of this Schedule, a transfer under Part I of this Schedule—
- (a) is a restricted transfer if it is subject to a condition that the person to whom it relates is to be treated for the relevant purposes as if he were still subject to the provisions applicable for those purposes under the law of the place from which the transfer is made; and
 - (b) is an unrestricted transfer if it is not so subject.

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(2) In this Part of this Schedule “the relevant purposes” means—

- (a) in relation to the transfer of a person under paragraph 1(1)(a) or (2)(a) [F106 or (2A)(a)], 2(1)(a) or (2)(a) or 3(1)(a) or (2)(a) above, the purposes of his remand in custody and, where applicable, the purposes of his detention under and release from any sentence of imprisonment that may be imposed;
- (b) in relation to the transfer of a person under paragraph 1(1)(b) or (2)(b) [F107 or (2A)(b)], 2(1)(b) or (2)(b) or 3(1)(b) or (2)(b) above, the purposes of his detention under and release from his sentence and, where applicable, the purposes of his supervision [F108, possible recall following release and any supervision default order]; and
- (c) in relation to the transfer of a person’s supervision under paragraph 4(1) or (2) above, the purposes of his supervision [F109, possible recall and any supervision default order].

(3) In this paragraph “recall” means—

- (a) in relation to a person who is supervised in pursuance of an order made for the purpose, being sentenced to imprisonment, or being recalled to prison, for a breach of any condition of the order;
- [F110](aa) in relation to a person who is supervised in pursuance of a detention and training order, being ordered to be detained for any failure to comply with requirements under [section 242(2)(b) of the Sentencing Code];
- (b) in relation to a person who is supervised in pursuance of a condition contained in a licence, being [F111]recalled or returned to prison], whether for a breach of any condition of the licence or otherwise.
- [F112](c) in relation to a person who is supervised under section 256AA of the 2003 Act, being ordered to be committed to prison or detention for failure to comply with a requirement imposed under that section or by a supervision default order;
- (d) in relation to a person who is supervised under section 256B of the 2003 Act, being ordered to be detained for failure to comply with a supervision requirement imposed under that section.]

[F113](4) In this Part of this Schedule—

“the 2003 Act” means the Criminal Justice Act 2003;

No commentary item could be found for this reference key-d947cce6a599fc1f7e4c2d3aa942a217...

No commentary item could be found for this reference key-d947cce6a599fc1f7e4c2d3aa942a217...

[F114]“supervision default order” has the meaning given in section 268(1) of the 2003 Act;]]

Textual Amendments

F106 Words in Sch. 1 para. 6(2)(a) inserted (14.7.2004) by [Justice \(Northern Ireland\) Act 2004 \(c. 4\), ss. 13\(5\)\(a\), 19\(1\)](#); [S.R. 2004/267, art. 2](#)

F107 Words in Sch. 1 para. 6(2)(b) inserted (14.7.2004) by [Justice \(Northern Ireland\) Act 2004 \(c. 4\), ss. 13\(5\)\(b\), 19\(1\)](#); [S.R. 2004/267, art. 2](#)

F108 Words in Sch. 1 para. 6(2)(b) substituted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\), s. 22\(1\), Sch. 3 para. 2\(2\)](#) (with [Sch. 7 para. 2](#)); [S.I. 2015/40, art. 2\(u\)](#)

Status: Point in time view as at 01/04/2009. This version of this Act contains provisions that are prospective.

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- F109** Words in Sch. 1 para. 6(2)(c) substituted (1.2.2015) by **Offender Rehabilitation Act 2014 (c. 11), s. 22(1), Sch. 3 para. 2(3)** (with **Sch. 7 para. 2**); S.I. 2015/40, art. 2(u)
- F110** Sch. 1 para. 6(3)(aa) inserted (1.4.2000) by 1998 c. 37, s. 119, **Sch. 8 para. 135(2)(a)**; S.I. 1999/3426, **art. 3(b)**
- F111** Words in Sch. 1 para. 6(3)(b) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 135(2)(b)**; S.I. 1998/2327, **art. 2(2)(oo)**.
- F112** Sch. 1 para. 6(3)(c)(d) inserted (1.2.2015) by **Offender Rehabilitation Act 2014 (c. 11), s. 22(1), Sch. 3 para. 2(4)** (with **Sch. 7 para. 2**); S.I. 2015/40, art. 2(u)
- F113** Sch. 1 para. 6(4) inserted (4.4.2005) by **Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 32 para. 85(2)**; S.I. 2005/950, art. 2(1), **Sch. 1 para. 42(32)** (with **Sch. 2**) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))
- F114** Words in Sch. 1 para. 6(4) inserted (1.2.2015) by **Offender Rehabilitation Act 2014 (c. 11), s. 22(1), Sch. 3 para. 2(5)** (with **Sch. 7 para. 2**); S.I. 2015/40, art. 2(u)

Modifications etc. (not altering text)

- C30** Sch. 1 paras. 1-7 extended (with modifications) (1.10.1997) by S.I. 1997/1775, art. 2, **Sch.**; S.I. 1997/2200, **art. 2**

Restricted transfers: general

- 7 (1) Where—
- (a) a person's transfer under paragraph 1, 2 or 3 above; or
 - (b) a transfer under paragraph 4 above of a person's supervision,
- is a restricted transfer, that person or, as the case may be, his supervision may by order be transferred back to the country or island from which he or it was transferred.
- (2) Where a person's transfer under paragraph 1 or 2 above is a restricted transfer, that person shall while in the country or territory to which he is transferred be kept in custody except in so far as the Secretary of State may in any case or class of case otherwise direct.

Modifications etc. (not altering text)

- C31** Sch. 1 paras. 1-7 extended (with modifications) (1.10.1997) by S.I. 1997/1775, **art. 2**, Sch.; S.I. 1997/2200, **art. 2**
- C32** Sch. 1 para. 7 amended (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 130(7)**; S.I. 1998/3178, **art. 3**

Restricted transfers from England and Wales to Scotland

- 8 (1) Where a person's transfer under paragraph 1(1)(a), 2(1)(a) or 3(1)(a) above from England and Wales to Scotland is a restricted transfer—
- (a) regulations made under section 22 of the ^{M43}Prosecution of Offences Act 1985 (time limits in relation to preliminary stages of proceedings) shall apply to him in place of the corresponding provisions of the law of Scotland; but
 - (b) subject to that and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if he had been remanded for an offence committed in Scotland.

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- (2) Where a person’s transfer under paragraph 1(1)(b), 2(1)(b) or 3(1)(b) above from England and Wales to Scotland is a restricted transfer—
- [^{F115}(a) sections 241, 244, [^{F116}246 to 264A] of the 2003 Act (fixed-term prisoners) or, as the case may require, sections 102 to 104 of the Powers of Criminal Courts (Sentencing) Act 2000 (detention and training orders) or sections 28 to 34 of this Act (life sentences) shall apply to him in place of the corresponding provisions of the law of Scotland;
 - (aa) sections 62 and 64 of the Criminal Justice and Court Services Act 2000 (which relate to licence conditions) shall apply to him in place of the corresponding provisions of the law of Scotland;
 - (ab) where a custody plus order or intermittent custody order has effect in relation to him, the provisions of Chapters 3 and 4 of Part 12 of the 2003 Act relating to such orders shall also apply to him (subject to Schedule 11 to that Act); and]
 - (b) subject to that, to sub-paragraph (3) below and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if his sentence had been an equivalent sentence passed by a court in Scotland.
- (3) A person who has been sentenced to a sentence of a length which could not have been passed on an offender of his age in the place to which he has been transferred shall be treated for the purposes mentioned in sub-paragraph (2) above as the Secretary of State may direct.
- (4) Where a transfer under paragraph 4(1) above of a person’s supervision from England and Wales to Scotland is a restricted transfer—
- [^{F117}(a) sections 241 [^{F118}and 249] to [^{F119}264A] of the 2003 Act (fixed-term prisoners) or, as the case may require, sections 103 and 104 of the Powers of Criminal Courts (Sentencing) Act 2000 (detention and training orders) or sections 31 to 34 of this Act (life sentences) shall apply to him in place of the corresponding provisions of the law of Scotland;
 - (aa) sections 62 and 64 of the Criminal Justice and Court Services Act 2000 (which relate to licence conditions) shall apply to him in place of the corresponding provisions of the law of Scotland;
 - (ab) where a custody plus order or intermittent custody order has effect in relation to him, the provisions of Chapters 3 and 4 of Part 12 of the 2003 Act relating to such orders shall also apply to him (subject to Schedule 11 to that Act); and]
 - (b) subject to that and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if his period of supervision had been an equivalent period of supervision directed to be undergone in Scotland.
- [^{F120}(5) Section 31(2A) of this Act (conditions as to supervision after release), as applied by sub-paragraph (2) or (4) above, shall have effect as if for paragraphs (a) to (c) there were substituted the words “a relevant officer of such local authority as may be specified in the licence”.]
- [^{F120}(6) Any provision of sections 102 to 104 of the Powers of Criminal Courts (Sentencing) Act 2000 which is applied by sub-paragraph (2) or (4) above shall have effect (as so applied) as if—
- (a) any reference to [^{F121}youth detention] accommodation were a reference to secure accommodation within the meaning of Part 2 of the Children

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- (Scotland) Act 1995 or a young offenders institution provided under section 19(1)(b) of the Prisons (Scotland) Act 1989,
- (b) except in section 103(2), any reference to the Secretary of State were a reference to the Scottish Ministers,
- (c) any reference to an officer of a [^{F122}provider of probation services] were a reference to a relevant officer as defined by section 27(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993,
- (d) any reference to a youth court were a reference to a sheriff court,
- (e) in section 103, any reference to a [local justice area] were a reference to a local government area within the meaning of the Local Government etc. (Scotland) Act 1994,
- [^{F123}(ea) in section 103(3)(a), the reference to “an officer of a local probation board” were omitted,]
- (f) in section 103(3), for paragraphs (b) and (c) there were substituted a reference to an officer of a local authority constituted under that Act for the local government area in which the offender resides for the time being,
- [^{F124}(fa) section 103(4) were omitted,]
- (g) section 103(5) were omitted,
- (h) in section 104, for subsection (1) there were substituted—
- “(1) Where a detention and training order is in force in respect of an offender and it appears on information to a sheriff court having jurisdiction in the locality in which the offender resides that the offender has failed to comply with requirements under section 103(6)(b), the court may—
- (a) issue a citation requiring the offender to appear before it at the time specified in the citation, or
- (b) issue a warrant for the offender’s arrest.”,
- (i) section 104(2) were omitted, and
- (j) in section 104(6), the reference to the Crown Court were a reference to the High Court of Justiciary.]

Textual Amendments

- F115** Sch. 1 para. 8(2)(a)-(ab) substituted for Sch. 1 para. 8(2)(a) (4.4.2005) by [Criminal Justice Act 2003](#) (c. 44), s. 336(3)(4), [Sch. 32 para. 85\(3\)\(a\)](#); S.I. 2005/950, art. 2(1), Sch. 1 para. 42(32) (with saving in Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; S.I. 2012/2906, art. 2(1)); and Sch. 1 para. 8(2)(a) (in so far as it continues to have effect in relation to prisoners serving sentences of imprisonment for offences committed before 4.4.2005) amended (14.7.2008) by [Criminal Justice and Immigration Act 2008](#) (c. 4), s. 153(7), [Sch. 26 para. 32\(2\)\(4\)](#); S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(n)
- F116** Words in Sch. 1 para. 8(2)(a) substituted (1.4.2006) by [The Management of Offenders etc. \(Scotland\) Act 2005 \(Consequential Modifications\) Order 2006](#) (S.I. 2006/1055), arts. 1(1), [2\(a\)](#)
- F117** Sch. 1 para. 8(4)(a)-(ab) substituted for Sch. 1 para. 8(4)(a) (4.4.2005) by [Criminal Justice Act 2003](#) (c. 44), s. 336(3)(4), [Sch. 32 para. 85\(3\)\(b\)](#); S.I. 2005/950, art. 2(1), Sch. 1 para. 42(32) (with saving in Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; S.I.

