



# Criminal Justice and Court Services Act 2000

## 2000 CHAPTER 43

### PART III

#### DEALING WITH OFFENDERS

### CHAPTER I

#### COMMUNITY SENTENCES

#### *Renaming certain community orders*

#### **43 Probation orders renamed community rehabilitation orders.**

- (1) An order under subsection (1) of section 41 of the Powers of Criminal Courts (Sentencing) Act 2000 (probation orders), whenever made, is to be referred to as a community rehabilitation order.
- (2) References in any enactment, instrument or document to a community rehabilitation order include (where the context allows) an order under any provision corresponding to that subsection which is repealed by that Act.
- (3) Accordingly—
  - (a) in subsection (2) of that section, for ““probation order”” there is substituted ““community rehabilitation order””, but
  - (b) paragraph 1(3) of Schedule 11 to that Act (general transitional provisions) does not apply to that subsection as amended by this.
- (4) References in any enactment, instrument or document to a probation order—
  - (a) are to an order under any provision corresponding to section 41(1) of that Act which is repealed by that Act, and

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*Status: Point in time view as at 31/10/2009. This version of this part contains provisions that are prospective.*  
**Changes to legislation:** Criminal Justice and Court Services Act 2000, Part III is up to date with all changes known to be in force on or before 09 July 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)

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(b) include (where the context allows) an order under that subsection.

(5) In section 163 of the Powers of Criminal Courts (Sentencing) Act 2000 (general definitions), at the appropriate place there is inserted—

““community rehabilitation order” has the meaning given by section 43 of the Criminal Justice and Court Services Act 2000”.

#### **44 Community service orders renamed community punishment orders.**

(1) An order under subsection (1) of section 46 of the Powers of Criminal Courts (Sentencing) Act 2000 (community service orders), whenever made, is to be referred to as a community punishment order.

(2) References in any enactment, instrument or document to a community punishment order include (where the context allows) an order under any provision corresponding to that subsection which is repealed by that Act.

(3) Accordingly—

(a) in subsection (2) of that section, for “ “community service order”” there is substituted “ “community punishment order” ”, but

(b) paragraph 1(3) of Schedule 11 to that Act (general transitional provisions) does not apply to that subsection as amended by this.

(4) References in any enactment, instrument or document to a community service order—

(a) are to an order under any provision corresponding to section 46(1) of that Act which is repealed by that Act, and

(b) include (where the context allows) an order under that subsection.

(5) In section 163 of the <sup>M1</sup>Powers of Criminal Courts (Sentencing) Act 2000 (general definitions), in the definition of “community service order”—

(a) for “service” there is substituted “punishment ”,

(b) for the words from “means” to the first mention of “above” there is substituted “ has the meaning given by section 44 of the Criminal Justice and Court Services Act 2000 ”,

and that definition is moved to follow the definition of “community order”.

#### **Marginal Citations**

**M1** 2000 c. 6.

#### **45 Combination orders renamed community punishment and rehabilitation orders.**

(1) An order under subsection (1) of section 51 of the Powers of Criminal Courts (Sentencing) Act 2000 (combination orders), whenever made, is to be referred to as a community punishment and rehabilitation order.

(2) References in any enactment, instrument or document to a community punishment and rehabilitation order include (where the context allows) an order under any provision corresponding to that subsection which is repealed by that Act.

(3) Accordingly—

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- (a) in subsection (2) of that section, for ““combination order”” there is substituted ““community punishment and rehabilitation order””, but
  - (b) paragraph 1(3) of Schedule 11 to that Act (general transitional provisions) does not apply to that subsection as amended by this.
- (4) References in any enactment, instrument or document to a combination order—
- (a) are to an order under any provision corresponding to section 51(1) of that Act which is repealed by that Act, and
  - (b) include (where the context allows) an order under that subsection.
- (5) In section 163 of the Powers of Criminal Courts (Sentencing) Act 2000 (general definitions), at the appropriate place there is inserted—
- ““community punishment and rehabilitation order” has the meaning given by section 45 of the Criminal Justice and Court Services Act 2000”.