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2012/2906, art. 2(1)); and Sch. 1 para. 8(4)(a) (in so far as it continues to have effect in relation to prisoners serving sentences of imprisonment for offences committed before 4.4.2005) amended (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 26 para. 32(3)(4)**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(n)

F118 Words in Sch. 1 para. 8(4)(a) substituted (1.4.2006) by *The Management of Offenders etc. (Scotland) Act 2005 (Consequential Modifications) Order 2006* (S.I. 2006/1055), arts. 1(1), **2(b)**

F119 Word in Sch. 1 para. 8(4)(a) substituted (31.3.2005) by *Domestic Violence, Crime and Victims Act 2004* (c. 28), s. 60, **Sch. 10 para. 46(2)**; S.I. 2005/579, art. **3(g)**

F120 Sch. 1 para. 8(5)(6) substituted for Sch. 1 para. 8(5)-(7) (4.4.2005) by *Criminal Justice Act 2003* (c. 44), s. 336(3)(4), **Sch. 32 para. 85(3)(c)**; S.I. 2005/950, art. 2(1), Sch. 1 para. 42(32) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(1))

F121 Words in Sch. 1 para. 8(6)(a) substituted (1.11.2007) by *Offender Management Act 2007* (c. 21), s. 41(1), **Sch. 3 para. 15(2)**; S.I. 2007/3001, art. 2(1)(r)

F122 Words in Sch. 1 para. 8(6)(c) substituted (1.4.2008) by *The Offender Management Act 2007 (Consequential Amendments) Order 2008* (S.I. 2008/912), **Sch. 1 para. 12(3)(a)(i)**

F123 Sch. 1 para. 8(6)(ea) inserted (1.4.2008) by *The Offender Management Act 2007 (Consequential Amendments) Order 2008* (S.I. 2008/912), **Sch. 1 para. 12(3)(a)(ii)**

F124 Sch. 1 para. 8(6)(fa) inserted (1.4.2008) by *The Offender Management Act 2007 (Consequential Amendments) Order 2008* (S.I. 2008/912), **Sch. 1 para. 12(3)(a)(iii)**

Modifications etc. (not altering text)

C33 Sch. 1 para. 8(2)(4) modified (19.9.1998) by S.I. 1998/2327, art. **5(2)(c)(d)**.

Marginal Citations

M43 1985 c.23.

Restricted transfers from England and Wales to Northern Ireland

9 (1) Where a person's transfer under paragraph 1(1)(a), 2(1)(a) or 3(1)(a) above from England and Wales to Northern Ireland is a restricted transfer—

^{F125}(a)

(b) subject ^{F126}... to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if he had been remanded for an offence committed in Northern Ireland.

(2) Where a person's transfer under paragraph 1(1)(b), 2(1)(b) or 3(1)(b) above from England and Wales to Northern Ireland is a restricted transfer—

[^{F127}(a) sections 241, 244, 247 to 252 and 254 to [^{F128}264A] of the 2003 Act (fixed-term prisoners) or, as the case may require, sections 102 to 104 of the Powers of Criminal Courts (Sentencing) Act 2000 (detention and training orders) or sections 28 to 34 of this Act (life sentences) shall apply to him in place of the corresponding provisions of the law of Northern Ireland;

(aa) sections 62 and 64 of the Criminal Justice and Court Services Act 2000 (which relate to licence conditions) shall apply to him in place of the corresponding provisions of the law of Northern Ireland;

(ab) where a custody plus order or intermittent custody order has effect in relation to him, the provisions of Chapters 3 and 4 of Part 12 of the 2003 Act relating to such orders shall apply to him (subject to Schedule 11 to that Act); and]

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- (b) subject to that, to sub-paragraph (3) below and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if that sentence had been an equivalent sentence passed by a court in Northern Ireland.
- (3) A person who has been sentenced to a sentence of a length which could not have been passed on an offender of his age in the place to which he has been transferred shall be treated for the purposes mentioned in sub-paragraph (2) above as the Secretary of State may direct.
- (4) Where a transfer under paragraph 4(1) above of a person's supervision from England and Wales to Northern Ireland is a restricted transfer—
- [^{F129}(a) sections 241, 249 to 252 and 254 to [^{F130}264A] of the 2003 Act (fixed-term prisoners) or, as the case may require, sections 103 and 104 of the Powers of Criminal Courts (Sentencing) Act 2000 (detention and training orders) or sections 31 to 34 of this Act (life sentences) shall apply to him in place of the corresponding provisions of the law of Northern Ireland;
- (aa) sections 62 and 64 of the Criminal Justice and Court Services Act 2000 (which relate to licence conditions) shall apply to him in place of the corresponding provisions of the law of Northern Ireland;
- (ab) where a custody plus order or intermittent custody order has effect in relation to him, the provisions of Chapters 3 and 4 of Part 12 of the 2003 Act relating to such orders shall apply to him (subject to Schedule 11 to that Act); and]
- (b) subject to that and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if his period of supervision had been an equivalent period of supervision directed to be undergone in Northern Ireland.
- [^{F131}(5) Section 31(2A) of this Act (conditions as to supervision after release), as applied by sub-paragraph (2) or (4) above, shall have effect as if for paragraphs (a) to (c) there were substituted the words “a probation appointed for or assigned to the petty sessions district within which the prisoner for the time being resides”.]
- (8) Section 65(7)(b) of the 1991 Act, as applied by sub-paragraph (1), (2) or (4) above, shall have effect as if the reference to a young offender institution were a reference to a young offenders centre.

Textual Amendments

F125 Sch. 1 para. 9(1)(a) repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 135(4)(a), **Sch. 10**; S.I. 1998/2327, **art. 2(2)(oo)(3)(x)**.

F126 Words in Sch. 1 para. 9(1)(b) repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 135(4)(a), **Sch. 10**; S.I. 1998/2327, **art. 2(2)(oo)(3)(x)**.

F127 Sch. 1 para. 9(2)(a)-(ab) substituted for Sch. 1 para. 9(2)(a) (4.4.2005) by **Criminal Justice Act 2003** (c. 44), s. 336(3)(4), **Sch. 32 para. 85(4)(a)**; S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(32) (with saving in Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, **art. 2**; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, **art. 2**; (3.12.2012) by S.I. 2012/2905, **art. 4**; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, **art. 2(1)**); and Sch. 1 para. 9(2)(a) (in so far as it continues to have effect in relation to prisoners serving sentences of imprisonment for offences committed before 4.4.2005) amended (14.7.2008) by **Criminal Justice and Immigration Act 2008** (c. 4), s. 153(7), **Sch. 26 para. 32(5)(7)**; S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 48(n)

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Changes to legislation: *Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 09 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- F128** Word in Sch. 1 para. 9(2)(a) substituted (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), s. 60, Sch. 10 para. 46\(3\)](#); S.I. 2005/579, [art. 3\(g\)](#)
- F129** Sch. 1 para. 9(4)(a)-(ab) substituted for Sch. 1 para. 9(4)(a) (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 85\(4\)\(b\)](#); S.I. 2005/950, [art. 2\(1\)](#), Sch. 1 para. 42(32) (with saving in Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, [art. 2](#); and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, [art. 2](#); (3.12.2012) by S.I. 2012/2905, [art. 4](#); (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, [art. 2\(l\)](#)); and Sch. 1 para. 9(4)(a) (in so far as it continues to have effect in relation to prisoners serving sentences of imprisonment for offences committed before 4.4.2005) amended (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(7\), Sch. 26 para. 32\(6\)\(7\)](#); S.I. 2008/1586, [art. 2\(1\)](#), Sch. 1 para. 48(n)
- F130** Word in Sch. 1 para. 9(4)(a) substituted (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), s. 60, Sch. 10 para. 46\(3\)](#); S.I. 2005/579, [art. 3\(g\)](#)
- F131** Sch. 1 para. 9(5) substituted for Sch. 1 para. 9(5)-(7) (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 85\(4\)\(c\)](#); S.I. 2005/950, [art. 2\(1\)](#), Sch. 1 para. 42(32) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, [art. 2](#); and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, [art. 2](#); (3.12.2012) by S.I. 2012/2905, [art. 4](#); (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, [art. 2\(l\)](#))

Modifications etc. (not altering text)

- C34** Sch. 1 para 9(2)(4) modified (19.9.1998) by [S.I. 1998/2327, art. 5\(2\)\(c\)\(d\)](#).

Restricted transfers from Scotland to England and Wales

- 10 (1) Where a person's transfer under paragraph 1(1)(a), 2(1)(a) or 3(1)(a) above from Scotland to England and Wales is a restricted transfer—
- (a) sections 65 and 147 of the ^{M44}Criminal Procedure (Scotland) Act 1995 (time limits for solemn and summary prosecutions where prisoner remanded in custody) shall apply to him in the place of the corresponding provisions of the law of England and Wales; but
 - (b) subject to that and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if he had been remanded for an offence committed in England and Wales.
- (2) Where a person's transfer under paragraph 1(1)(b), 2(1)(b) or 3(1)(b) from Scotland to England and Wales is a restricted transfer—
- (a) [^{F132}sections 1, [^{F133}1AA, 1A, 3, 3AA], 3A, 5, 6(1)(a), 7, 9, 11 to 13, 15 to 21, 26A and 27 of, and Schedules 2 and 6 to, the ^{M45}Prisoners and Criminal Proceedings (Scotland) Act 1993 (“the 1993 Act”)] or, as the case may require, sections 1(4), 2, 3, [^{F134}6(1)(b)(i) and (iii)] 11 to 13 and 17 of the 1993 Act shall apply to him in place of the corresponding provisions of the law of England and Wales; but
 - (b) subject to that, to [^{F135}sub-paragraph (3)] below and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if his sentence had been an equivalent sentence passed by a court in England and Wales.
- (3) A person who has been sentenced to a sentence of a length which could not have been passed on an offender of his age in the place to which he is transferred shall be treated for the purposes mentioned in sub-paragraph (2) above as the Secretary of State may direct.

Status: Point in time view as at 01/04/2009. This version of this Act contains provisions that are prospective.

Changes to legislation: Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 09 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- ^{F136}(4)
- (5) Where a transfer under paragraph 4(1) above of a person's supervision from Scotland to England and Wales is a restricted transfer—
- (a) [^{F137}sections [^{F138}1AA, 1A, 2(4), 3AA], 3A, 11 to 13, 15 to 21, 26A and 27 of, and Schedules 2 and 6 to, the 1993 Act] or, as the case may require, sections 2(4), 11 to 13 and 17 of the 1993 Act shall apply to him in place of the corresponding provisions of the law of England and Wales; but
- (b) subject to that and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if his period of supervision had been an equivalent period of supervision directed to be undergone in England and Wales.
- (6) Any reference in—
- (a) sub-paragraphs (2) and (5) above to sections 15, 18 and 19 of the 1993 Act is a reference to those sections so far as relating to supervised release orders;
- ^{F139}(b) in the said sub-paragraph (2) the reference to section 6(1)(b)(i) of the 1993 Act is a reference to that provision so far as it relates to a person sentenced under section 205(3) of the ^{M46}Criminal Procedure (Scotland) Act 1995.]
- ^{F140}(7) Any provision of Part I of the 1993 Act which is applied by sub-paragraph (2) or (5) above shall have effect (as so applied) as if any reference to a chief social work officer were a reference to a chief social worker of a local authority social services department.]

Textual Amendments

- F132** Words in Sch. 1 para. 10(2)(a) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 135(5)(a)(i)**; S.I. 1998/2327, **art. 2(2)(oo)**.
- F133** Words in Sch. 1 para. 10(2)(a) substituted (S.) (8.2.2006) by **Management of Offenders etc. (Scotland) Act 2005 (asp 14), ss. 21(8)(a)(i), 24(2)**; S.S.I. 2006/48, **art. 3(1), sch. Pt. 1**; substitution extended to E.W.and N.I. (1.4.2006) by The Management of Offenders etc. (Scotland) Act 2005 (Consequential Modifications) Order 2006 (S.I. 2006/1055), **art. 3**
- F134** Words in Sch. 1 para. 10(2)(a) inserted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 135(5)(a)(ii)**; S.I. 1998/2327, **art. 2(2)(oo)**.
- F135** Words in Sch. 1 para. 10(2)(b) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 135(5)(b)**; S.I. 1998/2327, **art. 2(2)(oo)**.
- F136** Sch. 1 para. 10(4) repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), **Sch. 8 para. 135(5)(c), Sch.10**; S.I. 1998/2327, **art. 2(2)(oo)(3)(x)**.
- F137** Words in Sch. 1 para. 10(5)(a) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 135(5)(d)**; S.I. 1998/2327, **art. 2(2)(oo)**.
- F138** Words in Sch. 1 para. 10(5)(a) substituted (S.) (8.2.2006) by **Management of Offenders etc. (Scotland) Act 2005 (asp 14), ss. 21(8)(a)(ii), 24(2)**; S.S.I. 2006/48, **art. 3(1), sch. Pt. 1**; substitution extended to E.W.and N.I. (1.4.2006) by The Management of Offenders etc. (Scotland) Act 2005 (Consequential Modifications) Order 2006 (S.I. 2006/1055), **art. 3**
- F139** Sch. 1 para. 10(6)(b) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 135(5)(e)**; S.I. 1998/2327, **art. 2(2)(oo)**.
- F140** Sch. 1 para. 10(7) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 135(5)(f)**; S.I. 1998/2327, **art. 2(2)(oo)**.

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Modifications etc. (not altering text)

C35 Sch. 1 para. 10(3)(7) amended (1.7.1999) by **S.I. 1999/1820, arts. 1(2), 4, Sch. 2 para. 130(8); S.I. 1998/3178, art. 3**

Marginal Citations

M44 1995 c.46.

M45 1993 c.9.

M46 1995 c.46.

Restricted transfers from Scotland to Northern Ireland

- 11 (1) Where a person's transfer under paragraph 1(1)(a), 2(1)(a) or 3(1)(a) above from Scotland to Northern Ireland is a restricted transfer—
- (a) sections 65 and 147 of the ^{M47}Criminal Procedure (Scotland) Act 1995 (time limits for solemn and summary prosecutions where prisoner remanded in custody) shall apply to him as if they were part of the law of Northern Ireland; but
 - (b) subject to that and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if he had been remanded for an offence committed in Northern Ireland.
- (2) Where a person's transfer under paragraph 1(1)(b), 2(1)(b) or 3(1)(b) from Scotland ^{F141}to Northern Ireland is a restricted transfer—
- (a) ^{F142}sections 1, ^{F143}1AA, 1A, 3, 3AA, 3A, 5, 6(1)(a), 7, 9, 11 to 13, 15 to 21, 26A and 27 of, and Schedules 2 and 6 to, the 1993 Act] or, as the case may require, sections 1(4), 2, 3, ^{F144}6(1)(b)(i) and (iii),] 11 to 13 and 17 of the 1993 Act shall apply to him in place of the corresponding provisions of the law of Northern Ireland; but
 - (b) subject to that, to sub-paragraph (3) below and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if his sentence had been an equivalent sentence passed by a court in Northern Ireland.
- (3) A person who has been sentenced to a sentence of a length which could not have been passed on an offender of his age in the place to which he is transferred shall be treated for the purposes mentioned in sub-paragraph (2) above as the Secretary of State may direct.
- (4) Where a transfer under paragraph 4(1) above of a person's supervision from Scotland to Northern Ireland is a restricted transfer—
- (a) ^{F145}sections ^{F146}1AA, 1A, 3AA, 3A, 11 to 13, 15 to 21, 26A and 27 of, and Schedules 2 and 6 to, the 1993 Act] or, as the case may require, sections 2(4), 11 to 13 and 17 of the 1993 Act shall apply to him in place of the corresponding provisions of the law of Northern Ireland; but
 - (b) subject to that and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if his period of supervision had been an equivalent period of supervision directed to be undergone in Northern Ireland.
- (5) ^{F147}Sub-paragraph (6)] of paragraph 10 above shall apply for the purposes of this paragraph as it applies for the purposes of that paragraph.

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- (6) Any provision of Part I of the 1993 Act^{F148} . . . which is applied by sub-paragraph (2) or (4) above shall have effect (as so applied) as if any reference to an expression specified in the first column of the following Table were a reference to the expression set out opposite it in the second column of that Table.

TABLE

<i>Expression</i>	<i>Substituted expression</i>
Chief social work officer	Chief Officer of a Board or an authorised Health and Social Services (HSS) Trust
Justices for a petty sessions area	Probation Board for Northern Ireland
[^{F149} [^{F150} Officer of a local probation board] appointed for or assigned to such petty sessions area [^{F151} or officer of a provider of probation services acting in such local justice area]	Probation Officer appointed by the Probation Board for Northern Ireland]

Textual Amendments

- F141** Word in Sch. 1 para. 11(2) substituted (S.) (8.2.2006) by [Management of Offenders etc. \(Scotland\) Act 2005 \(asp 14\)](#), [ss. 21\(8\)\(b\)\(i\)](#), 24(2); S.S.I. 2006/48, [art. 3\(1\)](#), [sch. Pt. 1](#); substitution extended to E.W.and N.I. (1.4.2006) by The Management of Offenders etc. (Scotland) Act 2005 (Consequential Modifications) Order 2006 (S.I. 2006/1055), [art. 3](#)
- F142** Words in Sch. 1 para. 11(2)(a) substituted (30.9.1998) by 1998 c. 37, s. 119, [Sch. 8 para. 135\(6\)\(a\)\(i\)](#); S.I. 1998/2327, [art. 2\(2\)\(oo\)](#).
- F143** Words in Sch. 1 para. 11(2) substituted (8.2.2006) by [Management of Offenders etc. \(Scotland\) Act 2005 \(asp 14\)](#), [ss. 21\(8\)\(b\)\(ii\)](#), 24(2); S.S.I. 2006/48, [art. 3\(1\)](#), [sch. Pt. 1](#); substitution extended to E.W.and N.I. (1.4.2006) by The Management of Offenders etc. (Scotland) Act 2005 (Consequential Modifications) Order 2006 (S.I. 2006/1055), [art. 3](#)
- F144** Words in Sch. 1 para. 11(2)(a) inserted (30.9.1998) by 1998 c. 37, s. 119, [Sch. 8 para. 135\(6\)\(a\)\(ii\)](#); S.I. 1998/2327, [art. 2\(2\)\(oo\)](#).
- F145** Words in Sch. 1 para. 11(4)(a) substituted (30.9.1998) by 1998 c. 37, s. 119, [Sch. 8 para. 135\(6\)\(b\)](#); S.I. 1998/2327, [art. 2\(2\)\(oo\)](#).
- F146** Words in Sch. 1 para. 11(4)(a) substituted (8.2.2006) by [Management of Offenders etc. \(Scotland\) Act 2005 \(asp 14\)](#), [ss. 21\(8\)\(c\)](#), 24(2); S.S.I. 2006/48, [art. 3\(1\)](#), [sch. Pt. 1](#); substitution extended to E.W.and N.I. (1.4.2006) by The Management of Offenders etc. (Scotland) Act 2005 (Consequential Modifications) Order 2006 (S.I. 2006/1055), [art. 3](#)
- F147** Words in Sch. 1 para. 11(5) substituted (30.9.1998) by 1998 c. 37, s. 119, [Sch. 8 para. 135\(6\)\(c\)](#); S.I. 1998/2327, [art. 2\(2\)\(oo\)](#).
- F148** Words in Sch. 1 para. 11(6) repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), [Sch. 8 para. 135\(6\)\(d\)](#), [Sch. 10](#); S.I. 1998/2327, [art. 2\(2\)\(oo\)](#).
- F149** Entry in Sch. 1 para. 11 substituted (30.9.1998) by 1998 c. 37, s. 119, [Sch. 8 para. 135\(6\)\(d\)](#); S.I. 1998/2327, [art. 2\(2\)\(oo\)](#).
- F150** Words in Sch. 1 para. 11(6) Table substituted (1.4.2001) by 2000 c. 43, s. 74, [Sch. 7 Pt. II para. 143](#); S.I. 2001/919, [art. 2\(f\)\(ii\)](#)
- F151** Words in Sch. 1 para. 11(6) Table inserted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), [Sch. 1 para. 12\(3\)\(b\)](#)

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Modifications etc. (not altering text)

C36 Sch. 1 para. 11(3)(6) amended (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 130(9)**; S.I. 1998/3178, **art. 3**

Marginal Citations

M47 1995 c.46.

Restricted transfers from Northern Ireland to England and Wales

- 12 (1) Where a person's transfer under paragraph 1(1)(a) [^{F152}or (2A)(a)], 2(1)(a) or 3(1)(a) above from Northern Ireland to England and Wales is a restricted transfer, subject to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if he had been remanded for an offence committed in England and Wales.
- (2) Where a person's transfer under paragraph 1(1)(b) [^{F153}or (2A)(b)], 2(1)(b) or 3(1)(b) above from Northern Ireland to England and Wales is a restricted transfer—
- [^{F154}(a) sections 13(7) and 24 of the Prison Act (Northern Ireland) 1953, Articles 3 to 6 of the Treatment of Offenders (Northern Ireland) Order 1976, Articles 26 to 28 of the Criminal Justice (Northern Ireland) Order 1996 and Articles 6 to 9 of the Life Sentences (Northern Ireland) Order 2001 or, as the case may require, section 1 of the Northern Ireland (Remission of Sentences) Act 1995 [^{F155}or Chapter 4 of Part 2 of the Criminal Justice (Northern Ireland) Order 2008] shall apply to him in place of the corresponding provisions of the law of England and Wales;]
- (b) subject to that, to sub-paragraph (3) below and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if that sentence had been an equivalent sentence passed by a court in England and Wales.
- (3) A person who has been sentenced to a sentence of a length which could not have been passed on an offender of his age in the place to which he has been transferred shall be treated for the purposes mentioned in sub-paragraph (2) above as the Secretary of State may direct.
- (4) Where a transfer under paragraph 4(1) of a person's supervision from Northern Ireland to England and Wales is a restricted transfer, subject to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if his period of supervision had been an equivalent period of supervision directed to be undergone in England and Wales.
- (5) Any provision of the ^{M48}Prison Act (Northern Ireland) 1953, the ^{M49}Treatment of Offenders (Northern Ireland) Order 1976, the ^{M50}Criminal Justice (Northern Ireland) Order 1996 or the ^{M51}Northern Ireland (Remission of Sentences) Act 1995 [^{F156}or Chapter 4 of Part 2 of the Criminal Justice (Northern Ireland) Order 2008] which is applied by sub-paragraph (2) above shall have effect (as so applied) as if any reference to an expression specified in the first column of the following Table were a reference to the expression set out opposite it in the second column of that Table.

TABLE

Expression

Substituted Expression

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Complaint on oath	Information on oath
Court of summary jurisdiction	Magistrates' court
F157	F157
...	...

Textual Amendments

- F152** Words in Sch. 1 para. 12(1) inserted (14.7.2004) by Justice (Northern Ireland) Act 2004 (c. 4), ss. 13(6)(a), 19(1); S.R. 2004/267, art. 2
- F153** Words in Sch. 1 para. 12(2) inserted (14.7.2004) by Justice (Northern Ireland) Act 2004 (c. 4), ss. 13(6)(b), 19(1); S.R. 2004/267, art. 2
- F154** Sch. 1 para. 12(2)(a) substituted (E.W.N.I.) (8.10.2001) by S.I. 2001/2565, arts. 1(2), 3(2); S.R. 2001/337, art. 2
- F155** Words in Sch. 1 para. 12(2)(a) inserted (15.5.2008) by The Criminal Justice (Northern Ireland Consequential Amendments) Order 2008 (S.I. 2008/1241), arts. 1(2), 3(2) (see S.R. 2008/217, art. 2, Sch.)
- F156** Words in Sch. 1 para. 12(5) inserted (15.5.2008) by The Criminal Justice (Northern Ireland Consequential Amendments) Order 2008 (S.I. 2008/1241), arts. 1(2), 3(2) (see S.R. 2008/217, art. 2, Sch.)
- F157** Entry in Sch. 1 para. 12 repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 135(7), Sch. 10; S.I. 1998/2327, art. 2(2)(oo)(3)(x).

Marginal Citations

- M48** 1953 c.18 (N.I.).
- M49** S.I. 1976/226 (N.I.4).
- M50** S.I. 1996/3160 (N.I.24).
- M51** 1995 c.47.