#### *New community orders*

### **46 Exclusion orders.**

After section 40 of the <sup>M2</sup>Powers of Criminal Courts (Sentencing) Act 2000 there is inserted—

#### *“ Exclusion orders*

#### **40A Exclusion orders.**

- (1) Where a person is convicted of an offence, the court by or before which he is convicted may (subject to sections 34 to 36 above) make an order prohibiting him from entering a place specified in the order for a period so specified of not more than two years.
- (2) An order under subsection (1) above is in this Act referred to as an “exclusion order”.
- (3) An exclusion order—
  - (a) may provide for the prohibition to operate only during the periods specified in the order;
  - (b) may specify different places for different periods or days.
- (4) In relation to an offender aged under 16 on conviction, subsection (1) above shall have effect as if the reference to two years were a reference to three months.
- (5) The requirements in an exclusion order shall, as far as practicable, be such as to avoid—
  - (a) any conflict with the offender’s religious beliefs or with the requirements of any other community order to which he may be subject; and
  - (b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment.

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- (6) An exclusion order shall include provision for making a person responsible for monitoring the offender’s whereabouts during the periods when the prohibition operates; and a person who is made so responsible shall be of a description specified in an order made by the Secretary of State.
- (7) An exclusion order shall specify the petty sessions area in which the offender resides or will reside.
- (8) A court shall not make an exclusion order unless the court has been notified by the Secretary of State that arrangements for monitoring the offender’s whereabouts are available in the area in which the place proposed to be specified in the order is situated and the notice has not been withdrawn.
- (9) Before making an exclusion order in respect of an offender who on conviction is under 16, the court shall obtain and consider information about his family circumstances and the likely effect of such an order on those circumstances.
- (10) Before making an exclusion order, the court shall explain to the offender in ordinary language—
  - (a) the effect of the order (including any additional requirements proposed to be included in the order in accordance with section 36B above (electronic monitoring));
  - (b) the consequences which may follow (under Part II of Schedule 3 to this Act) if he fails to comply with any of the requirements of the order; and
  - (c) that the court has power (under Parts III and IV of that Schedule) to review the order on the application of the offender, the responsible officer or any affected person.
- (11) The court by which an exclusion order is made shall—
  - (a) give a copy of the order to the offender and the responsible officer; and
  - (b) give to any affected person any information relating to the order which the court considers it appropriate for him to have.
- (12) In this section, “place” includes an area.
- (13) For the purposes of this Act, a person is an affected person in relation to an exclusion order if—
  - (a) a requirement under section 36B(1) above is included in the order by virtue of his consent; or
  - (b) a prohibition is included in the order for the purpose (or partly for the purpose) of protecting him from being approached by the offender.
- (14) In this Act, “responsible officer”, in relation to an offender subject to an exclusion order, means the person who is responsible for monitoring the offender’s whereabouts during the periods when the prohibition operates.

#### **40B Breach, revocation and amendment of exclusion orders.**

Schedule 3 to this Act (which makes provision for dealing with failures to comply with the requirements of certain community orders, for revoking such orders with or without the substitution of other sentences and for amending such orders) shall have effect so far as relating to exclusion orders.

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#### **40C Exclusion orders: supplementary.**

- (1) The Secretary of State may make rules for regulating—
  - (a) the monitoring of the whereabouts of persons who are subject to exclusion orders; and
  - (b) without prejudice to the generality of paragraph (a) above, the functions of persons who are responsible officers in relation to offenders subject to exclusion orders.
- (2) The Secretary of State may by order direct that section 40A(5) above shall have effect with such additional restrictions as may be specified in the order.”