Restricted transfers from Northern Ireland to Scotland

- 13 (1) Where a person's transfer under paragraph 1(1)(a) [^{F158}or (2A)(a)], 2(1)(a) or 3(1)(a) above from Northern Ireland to Scotland is a restricted transfer, subject to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if he had been remanded for an offence committed in Scotland.
- (2) Where a person's transfer under paragraph 1(1)(b) [^{F159}or (2A)(b)], 2(1)(b) or 3(1)(b) above from Northern Ireland to Scotland is a restricted transfer—
- [^{F160}(a) sections 13(7) and 24 of the Prison Act (Northern Ireland) 1953, Articles 3 to 6 of the Treatment of Offenders (Northern Ireland) Order 1976, Articles 26 to 28 of the Criminal Justice (Northern Ireland) Order 1996 and Articles 6 to 9 of the Life Sentences (Northern Ireland) Order 2001 or, as the case may require, section 1 of the Northern Ireland (Remission of Sentences) Act 1995 [^{F161}or Chapter 4 of Part 2 of the Criminal Justice (Northern Ireland) Order 2008] shall apply to him in place of the corresponding provisions of the law of Scotland;]
- (b) subject to that, to sub-paragraph (3) below and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if that sentence had been an equivalent sentence passed by a court in Scotland.
- (3) A person who has been sentenced to a sentence of a length which could not have been passed on an offender of his age in the place to which he has been transferred shall

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be treated for the purposes mentioned in sub-paragraph (2) above as the Secretary of State may direct.

- (4) Where a transfer under paragraph 4(1) above of a person's supervision from Northern Ireland to Scotland is a restricted transfer, subject to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if his period of supervision had been an equivalent period of supervision directed to be undergone in Scotland.
- (5) Any provision of the Prison Act (Northern Ireland) 1953, the Treatment of Offenders (Northern Ireland) Order 1976, the Criminal Justice (Northern Ireland) Order 1996 [F162, the Life Sentences (Northern Ireland) Order 2001] or the Northern Ireland (Remission of Sentences) Act 1995 [F163 or Chapter 4 of Part 2 of the Criminal Justice (Northern Ireland) Order 2008] which is applied by sub-paragraph (2) above shall have effect (as so applied) as if any reference to an expression specified in the first column of the following Table were a reference to the expression set out opposite it in the second column of that Table.

TABLE

<i>Expression</i>	<i>Substituted Expression</i>
Complaint on oath	Evidence on oath
Court of summary jurisdiction	Sheriff
Crown Court	High Court of Justiciary
F164	F164
...	...
Probation officer	Relevant officer within the meaning of section 27(1) of the M52 Prisoners and Criminal Proceedings (Scotland) Act 1993

Textual Amendments

F158 Words in Sch. 1 para. 13(1) inserted (14.7.2004) by [Justice \(Northern Ireland\) Act 2004 \(c. 4\)](#), **ss. 13(7)(a)**, 19(1); [S.R. 2004/267](#), **art. 2**

F159 Words in Sch. 1 para. 13(2) inserted (14.7.2004) by [Justice \(Northern Ireland\) Act 2004 \(c. 4\)](#), **ss. 13(7)(b)**, 19(1); [S.R. 2004/267](#), **art. 2**

F160 Sch. 1 para. 13(2)(a) substituted (S.N.I.) (8.10.2001) by [S.I. 2001/2565](#), **arts. 1(2)**, 3(3)(a); [S.R. 2001/337](#), **art. 2**

F161 Words in Sch. 1 para. 13(2)(a) inserted (15.5.2008) by [The Criminal Justice \(Northern Ireland Consequential Amendments\) Order 2008 \(S.I. 2008/1241\)](#), **arts. 1(2)**, **3(2)** (see [S.R. 2008/217](#), **art. 2**, Sch.)

F162 Words in Sch. 1 para. 13(5) inserted (8.10.2001) by [S.I. 2001/2565](#), **arts. 1(2)**, 3(3)(b); [S.R. 2001/337](#), **art. 2**

F163 Words in Sch. 1 para. 13(5) inserted (15.5.2008) by [The Criminal Justice \(Northern Ireland Consequential Amendments\) Order 2008 \(S.I. 2008/1241\)](#), **arts. 1(2)**, **3(2)** (see [S.R. 2008/217](#), **art. 2**, Sch.)

F164 Entry in Sch. 1 para. 13(5) repealed (30.9.1998) by [1998 c. 37](#), **ss. 119**, 120(2), [Sch. 8 para. 135\(8\)](#), **Sch. 10**; [S.I. 1998/2327](#), **art. 2(2)(oo)(3)(x)**.

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Marginal Citations

M52 1993 c.9.

Restricted transfers between the United Kingdom and the Channel Islands

- 14 (1) Her Majesty may by Order in Council make, in relation to restricted transfers under Part I of this Schedule between any part of the United Kingdom and any of the Channel Islands, provision broadly corresponding to that made by any of paragraphs 8 to 13 above.
- (2) An Order in Council under this paragraph may make such consequential, incidental, transitional and supplementary provision as Her Majesty considers appropriate.
- (3) An Order in Council under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Modifications etc. (not altering text)

C37 Sch. 1 para. 14 extended (31.7.1998) by 1998 c. 37, s. 121(12).

Unrestricted transfers: general

- 15 (1) Where a person's transfer under paragraph 1(1)(a) or (2)(a), 2(1)(a) or (2)(a) or 3(1)(a) or (2)(a) above to any part of the United Kingdom or to any of the Channel Islands is an unrestricted transfer, he shall be treated for the relevant purposes as if he had been remanded for an offence committed in the place to which he is transferred.
- (2) Subject to sub-paragraph (3) below, where a person's transfer under paragraph 1(1)(b) or (2)(b), 2(1)(b) or (2)(b) or 3(1)(b) or (2)(b) above to any part of the United Kingdom or to any of the Channel Islands is an unrestricted transfer, he shall be treated for the relevant purposes as if his sentence had been an equivalent sentence passed by a court in the place to which he is transferred.
- (3) A person who has been sentenced to a sentence of a length which could not have been passed on an offender of his age in the place to which he has been transferred shall be treated for the purposes mentioned in sub-paragraph (2) above as the Secretary of State may direct.
- (4) Where a transfer under paragraph 4(1) or (2) above of a person's supervision to any part of the United Kingdom or to any of the Channel Islands is an unrestricted transfer—
- (a) that person shall be treated for the relevant purposes as if his period of supervision had been an equivalent period of supervision directed to be undergone in the place to which he is transferred; and
- (b) any functions of the Secretary of State under any provision of the law of that place which applies for those purposes shall be exercisable in relation to that person by any person appointed by the Secretary of State for the purpose.

F165(5)

Status: Point in time view as at 01/04/2009. This version of this Act contains provisions that are prospective.

Changes to legislation: Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 09 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F165 Sch. 1 para. 15(5) repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 32 para. 85\(5\)](#), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 paras. 42\(32\), 44\(4\)\(o\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(l))

Modifications etc. (not altering text)

C38 Sch. 1 para. 15 extended (with modifications) (1.10.1997) by [S.I. 1997/1775](#), [art. 2](#), [Sch. 1](#); [S.I. 1997/2200](#), [art. 2](#)
 Sch. 1 para. 15 modified (28.7.1998) by [1998 c. 35](#), s. 17, [Sch. 3 para. 9\(5\)](#); [S.I. 1998/1858](#), [art. 2](#).
C39 Sch. 1 para. 15(3)(4)(5) amended (1.7.1999) by [S.I. 1999/1280](#), [arts. 1\(2\), 4](#), [Sch. 2 Pt. 1 para. 130\(10\)](#); [S.I. 1998/3178](#), [art. 3](#)

Transfers ceasing to be restricted

- 16 Where a transfer under Part I of this Schedule ceases to be a restricted transfer at any time by reason of the removal of such a condition as is mentioned in paragraph 6(1)(a) above, paragraph 15 above shall apply as if the transfer were an unrestricted transfer and had been effected at that time.

Modifications etc. (not altering text)

C40 [Sch. 1 para. 16](#) extended (with modifications) (1.10.1997) by [S.I. 1997/1775](#), [art. 2](#), [Sch. 1](#); [S.I. 1997/2200](#), [art. 2](#)

PART III

SUPPLEMENTAL

Prisoners unlawfully at large

- 17 (1) The following enactments (relating to the arrest and return of prisoners and other persons unlawfully at large), namely—
- (a) section 49(1) [^{F166}and (5)] of the ^{M53}Prison Act 1952;
 - (b) section 40(1) of the ^{M54}Prisons (Scotland) Act 1989; and
 - (c) section 38(1) of the ^{M55}Prison Act (Northern Ireland) 1953,
- shall extend throughout the United Kingdom and the Channel Islands.
- (2) Any reference in those enactments to a constable shall include a reference—
- (a) to a person being a constable under the law of any part of the United Kingdom;
 - (b) to a police officer within the meaning of the Police Force (Jersey) Law 1974 or any corresponding law for the time being in force; and
 - (c) to an officer of police within the meaning of section 31(4) of the Theft (Bailiwick of Guernsey) Law 1983 or any corresponding law for the time being in force.

Status: Point in time view as at 01/04/2009. This version of this Act contains provisions that are prospective.

Changes to legislation: Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 09 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) Those enactments shall also apply to persons who, being unlawfully at large under the law of any of the Channel Islands, are for the time being within the United Kingdom as they apply to persons unlawfully at large under the law of any part of the United Kingdom.
- (4) Any person arrested in the United Kingdom under those enactments as applied by sub-paragraph (3) above may be taken to the place in the Channel Islands in which he is required in accordance with the law in force there to be detained.
- (5) Where a person who, having been sentenced to imprisonment, is unlawfully at large during any period during which he is liable to be detained in a prison in any part of the United Kingdom is sentenced to imprisonment by a court in another part of the United Kingdom—
- (a) the provisions of Part II of this Schedule relating to the treatment of persons transferred under sub-paragraph (1)(b) of paragraph 1 above shall apply to him, while he remains in that other part of the United Kingdom, as if he had been transferred there under that sub-paragraph immediately before he was so sentenced; and
- (b) the Secretary of State may, if he thinks fit, make an order under that sub-paragraph (but without application in that behalf) transferring him back to the part of the United Kingdom from which he was unlawfully at large.
- (6) In the following provisions, namely—
- (a) paragraph (a) of the proviso to section 49(2) of the Prison Act 1952 (which in effect enables a person who is unlawfully at large during the currency of his original sentence to count towards that sentence any period during which he is detained in pursuance of a sentence of any court);
- (b) the proviso to section 40(2) of the Prisons (Scotland) Act 1989 (which contains corresponding provisions for Scotland); and
- (c) section 38(3) of the Prison Act (Northern Ireland) 1953 (which contains corresponding provisions for Northern Ireland),
- references to a court shall include references to any court in the United Kingdom.

Textual Amendments

F166 Words in Sch. 1 para. 17(1)(a) inserted (1.4.2000) by 1998 c. 37, s. 119, Sch. 8 para. 135(9); S.I. 1999/3426, art. 3(b)

Modifications etc. (not altering text)

C41 Sch. 1 para. 17(1)-(4) extended (with modifications) (1.10.1997) by S.I. 1997/1775, art. 2, Sch.; S.I. 1997/2200, art. 2

C42 Sch. 1 para. 17(5)(b) amended (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, Sch. 2 Pt. I para. 130(11); S.I. 1998/3178, art. 3

Marginal Citations

M53 1952 c.52.

M54 1989 c.45.

M55 1953 c.18 (N.I.).

Status: Point in time view as at 01/04/2009. This version of this Act contains provisions that are prospective.

Changes to legislation: Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 09 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Subsequent sentence in case of transferred prisoners

- 18 (1) The power of a court in any part of the United Kingdom to order that the term of any sentence of imprisonment passed by the court shall commence at or before the expiration of another term of imprisonment shall include power to make such an order where that other term was imposed by sentence of a court elsewhere in the United Kingdom or in any of the Channel Islands if the offender—
- (a) is serving that other sentence in that part of the United Kingdom; or
 - (b) is for the time being present in that part of the United Kingdom,
- by virtue of an order under this Schedule, or is unlawfully at large under the law of the country or island in which that other sentence was passed.
- (2) The provisions of this paragraph shall be without prejudice to the powers exercisable by any court apart from those provisions.

Modifications etc. (not altering text)

C43 Sch. 1 para. 18 extended (with modifications) (1.10.1997) by S.I. 1997/1775, art. 2, Sch.; S.I. 1997/2200, art. 2

Application to the Isle of Man

- 19 (1) Her Majesty may by Order in Council direct that any of the foregoing provisions of this Schedule which extend to, or apply in relation to, the Channel Islands shall extend to, or apply in relation to, the Isle of Man with such modifications (if any) as Her Majesty considers appropriate.
- (2) An Order in Council under this paragraph may make such consequential, incidental, transitional and supplementary provision as Her Majesty considers appropriate.
- (3) An Order in Council under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Modifications etc. (not altering text)

C44 Sch. 1 para. 19 extended (31.7.1998) by 1998 c. 37, s. 121(12).

Interpretation

- 20 (1) In this Schedule—
- [^{F167}“detention and training order” includes an order under section 211 of the Armed Forces Act 2006;]
 - “prison”, unless the context otherwise requires, includes [^{F168}any accommodation which is youth detention accommodation (within the meaning given by section 107(1) of the Powers of Criminal Courts (Sentencing) Act 2000)], a young offenders institution, a young offenders centre and a remand centre;
 - “sentence of imprisonment” includes any sentence of detention [^{F169}(except a sentence of service detention within the meaning of the Armed Forces Act 2006)] and a sentence of custody for life under [^{F170}section 93 or

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94 of the Powers of Criminal Courts (Sentencing) Act 2000], and cognate expressions shall be construed accordingly;

“supervision” means supervision in pursuance of an order made for the purpose [^{F171}or a detention and training order] or, in the case of a person released from prison on licence, in pursuance of a condition contained in his licence.

- (2) References in this Schedule to a person being remanded in custody are references to his being remanded in or committed to custody by an order of a court.
- (3) In determining, in relation to any person serving a sentence of imprisonment, the time which is to be served in respect of an equivalent sentence treated as passed in another country or island, regard shall be had, not only to any time already served by him, but also to—
- (a) any periods for which he has been remanded in custody, being either—
 - (i) periods by which his sentence falls to be reduced; or
 - (ii) periods which have been directed to count as time served as part of his sentence; and
 - (b) any early release or additional days awarded to him.

Textual Amendments

F167 Words in Sch. 1 para. 20(1) inserted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 145\(a\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

F168 Words in Sch. 1 para. 20(1) substituted (1.11.2007) by [Offender Management Act 2007 \(c. 21\)](#), s. 41(1), [Sch. 3 para. 15\(3\)](#); S.I. 2007/3001, art. 2(1)(r)

F169 Words in Sch. 1 para. 20(1) inserted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 145\(b\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

F170 Words in Sch. 1 para. 20(1) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), [Sch. 9 para. 186\(5\)](#)

F171 Words in Sch. 1 para. 20(1) inserted (1.4.2000) by 1998 c. 37, s. 119, [Sch. 8 para. 135\(10\)](#); S.I. 1999/3426, [art. 3\(b\)](#)

SCHEDULE 2

Section 42.

REPATRIATION OF PRISONERS TO THE BRITISH ISLANDS

Preliminary

- 1 Any reference in this Schedule to prisoners repatriated to any part of the United Kingdom is a reference to prisoners transferred there in pursuance of a warrant issued under the ^{M56}Repatriation of Prisoners Act 1984 (“the 1984 Act”).

Marginal Citations

M56 1984 c.47.

Prisoners repatriated to England and Wales

^{F172}₂

Status: Point in time view as at 01/04/2009. This version of this Act contains provisions that are prospective.

Changes to legislation: Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 09 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F172 Sch. 2 para. 2 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\)](#), [Sch. 32 para. 86, Sch. 37 Pt. 7](#); [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 paras. 42\(32\), 44\(4\)\(o\)](#) (with saving in [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122, art. 2](#); and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#); [S.I. 2008/1586, Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111, art. 2](#); (3.12.2012) by [S.I. 2012/2905, art. 4](#); (3.12.2012) by [2012 c. 10, Sch. 14 para. 17](#); [S.I. 2012/2906, art. 2\(l\)](#)); and [Sch. 2 para. 2\(2\)](#) (in so far as it continues to have effect in relation to persons to whom it applied before 4.4.2005) amended (9.6.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(7\)](#), [Sch. 26 para. 33\(2\)](#); [S.I. 2008/1466, art. 2\(c\)\(iii\)](#)

F173₃

Textual Amendments

F173 Sch. 2 para. 3 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\)](#), [Sch. 32 para. 86, Sch. 37 Pt. 7](#); [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 paras. 42\(32\), 44\(4\)\(o\)](#) (with saving in [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122, art. 2](#); and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#); [S.I. 2008/1586, Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111, art. 2](#); (3.12.2012) by [S.I. 2012/2905, art. 4](#); (3.12.2012) by [2012 c. 10, Sch. 14 para. 17](#); [S.I. 2012/2906, art. 2\(l\)](#)); and [Sch. 2 para. 3\(2\)](#) (in so far as it continues to have effect in relation to persons to whom it applied before 4.4.2005) amended (9.6.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(7\)](#), [Sch. 26 para. 33\(3\)](#); [S.I. 2008/1466, art. 2\(c\)\(iii\)](#)

F174₄

Textual Amendments

F174 Sch. 2 para. 4 repealed (30.9.1998) by [1998 c. 37, ss. 119, 120\(2\)](#), [Sch. 8 para. 136](#), [Sch.10](#); [S.I. 1998/2327, art. 2\(2\)\(pp\)\(3\)\(x\)](#).

Prisoners repatriated to Scotland

- 5 (1) This paragraph applies in relation to—
- (a) prisoners repatriated to Scotland before 25th October 1996 (the “relevant date”) who were still serving sentences, which were imposed before 1st October 1993 in the country or territory from which they were transferred, on the relevant date; and
 - (b) prisoners repatriated to Scotland in respect of such sentences on or after the relevant date.
- [^{F175}(c) prisoners detained in Scotland in pursuance of warrants which—
- (i) are issued by the Scottish Ministers under section 4A of the Repatriation of Prisoners Act 1984 (warrant transferring responsibility for detention and release); and
 - (ii) relate to sentences that were imposed before 1 October 1993.]
- (2) Paragraph 2 of the Schedule to the 1984 Act, as originally enacted, shall have effect, and shall be deemed to have had effect since 16th February 1990, as if—

Status: Point in time view as at 01/04/2009. This version of this Act contains provisions that are prospective.

Changes to legislation: Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 09 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) in sub-paragraph (1), for the words “section 60 of the Criminal Justice Act 1967” there were substituted the words “ section 22 of the Prisons (Scotland) Act 1989 ”; and
- (b) at the end there were added the following sub-paragraph—

“(3) In this paragraph “sentence” means the provision included in a warrant which is equivalent to a sentence.”

Textual Amendments

F175 Sch. 2 para. 5(1)(c) inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 26 para. 33\(4\)](#); S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(n)

- 6 (1) This paragraph applies in relation to—
- (a) prisoners repatriated to Scotland before 25th October 1996 (the “relevant date”) who were still serving sentences, which were imposed on or after 1st October 1993 in the country or territory from which they were transferred, on the relevant date; and
 - (b) prisoners repatriated to Scotland in respect of such sentences on or after the relevant date and before the commencement of this Schedule.

- (2) Paragraph 2 of the Schedule to the 1984 Act shall have effect, and shall be deemed always to have had effect, with the omission of sub-paragraph (1A) and the insertion after sub-paragraph (2) of the following sub-paragraphs—

“(3) The question whether the prisoner is a short-term or long-term prisoner for the purposes of the enactments relating to release on licence shall be determined by reference to the length of the sentence imposed in the country or territory from which he is transferred.

(4) For the purposes of Schedule 6 to the ^{M57}Prisoners and Criminal Proceedings (Scotland) Act 1993 a prisoner’s sentence shall be deemed to have been imposed on the day on which the relevant provisions take effect.

(5) In this paragraph—

“the enactments relating to release on licence” means sections 1(2) and (3), 2(2) and (7) and 7(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993;

“sentence”, except in sub-paragraph (3) above, means the provision included in the warrant which is equivalent to a sentence.”

Marginal Citations

M57 1993 c.9.

- 7 (1) This paragraph applies in relation to prisoners repatriated to Scotland after the commencement of this Schedule whose sentences in the country or territory from which they are transferred were imposed on or after 1st October 1993 [^{F176}but before the commencement of section 33 of the Criminal Justice (Scotland) Act 2003 (asp 7)].

Status: Point in time view as at 01/04/2009. This version of this Act contains provisions that are prospective.

Changes to legislation: Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 09 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(2) In paragraph 2 of the Schedule to the 1984 Act, for sub-paragraphs (1A) and (2) there shall be substituted the following sub-paragraphs—

“(2) If the warrant specifies a period to be taken into account for the purposes of sections 1(3) and 2(2) and (7) of the ^{M58}Prisoners and Criminal Proceedings (Scotland) Act 1993—

(a) the amount of time the prisoner has served; and

(b) where his sentence is a determinate one, his sentence,

shall, so far only as the question whether he has served any particular proportion or part of his sentence is concerned, be deemed to be increased by that period.

(3) The question whether the prisoner is a long-term prisoner for the purposes of the enactments relating to release on licence shall be determined by reference to the length of the sentence imposed in the country or territory from which he is transferred.

(4) For the purposes of Schedule 6 to the Prisoners and Criminal Proceedings (Scotland) Act 1993 a prisoner’s sentence shall be deemed to have been imposed on the day on which the relevant provisions take effect.

(5) In this paragraph—

“the enactments relating to release on licence” means sections 1(2) and (3), 2(2) and (7) and 7(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993;

“sentence”, except in sub-paragraph (3) above, means the provision included in the warrant which is equivalent to a sentence.”

Textual Amendments

F176 Words in Sch. 2 para. 7(1) substituted (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), ss. **33(4)**, 89(2); S.S.I. 2003/288, art. 2, sch.

Marginal Citations

M58 1993 c.9.

F177⁸

Textual Amendments

F177 Sch. 2 para. 8 repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 136, **Sch.10**; S.I. 1998/2327, art. **2(2)(pp)(3)(x)**.

Prisoners repatriated to Northern Ireland

F178⁹

Status: Point in time view as at 01/04/2009. This version of this Act contains provisions that are prospective.

Changes to legislation: Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 09 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F178 Sch. 2 para. 9 repealed (1.4.2009) by [The Criminal Justice \(Northern Ireland\) Order 2008 \(S.I. 2008/1216\)](#), art. 1(4), **Sch. 6 Pt. 1**; S.R. 2009/120, art. 2, Sch. 1 para. 19(b) (with Sch. 2 para. 1)

^{F179}10

Textual Amendments

F179 Sch. 2 para. 10 repealed (8.10.2001) by [S.I. 2001/2565](#), **arts. 1(2), 3(4)**; S.R. 2001/337, **art. 2**

Prisoners repatriated to the Islands

- 11 (1) This paragraph applies where any Order in Council under section 9(4) of the 1984 Act extends the provisions of that Act to any of the Channel Islands or the Isle of Man.
- (2) The modifications of that Act made by the Order may include modifications broadly corresponding to those made by any of paragraphs 1 to 10 above.

SCHEDULE 3

Section 48.

TRANSFERS WITHIN THE BRITISH ISLANDS OF RESPONSIBILITY FOR OFFENDERS CONDITIONALLY DISCHARGED FROM HOSPITAL

PART I

AMENDMENTS OF THE 1983 ACT

Transfers from England and Wales to Scotland

1 After section 80 of the 1983 Act there shall be inserted the following section—

“80A Transfer of responsibility for patients to Scotland.

- (1) If it appears to the Secretary of State, in the case of a patient who—
 - (a) is subject to a restriction order under section 41 above; and
 - (b) has been conditionally discharged under section 42 or 73 above,
 that a transfer under this section would be in the interests of the patient, the Secretary of State may, with the consent of the Minister exercising corresponding functions in Scotland, transfer responsibility for the patient to that Minister.
- (2) Where responsibility for such a patient is transferred under this section, the patient shall be treated—
 - (a) as if on the date of the transfer he had been conditionally discharged under the corresponding enactment in force in Scotland; and

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Changes to legislation: Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 09 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(b) as if he were subject to a restriction order under the corresponding enactment in force in Scotland.

(3) Where a patient responsibility for whom is transferred under this section was immediately before the transfer subject to a restriction order of limited duration, the restriction order to which he is subject by virtue of subsection (2) above shall expire on the date on which the first-mentioned order would have expired if the transfer had not been made.”

Transfers from England and Wales to Northern Ireland

2 After section 81 of the 1983 Act there shall be inserted the following section—

“81A Transfer of responsibility for patients to Northern Ireland.

- (1) If it appears to the Secretary of State, in the case of a patient who—
- (a) is subject to a restriction order or restriction direction under section 41 or 49 above; and
 - (b) has been conditionally discharged under section 42 or 73 above,
- that a transfer under this section would be in the interests of the patient, the Secretary of State may, with the consent of the Minister exercising corresponding functions in Northern Ireland, transfer responsibility for the patient to that Minister.
- (2) Where responsibility for such a patient is transferred under this section, the patient shall be treated—
- (a) as if on the date of the transfer he had been conditionally discharged under the corresponding enactment in force in Northern Ireland; and
 - (b) as if he were subject to a restriction order or restriction direction under the corresponding enactment in force in Northern Ireland.
- (3) Where a patient responsibility for whom is transferred under this section was immediately before the transfer subject to a restriction order or restriction direction of limited duration, the restriction order or restriction direction to which he is subject by virtue of subsection (2) above shall expire on the date on which the first-mentioned order or direction would have expired if the transfer had not been made.”

Transfers from Northern Ireland to England and Wales

3 After section 82 of the 1983 Act there shall be inserted the following section—

“82A Transfer of responsibility for patients to England and Wales from Northern Ireland.

- (1) If it appears to the relevant Minister, in the case of a patient who—
- (a) is subject to a restriction order or restriction direction under Article 47(1) or 55(1) of the ^{M59}Mental Health (Northern Ireland) Order 1986; and
 - (b) has been conditionally discharged under Article 48(2) or 78(2) of that Order,

Status: Point in time view as at 01/04/2009. This version of this Act contains provisions that are prospective.

Changes to legislation: Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 09 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

that a transfer under this section would be in the interests of the patient, that Minister may, with the consent of the Secretary of State, transfer responsibility for the patient to the Secretary of State.

- (2) Where responsibility for such a patient is transferred under this section, the patient shall be treated—
- (a) as if on the date of the transfer he had been conditionally discharged under section 42 or 73 above; and
 - (b) as if he were subject to a restriction order or restriction direction under section 41 or 49 above.
- (3) Where a patient responsibility for whom is transferred under this section was immediately before the transfer subject to a restriction order or restriction direction of limited duration, the restriction order or restriction direction to which he is subject by virtue of subsection (2) above shall expire on the date on which the first-mentioned order or direction would have expired if the transfer had not been made.
- (4) In this section “the relevant Minister” means the Minister exercising in Northern Ireland functions corresponding to those of the Secretary of State.”

Marginal Citations

M59 [S.I. 1986/596 \(N.I.4\)](#).

Transfers from England and Wales to the Islands

4 After section 83 of the 1983 Act there shall be inserted the following section—

“83A Transfer of responsibility for patients to Channel Islands or Isle of Man.

If it appears to the Secretary of State, in the case of a patient who—

(a) is subject to a restriction order or restriction direction under section 41 or 49 above; and

(b) has been conditionally discharged under section 42 or 73 above, that a transfer under this section would be in the interests of the patient, the Secretary of State may, with the consent of the authority exercising corresponding functions in any of the Channel Islands or in the Isle of Man, transfer responsibility for the patient to that authority.”

Transfers from the Islands to England and Wales

5 After section 85 of the 1983 Act there shall be inserted the following section—

“85A Responsibility for patients transferred from Channel Islands or Isle of Man.

- (1) This section applies to any patient responsibility for whom is transferred to the Secretary of State by the authority exercising corresponding functions in any of the Channel Islands or the Isle of Man under a provision corresponding to section 83A above.

Status: Point in time view as at 01/04/2009. This version of this Act contains provisions that are prospective.
Changes to legislation: Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 09 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) The patient shall be treated—
 - (a) as if on the date of the transfer he had been conditionally discharged under section 42 or 73 above; and
 - (b) as if he were subject to a restriction order or restriction direction under section 41 or 49 above.
- (3) Where the patient was immediately before the transfer subject to an order or direction restricting his discharge, being an order or direction of limited duration, the restriction order or restriction direction to which he is subject by virtue of subsection (2) above shall expire on the date on which the first-mentioned order or direction would have expired if the transfer had not been made.”

PART II

AMENDMENTS OF THE 1984 ACT

Transfers from Scotland to England and Wales

F180₆

Textual Amendments
F180 Sch. 3 paras. 6-10 repealed (S.) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), s. 333(2), [sch. 5 Pt. 1](#); S.S.I. 2005/161, art. 3 (as substituted (1.7.2005) by S.S.I. 2005/375, art. 2 and as amended (22.9.2005) by S.S.I. 2005/459, art. 2)

Transfers from Scotland to Northern Ireland

F180₇

Textual Amendments
F180 Sch. 3 paras. 6-10 repealed (S.) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), s. 333(2), [sch. 5 Pt. 1](#); S.S.I. 2005/161, art. 3 (as substituted (1.7.2005) by S.S.I. 2005/375, art. 2 and as amended (22.9.2005) by S.S.I. 2005/459, art. 2)

Transfers from Northern Ireland to Scotland

F180₈

Textual Amendments
F180 Sch. 3 paras. 6-10 repealed (S.) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), s. 333(2), [sch. 5 Pt. 1](#); S.S.I. 2005/161, art. 3 (as substituted (1.7.2005) by S.S.I. 2005/375, art. 2 and as amended (22.9.2005) by S.S.I. 2005/459, art. 2)

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Changes to legislation: Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 09 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Transfers from the Islands to Scotland

F180⁹

Textual Amendments

F180 Sch. 3 paras. 6-10 repealed (S.) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), s. 333(2), [sch. 5 Pt. 1](#); S.S.I. 2005/161, art. 3 (as substituted (1.7.2005) by S.S.I. 2005/375, art. 2 and as amended (22.9.2005) by S.S.I. 2005/459, art. 2)

Transfers from Scotland to the Islands

F180¹⁰

Textual Amendments

F180 Sch. 3 paras. 6-10 repealed (S.) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), s. 333(2), [sch. 5 Pt. 1](#); S.S.I. 2005/161, art. 3 (as substituted (1.7.2005) by S.S.I. 2005/375, art. 2 and as amended (22.9.2005) by S.S.I. 2005/459, art. 2)

SCHEDULE 4

Section 55.

MINOR AND CONSEQUENTIAL AMENDMENTS

Army Act 1955 (c.18)

- 1 (1) After subsection (3) of section 70 of the Army Act 1955 (civil offences) there shall be inserted the following subsection—
- “(3A) Where the corresponding civil offence is one to which section 2, 3 or 4 of the Crime (Sentences) Act 1997 would apply, the court-martial shall impose the sentence required by subsection (2) of that section unless it is of the opinion that there are exceptional circumstances which justify its not doing so.”
- (2) For subsection (1A) of section 71A of that Act (juveniles) there shall be substituted the following subsection—
- “(1A) Where—
- (a) a person under 21 years of age is convicted of murder or any other civil offence the sentence for which is fixed by law as imprisonment for life; or
- (b) a person under that age is convicted of any civil offence to which section 2 of the Crime (Sentences) Act 1997 would apply and the court is not of the opinion mentioned in subsection (2) of that section,
- the court shall sentence him to custody for life unless he is liable to be detained under subsection (3) below.”
- (3) In subsection (6A) of section 71AA of that Act (young service offenders: custodial orders), for the words “Section 65 of the Criminal Justice Act 1991” there shall be

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substituted the words “ Sections 16 and 17 of the Crime (Sentences) Act 1997 (as modified by section 19 of that Act) ”.

- (4) In paragraph 3(1) of Schedule 5A to that Act (powers of court on trial of civilian), after the words “fixed by law” there shall be inserted the words “ or falls to be imposed under section 70(3A) above ”.
- (5) In paragraph 10(6A) of that Schedule, for the words “Section 65 of the Criminal Justice Act 1991” there shall be substituted the words “ Sections 16 and 17 of the Crime (Sentences) Act 1997 (as modified by section 19 of that Act) ”.

Commencement Information

- 19** Sch. 4 para. 1 partly in force: Sch. 4 para. 1 not in force at Royal Assent, see s. 57(2). Sch. 4 para. 1(1), so far as relating to offences whose corresponding civil offences are offences to which s. 2 would apply, and para. 1(2)(4) in force at 1.10.1997 by S.I. 1997/2200, art. 2(1)(1)(2)(a)

Air Force Act 1955 (c.19)

- 2 (1) After subsection (3) of section 70 of the Air Force Act 1955 (civil offences) there shall be inserted the following subsection—
 - “(3A) Where the corresponding civil offence is one to which section 2, 3 or 4 of the Crime (Sentences) Act 1997 would apply, the court-martial shall impose the sentence required by subsection (2) of that section unless it is of the opinion that there are exceptional circumstances which justify its not doing so.”
- (2) For subsection (1A) of section 71A of that Act (juveniles) there shall be substituted the following subsection—
 - “(1A) Where—
 - (a) a person under 21 years of age is convicted of murder or any other civil offence the sentence for which is fixed by law as imprisonment for life; or
 - (b) a person under that age is convicted of any civil offence to which section 2 of the Crime (Sentences) Act 1997 would apply and the court is not of the opinion mentioned in subsection (2) of that section,
 the court shall sentence him to custody for life unless he is liable to be detained under subsection (3) below.”
- (3) In subsection (6A) of section 71AA of that Act (young service offenders: custodial orders), for the words “Section 65 of the Criminal Justice Act 1991” there shall be substituted the words “ Sections 16 and 17 of the Crime (Sentences) Act 1997 (as modified by section 19 of that Act) ”.
- (4) In paragraph 3(1) of Schedule 5A to that Act (powers of court on trial of civilian), after the words “fixed by law” there shall be inserted the words “ or falls to be imposed under section 70(3A) above ”.
- (5) In paragraph 10(6A) of that Schedule, for the words “Section 65 of the Criminal Justice Act 1991” there shall be substituted the words “ Sections 16 and 17 of the Crime (Sentences) Act 1997 (as modified by section 19 of that Act) ”.

Status: Point in time view as at 01/04/2009. This version of this Act contains provisions that are prospective.
Changes to legislation: Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 09 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I10 Sch. 4 para. 2 partly in force: Sch. 4 para. 2 not in force at Royal Assent, see s. 57(2). Sch. 4 para. 2(1), so far as relating to offences whose corresponding civil offences are offences to which s. 2 would apply, and para. 2(2)(4) in force at 1.10.1997 by S.I. 1997/2200, art. 2(1)(1)(2)(a)

Naval Discipline Act 1957 (c.53)

3 (1) After subsection (1) of section 42 of the Naval Discipline Act 1957 (civil offences) there shall be inserted the following subsection—

“(1A) Where the corresponding civil offence is one to which section 2, 3 or 4 of the Crime (Sentences) Act 1997 would apply, the court-martial shall impose the sentence required by subsection (2) of that section unless it is of the opinion that there are exceptional circumstances which justify its not doing so.”

(2) For subsection (1A) of section 43A of that Act (juveniles) there shall be substituted the following subsection—

“(1A) Where—

- (a) a person under 21 years of age is convicted of murder or any other civil offence the sentence for which is fixed by law as imprisonment for life; or
- (b) a person under that age is convicted of any civil offence to which section 2 of the Crime (Sentences) Act 1997 would apply and the court is not of the opinion mentioned in subsection (2) of that section,

the court shall sentence him to custody for life unless he is liable to be detained under subsection (3) below.”

(3) In subsection (6A) of section 43AA of that Act (young service offenders: custodial orders), for the words “Section 65 of the Criminal Justice Act 1991” there shall be substituted the words “ Sections 16 and 17 of the Crime (Sentences) Act 1997 (as modified by section 19 of that Act) ”.

(4) In paragraph 3(1) of Schedule 4A to that Act (powers of court on trial of civilian), after the words “fixed by law” there shall be inserted the words “ or falls to be imposed under section 42(1A) above ”.

(5) In paragraph 10(6A) of that Schedule, for the words “Section 65 of the Criminal Justice Act 1991” there shall be substituted the words “ Sections 16 and 17 of the Crime (Sentences) Act 1997 (as modified by section 19 of that Act) ”.

Commencement Information

I11 Sch. 4 para. 3 partly in force: Sch. 4 para. 3 not in force at Royal Assent, see s. 57(2). Sch. 4 para. 3(1), so far as relating to offences whose corresponding civil offences are offences to which s. 2 would apply, and para. 3(2)(4) in force at 1.10.1997 by S.I. 1997/2200, art. 2(1)(1)(2)(a)

Children and Young Persons Act 1963 (c.37)

Status: Point in time view as at 01/04/2009. This version of this Act contains provisions that are prospective.
Changes to legislation: Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 09 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F181 Sch. 4 para. 4 repealed (15.12.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), **Sch. 37 Pt. 5**; S.I. 2004/3033, art. 3(1)(2)(e)(i)

Criminal Justice Act 1967 (c.80)

5 ^{F182}(1)

- (2) In subsection (4) of section 72 of that Act (power of magistrates to issue warrants for escaped prisoners and mental patients), after the words “restricting his discharge” there shall be inserted the words “ or in pursuance of a hospital direction and a limitation direction ”.

Textual Amendments

F182 Sch. 4 para. 5(1) repealed (25.8.2000) by [2000 c. 6](#), ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Criminal Appeal Act 1968 (c.19)

- 6 (1) In subsection (1) of section 50 of the Criminal Appeal Act 1968 (meaning of sentence)—
- (a) after paragraph (b) there shall be inserted the following paragraph—
- “(bb) a hospital direction and a limitation direction under that Part.”; and
- ^{F183}(b)
- ^{F184}(2)

Textual Amendments

F183 Sch. 4 para. 6(1)(b) repealed (30.9.1998) by [1998 c. 37](#), ss. 119, 120(2), Sch. 8 para. 137(a), **Sch. 10**; S.I. 1998/2327, **art. 2(2)(pp)(3)(x)**.

F184 Sch. 4 para. 6(2) repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), **Sch. 37 Pt. 7**; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(o) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; S.I. 2012/2906, art. 2(1))

Commencement Information

I12 Sch. 4 para. 6 not in force at Royal Assent, see s. 57(2). Sch. 4 para. 6(1)(a) in force at 1.10.1997 by S.I. 1997/2200, **art. 2(1)(2)**, otherwise not in force

Immigration Act 1971 (c.77)

^{F185}7

Status: Point in time view as at 01/04/2009. This version of this Act contains provisions that are prospective.
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Textual Amendments

F185 Sch. 4 para. 7 repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 37 Pt. 7; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(o) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

Powers of Criminal Courts Act 1973 (c.62)

F186g

Textual Amendments

F186 Sch. 4 para. 8 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

Rehabilitation of Offenders Act 1974 (c.53)

F187g

Textual Amendments

F187 Sch. 4 para. 9 repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 137(b), Sch.10; S.I. 1998/2327, art. 2(2)(pp)(3)(x).

Magistrates' Courts Act 1980 (c.43)

10 F188(1)

(2) For subsection (3) of section 85 of that Act (power to remit fine) there shall be substituted the following subsections—

“(2A) Where the court remits the whole or part of the fine after an order has been made under section 35(2)(a) or (b) of the Crime (Sentences) Act 1997, it shall also reduce the total number of hours or days to which the order relates by a number which bears the same proportion as the amount remitted bears to the whole sum or, as the case may be, shall revoke the order.

(3) In calculating any reduction required by subsection (2) or (2A) above any fraction of a day or hour shall be left out of account.”

Textual Amendments

F188 Sch. 4 para. 10(1) repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 37 Pt. 7; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(o) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

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Commencement Information

- I13** Sch. 4 para. 10 not in force at Royal Assent, see s. 57(2). Sch. 4 para. 10(1) in force at 1.10.1997 and Sch. 4 para. 10(2) in force at 1.3.1998 by [S.I. 1997/2200](#), [arts. 2, 3](#) (para. 10(2) in force subject to savings in art. 5)

Criminal Justice Act 1982 (c.48)

F189 11

Textual Amendments

- F189** Sch. 4 para. 11 repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 137(b), [Sch.10](#); [S.I. 1998/2327](#), [art. 2\(2\)\(pp\)\(3\)\(x\)](#).

Mental Health Act 1983 (c.20)

12 **F190** (1)

- (2) After that subsection there shall be inserted the following subsection—

“(1A) In the case of an offence the sentence for which would otherwise fall to be imposed under subsection (2) of section 3 or 4 of the Crime (Sentences) Act 1997, nothing in that subsection shall prevent a court from making an order under subsection (1) above for the admission of the offender to a hospital.”

- (3) In subsection (4) of that section, the words “in the event of such an order being made by the court” shall cease to have effect.

F191 (4)

- (5) After subsection (4) of that section there shall be inserted the following subsection—

“(5) The preceding provisions of this section shall have effect as if—

- (a) the reference in subsection (1) to a transfer direction and a restriction direction having been given in respect of a person serving a sentence of imprisonment included a reference to a hospital direction and a limitation direction having been given in respect of a person sentenced to imprisonment;
- (b) the reference in subsection (2) to a restriction direction included a reference to a limitation direction; and
- (c) references in subsections (3) and (4) to a transfer direction included references to a hospital direction.”

- (6) In section 54 of that Act (requirements as to medical evidence), after the words “38(1)” there shall be inserted the words “ 45A(2) ”.

- (7) In subsection (2) of section 61 of that Act (review of treatment)—

- (a) after the words “restriction order” there shall be inserted the words “ , limitation direction ”; and
- (b) in paragraph (b), after the words “section 41(6)” there shall be inserted the words “ , 45B(3) ”.

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- F192 (8)
- (9) In section 70(a) of that Act (applications to tribunals concerning restricted patients), after the words “hospital order” there shall be inserted the words “ , hospital direction ”.
- (10) In subsection (1) of section 74 of that Act (restricted patients), after the words “who is subject to” there shall be inserted the words “ a limitation direction or ”.
- (11) In subsection (5) of that section, after the word “above” there shall be inserted the words “ the relevant hospital direction and the limitation direction or, as the case may be, ”.
- (12) In subsection (6) of that section, after the words “references to”, in the second place where they occur, there shall be inserted the words “ the hospital direction and the limitation direction or, as the case may be, to ”.
- (13) In section 75(1)(b) of that Act (applications and references concerning conditionally discharged restricted patients), after the words “hospital order” there shall be inserted the words “ , hospital direction ”.
- (14) In subsection (1) of section 79 of that Act (interpretation of Part V), after the words “restriction order” there shall be inserted the words “ , limitation direction ”.
- (15) In subsection (2) of that section—
- (a) after the words “ “the relevant hospital order”” there shall be inserted the words “ , “the relevant hospital direction” ”; and
- (b) after the words “the hospital order” there shall be inserted the words “ , the hospital direction ”.
- (16) After subsection (3) of section 92 of that Act (interpretation of Part VI) there shall be inserted the following subsections—
- “(4) Sections 80 to 85A above shall have effect as if—
- (a) any hospital direction under section 45A above were a transfer direction under section 47 above; and
- (b) any limitation direction under section 45A above were a restriction direction under section 49 above.
- (5) Sections 80(5), 81(6) and 85(4) above shall have effect as if any reference to a transfer direction given while a patient was serving a sentence of imprisonment imposed by a court included a reference to a hospital direction given by a court after imposing a sentence of imprisonment on a patient.”
- (17) In subsection (1) of section 117 of that Act (after-care), after the words “transferred to a hospital in pursuance of” there shall be inserted the words “ a hospital direction made under section 45A above or ”.
- (18) In subsection (3) of section 143 of that Act (general provisions as to regulations, orders and rules), after the word “section” there shall be inserted the word “ 45A(10), ”.
- (19) In subsection (1) of section 145 of that Act (interpretation)—
- (a) after the definition of “hospital” there shall be inserted the following definition—

Status: Point in time view as at 01/04/2009. This version of this Act contains provisions that are prospective.

Changes to legislation: Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 09 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- “hospital direction” has the meaning given in section 45A(3)(a) above;”;
- (b) after the definition of “interim hospital order” there shall be inserted the following definition—
- “limitation direction” has the meaning given in section 45A(3)(b) above;”.

Textual Amendments

- F190** Sch. 4 para. 12(1) repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 44\(4\)\(o\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l))
- F191** Sch. 4 para. 12(4) repealed (30.9.1998) by [1998 c. 37](#), ss. 119, 120(2), [Sch. 8 para. 137\(c\)](#), [Sch.10](#); [S.I. 1998/2327](#), [art. 2\(2\)\(pp\)\(3\)\(x\)](#).
- F192** Sch. 4 para. 12(8) repealed (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), s. 56(1), [Sch. 11 Pt. 5](#); [S.I. 2008/1210](#), art. 2(d)

Commencement Information

- I14** Sch. 4 para. 12 partly in force; Sch. 4 para. 12 not in force at Royal Assent, see s. 57(2); Sch. 4 para. 12(1) (and (2) for specified purposes) in force at 1.10.1997 by [S.I. 1997/2200](#), [art. 2](#); Sch. 4 para. 12(2) in force at 1.12.1999 to the extent not already in force by [S.I. 1999/3096](#), [art. 2\(e\)](#)

Criminal Justice Act 1988 (c.33)

F193 13

Textual Amendments

- F193** Sch. 4 para. 13 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 44\(4\)\(o\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l))

Prevention of Terrorism (Temporary Provisions) Act 1989 (c.4)

PROSPECTIVE

- 14 In sub-paragraph (5) of paragraph 9 of Schedule 2 to the Prevention of Terrorism (Temporary Provisions) Act 1989 (exemption from exclusion orders), for the words “section 67 of the Criminal Justice Act 1967” there shall be substituted the words [^{F194}“section 87 of the Powers of Criminal Courts (Sentencing) Act 2000 ”].

Textual Amendments

- F194** Words in [Sch. 4 para. 14](#) substituted (25.8.2000) by [2000 c. 6](#), ss. 165, 168(1), [Sch. 9 para. 187\(4\)](#)

Status: Point in time view as at 01/04/2009. This version of this Act contains provisions that are prospective.
Changes to legislation: Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 09 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Criminal Justice Act 1991 (c.53)

- 15 F195(1)
- F195(2)
- F195(3)
- F195(4)
- F195(5)
- F195(6)
- F195(7)
- F195(8)
- F195(9)
- F196(10)
- F195(11)
- F195(12)
- F195(13)

Textual Amendments

F195 Sch. 4 para. 15(1)-(9)(11)-(13) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F196 Sch. 4 para. 15(10) repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 37 Pt. 7**; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(o) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

Modifications etc. (not altering text)

C45 Sch. 4 para. 15 excluded (1.1.1998) by S.I. 1997/2200, **art. 5(1)**

Commencement Information

I15 Sch. 4 para. 15 wholly in force at 1.12.1999; Sch. 4 para. 15 not in force at Royal Assent, see s. 57(2); Sch. 4 para. 15 in force for specified purposes at 1.10.1997 by S.I. 1997/2200, **art. 2**; Sch. 4 para. 15 in force at 1.12.1999 to the extent not already in force by S.I. 1999/3096, **art. 2(e)**

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

- 16 (1) In section 10(4) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (meaning of transferred life prisoner), for the words “section 26 of the Criminal Justice Act 1961” there shall be substituted the words “ paragraph 1 of Schedule 1 to the Crime (Sentences) Act 1997 ”.
- (2) In Schedule 6 to that Act, in paragraph 1, in the definition of “new provisions”, after the word “Act” where it last occurs, there shall be inserted the words “ and the

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Repatriation of Prisoners Act 1984 as it has effect by virtue of paragraphs 6 and 7 of Schedule 2 to the Crime (Sentences) Act 1997 ”.

Criminal Justice and Public Order Act 1994 (c.33)

F197¹⁷

Textual Amendments

F197 Sch. 4 para. 17 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

SCHEDULE 5

Section 56(1).

TRANSITIONAL PROVISIONS AND SAVINGS

Sentences for offences committed before the commencement of Chapter I of Part II

F198¹

Textual Amendments

F198 Sch. 5 para. 1 repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 138(1), **Sch.10**; S.I. 1998/2327, **art. 2(2)(pp)(3)(x)**.

Consecutive sentences for offences committed before and after that commencement

F199²

Textual Amendments

F199 Sch. 5 para. 2 repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 138(1), **Sch.10**; S.I. 1998/2327, **art. 2(2)(pp)(3)(x)**.

Concurrent sentences for offences committed before and after that commencement

F200³

Textual Amendments

F200 Sch. 5 para. 3 repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 138(1), **Sch.10**; S.I. 1998/2327, **art. 2(2)(pp)(3)(x)**.

Crediting of periods of remand in custody

F201⁴

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Textual Amendments

F201 Sch. 5 para. 4 repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 138(1), **Sch.10**; S.I. 1998/2327, **art. 2(2)(pp)(3)(x)**.

Duty to release certain life prisoners

5 **F202**(1)

F203(2)

(3) Section 28(7) of this Act shall have effect as if—

- (a) any reference of a prisoner’s case made to the Parole Board under section 32(2) or 34(4) of the 1991 Act had been made under section 28(6) of this Act; and
- (b) any such reference made under section 39(4) of that Act had been made under section 32(4) of this Act.

Textual Amendments

F202 Sch. 5 para. 5(1) repealed (30.11.2000 with effect as mentioned in Sch. 7 para. 145 and note to Sch. 8 of the repealing Act) by 2000 c. 43, ss. 74, 75, 80(3), Sch. 7 Pt. II para. 144, **Sch. 8**

F203 Sch. 5 para. 5(2) repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 138(1)(a), **Sch. 10**; S.I. 1998/2327, **art. 2(2)(pp)(3)(x)**.

Life prisoners transferred to England and Wales

F204₆

Textual Amendments

F204 Sch. 5 para. 6 repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 138(1), **Sch.10**; S.I. 1998/2327, **art. 2(2)(pp)(3)(x)**.

Recall of life prisoners while on licence

7 (1) Section 32(3) and (4) of this Act shall have effect as if any life prisoner recalled to prison under subsection (1) or (2) of section 39 of the 1991 Act had been recalled to prison under ^{F205}... section 32 of this Act.

(2) Section 32(4) of this Act shall have effect as if any representations made by a life prisoner under section 39(3) of the 1991 Act had been made under section 32(3) of this Act.

Textual Amendments

F205 Words in Sch. 5 para. 7 repealed (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 28 Pt. 2**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 50(2)(b)

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Transfers of prisoners: general

F206⁸

Textual Amendments

F206 Sch. 5 para. 8 repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 138(1)(b), **Sch.10**; S.I. 1998/2327, **art. 2(2)(pp)(3)(x)**.

Transfers of prisoners from England and Wales to Scotland

9 F207⁽¹⁾

- (2) In relation to any time before the commencement of Chapter II of Part II of this Act, paragraph 8 of Schedule 1 to this Act shall have effect as if—
- (a) references in sub-paragraph (2) to provisions of that Chapter were references to sections 34 to 37, 39, 43 and 46 of the 1991 Act and paragraphs 8 and 9 of Schedule 12 to that Act, so far as relating to life prisoners;
 - (b) references in sub-paragraph (4) to provisions of that Chapter were references to sections 37, 39, 43 and 46 of the 1991 Act and paragraphs 8 and 9 of Schedule 12 to that Act, so far as so relating; and
 - (c) the reference in sub-paragraph (5) to any provision of Part II of this Act were a reference to any provision of Part II of that Act.

Textual Amendments

F207 Sch. 5 para. 9(1) repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 138(1)(b), **Sch.10**; S.I. 1998/2327, **art. 2(2)(pp)(3)(x)**.

Transfers of prisoners from England and Wales to Northern Ireland

10 F208⁽¹⁾

- (2) In relation to any time before the commencement of Chapter II of Part II of this Act, paragraph 9 of Schedule 1 to this Act shall have effect as if—
- (a) references in sub-paragraph (2) to provisions of that Chapter were references to sections 34 to 37, 39, 43 and 46 of the 1991 Act and paragraphs 8 and 9 of Schedule 12 to that Act, so far as relating to life prisoners;
 - (b) references in sub-paragraph (4) to provisions of that Chapter were references to sections 37, 39, 43 and 46 of the 1991 Act and paragraphs 8 and 9 of Schedule 12 to that Act, so far as so relating; and
 - (c) the reference in sub-paragraph (5) to any provision of Part II of this Act were a reference to any provision of Part II of that Act.

Textual Amendments

F208 Sch. 5 para. 10(1) repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 138(1)(b), **Sch.10**; S.I. 1998/2327, **art. 2(2)(pp)(3)(x)**.

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Transfers of prisoners from Scotland to England and Wales

- 11 ^{F209}(1)
- (2) In relation to any prisoner to whom the existing provisions apply, paragraph 10 of Schedule 1 to this Act shall have effect as if—
- (a) references in sub-paragraph (2) to [^{F210}sections 1, 1A, 3, 3A, 5, 6(1)(a), 7, 9, 11 to 13, 15 to 21, 26A and 27 of, and Schedules 2 and 6 to, the ^{M60}Prisoners and Criminal Proceedings (Scotland) Act 1993 (“the 1993 Act”)] were references to Schedule 6 to the 1993 Act and to the following existing provisions, namely, sections 18, 19(4), 22, 24, 26, 28 to 30, 32 and 43 of, and Schedule 1 to, [^{F210}the Prisons (Scotland) Act 1989 (“the 1989 Act”)] and any rules made under section 18 or 39 of that Act;
 - (b) references in sub-paragraph (5) to [^{F211}sections 1A, 2(4), 3A, 11 to 13, 15 to 21, 26A and 27 of, and Schedules 2 and 6 to, the 1993 Act] were references to the said Schedule 6 and to the following existing provisions, namely, sections 30, 32 and 43 of the 1989 Act; and
 - (c) the reference in sub-paragraph (7) to any provision of Part I of the 1993 Act ^{F212}. . . were a reference to any provision of the said Schedule 6 or the 1989 Act.
- (3) ^{F212}. . . In sub-paragraph (2) above—
- (a) the reference to section 19(4) of the 1989 Act is a reference to that provision so far as it applies section 24 of that Act in relation to persons detained in young offenders institutions; and
 - (b) any reference to the existing provisions is a reference to the existing provisions within the meaning of Schedule 6 to the 1993 Act.

Textual Amendments

- F209** Sch. 5 para. 11(1) repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 138(1)(c), **Sch.10**; S.I. 1998/2327, **art. 2(2)(pp)(3)(x)**.
- F210** Words in Sch. 5 para. 11(2)(a) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 138(2)(a)**; S.I. 1998/2327, **art. 2(2)(pp)**.
- F211** Words in Sch. 5 para. 11(2)(b) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 138(2)(b)**; S.I. 1998/2327, **art. 2(2)(pp)**.
- F212** Words in Sch. 5 para. 11(2)(c)(3) repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 138(1)(c), **Sch.10**; S.I. 1998/2327, **art. 2(2)(pp)(3)(x)**.

Modifications etc. (not altering text)

- C46** Sch. 5 para. 11(3) amended (1.7.1999) by S.I. 1999/1280, arts. 1(2), 4, **Sch. 2 Pt. I para. 130**(12; S.I. 1998/3178, **art. 3**)

Marginal Citations

- M60** 1993 c.9.

Transfers of prisoners from Scotland to Northern Ireland

- 12 ^{F213}(1)

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- (2) In relation to any prisoner to whom the existing provisions apply, paragraph 11 of Schedule 1 to this Act shall have effect as if—
- (a) references in sub-paragraph (2) to ^{F214}sections 1, 1A, 3, 3A, 5, 6(1)(a), 7, 9, 11 to 13, 15 to 21, 26A and 27 of, and Schedules 2 and 6 to, the ^{M61}Prisoners and Criminal Proceedings (Scotland) Act (“the 1993 Act”) were references to Schedule 6 to the 1993 Act and to the following existing provisions, namely, sections 18, 19(4), 22, 24, 26, 28 to 30, 32 and 43, and Schedule 1 to, ^{F214}the Prisons (Scotland) Act 1989 (“the 1989 Act”) and any rules made under section 18 or 39 of that Act;
 - (b) references in sub-paragraph (4) to ^{F215}sections 1A, 2(4), 3A, 11 to 13, 15 to 21, 26A and 27 of, and Schedules 2 and 6 to, the 1993 Act] were references to the said Schedule 6 and to the following existing provisions, namely, sections 30, 32 and 43 of the 1989 Act; and
 - (c) the reference in sub-paragraph (6) to any provision of Part I of the 1993 Act ^{F216}. . . were a reference to any provision of the said Schedule 6 or the 1989 Act.
- (3) Sub-paragraph (3) of paragraph 11 above shall apply for the purposes of this paragraph as it applies for the purposes of that paragraph.

Textual Amendments

F213 Sch. 5 para. 12(1) repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 138(1)(d), **Sch.10**; S.I. 1998/2327, **art. 2(2)(pp)(3)(x)**.

F214 Words in Sch. 5 para. 12(2)(a) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 138(3)(a)**; S.I. 1998/2327, **art. 2(2)(pp)**.

F215 Words in Sch. 5 para. 12(2)(b) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 138(3)(b)**; S.I. 1998/2327, **art. 2(2)(pp)**.

F216 Words in Sch. 5 para. 12(2)(c) repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 138(1)(d), **Sch.10**; S.I. 1998/2327, **art. 2(2)(pp)(3)(x)**.

Marginal Citations

M61 1993 c.9.

Interpretation

- 13 In this Schedule—
- “life prisoner” has the same meaning as in Chapter II of Part II of this Act;
- “term of imprisonment” includes a sentence of detention in a young offender institution or under section 53 of the 1933 Act.

SCHEDULE 6

Section 56(2).

REPEALS

Modifications etc. (not altering text)

C47 Sch. 6 excluded (1.1.1998) by S.I. 1997/2200, **art. 5(1)(6)**

Status: Point in time view as at 01/04/2009. This version of this Act contains provisions that are prospective.

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Commencement Information

I16 Sch. 6 in force in force at 1.10.1997 for specified purposes by S.I. 1997/2200, [art. 2\(1\)\(o\)\(p\)\(3\)](#)

I17 Sch. 6 in force at 4.4.2005 for specified purposes by S.I. 2005/932, [art. 2\(1\)\(2\)\(b\)](#) (with [art. 2\(3\)](#))

Chapter	Short title	Extent of repeal
9 & 10 Eliz. 2 c.39.	Criminal Justice Act 1961.	Part III. In section 36(1), the words “or under Part III”. In section 38, in subsection (3), the words “of Part III and” and, in subsection (6), the words “and of any enactment referred to in Part III of this Act”. In section 39, in subsection (1), the definitions of “appropriate institution” and “responsible Minister”, and subsection (1A). In section 42, in subsection (1), the words “Part III except section thirty-three” and, in subsection (2), the words “Part III”.
1967 c.80.	Criminal Justice Act 1967.	Section 67.
1973 c.62.	Powers of Criminal Courts Act 1973.	In section 2(3), the words from “and the court” to the end. In section 14(2), the words “the offender consents and”. In section 42(1), the words “or section 62 of the Criminal Justice Act 1967”.
1983 c.20.	Mental Health Act 1983.	In section 37(4), the words “in the event of such an order being made by the court”. In section 47(1), the words “(not being a mental nursing home)”. In Schedule 1, in Part II, in paragraph 5, the word “and” immediately following subparagraph (a).

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1991 c.53.

Criminal Justice Act 1991.

In section 4(1), the words “section 3(1) above applies and”.

In section 12, in subsection (1), the words “of or over the age of sixteen years” and, in subsection (5), the words from “and the court” to the end.

F217

...

F217

...

In Schedule 2, in paragraph 14, in sub-paragraph (2) (b), the words from “being treatment” to the end.

Textual Amendments

F217 Entries in Sch. 6 repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 139, **Sch.10**; S.I. 1998/2327, **art. 2(2)(pp)(3)(x)**.

Status:

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Changes to legislation:

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