#### **Commencement Information**

**I1** S. 46 in force at 2.9.2004 by [S.I. 2004/2171](#), [art. 2](#)

#### **Marginal Citations**

**M2** [2000 c. 6](#).

#### **<sup>F1</sup>47 Drug abstinence orders.**

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#### **Textual Amendments**

**F1** Ss. 47-51 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\(4\)\(t\)](#) (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\(l\)](#))

#### **Commencement Information**

**I2** S. 47 wholly in force at 2.7.2001; s. 47 not in force at Royal Assent see s. 80; s. 47 in force for specified purposes at 20.6.2001 and 2.7.2001 insofar as not already in force by [S.I. 2001/2232](#), [art. 2\(a\)](#)

#### *Miscellaneous*

#### **<sup>F1</sup>48 Pre-sentence drug testing.**

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#### **Textual Amendments**

**F1** Ss. 47-51 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\(4\)\(t\)](#) (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**

- I3** S. 48 wholly in force at 2.7.2001; s. 48 not in force at Royal Assent see s. 80; s. 48 in force for specified purposes at 20.6.2001 and 2.7.2001 insofar as not already in force by [S.I. 2001/2232](#), [art. 2\(b\)](#)

**F1 49 Community sentences: drug abstinence requirements.**

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**Textual Amendments**

- F1** Ss. 47-51 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\(4\)\(t\)](#) (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\(l\)](#))

**Commencement Information**

- I4** S. 49 wholly in force at 2.7.2001; s. 49 not in force at Royal Assent see s. 80; s. 49 in force for specified purposes at 20.6.2001 and 2.7.2001 insofar as not already in force by [S.I. 2001/2232](#), [art. 2\(c\)](#)

**F1 50 Community sentences: curfew requirements.**

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**Textual Amendments**

- F1** Ss. 47-51 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\(4\)\(t\)](#) (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\(l\)](#))

**Commencement Information**

- I5** S. 50 wholly in force at 2.7.2001; s. 50 not in force at Royal Assent see s. 80; s. 50 in force for specified purposes at 20.6.2001 and 2.7.2001 insofar as not already in force by [S.I. 2001/2232](#), [art. 2\(d\)](#)

PROSPECTIVE

**F1 51 Community sentences: exclusion requirements.**

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*Status: Point in time view as at 31/10/2009. This version of this part contains provisions that are prospective.*

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### Textual Amendments

- F1** Ss. 47-51 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)(t)** (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))

## 52 Community sentences: electronic monitoring of requirements.

After section 36A of the <sup>M3</sup>Powers of Criminal Courts (Sentencing) Act 2000 there is inserted—

### “36B Electronic monitoring of requirements in community orders.

- (1) Subject to subsections (2) to (4) below, a community order may include requirements for securing the electronic monitoring of the offender’s compliance with any other requirements imposed by the order.
- (2) A court shall not include in a community order a requirement under subsection (1) above unless the court—
  - (a) has been notified by the Secretary of State that electronic monitoring arrangements are available in the relevant areas specified in subsections (7) to (10) below; and
  - (b) is satisfied that the necessary provision can be made under those arrangements.
- (3) Where—
  - (a) it is proposed to include in an exclusion order a requirement for securing electronic monitoring in accordance with this section; but
  - (b) there is a person (other than the offender) without whose co-operation it will not be practicable to secure the monitoring,
 the requirement shall not be included in the order without that person’s consent.
- (4) Where—
  - (a) it is proposed to include in a community rehabilitation order or a community punishment and rehabilitation order a requirement for securing the electronic monitoring of the offender’s compliance with a requirement such as is mentioned in paragraph 8(1) of Schedule 2 to this Act; but
  - (b) there is a person (other than the offender) without whose co-operation it will not be practicable to secure the monitoring,
 the requirement shall not be included in the order without that person’s consent.
- (5) An order which includes requirements under subsection (1) above shall include provision for making a person responsible for the monitoring; and a person who is made so responsible shall be of a description specified in an order made by the Secretary of State.
- (6) The Secretary of State may make rules for regulating—

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- (a) the electronic monitoring of compliance with requirements included in a community order; and
  - (b) without prejudice to the generality of paragraph (a) above, the functions of persons made responsible for securing the electronic monitoring of compliance with requirements included in the order.
- (7) In the case of a curfew order or an exclusion order, the relevant area is the area in which the place proposed to be specified in the order is situated.  
 In this subsection, “place”, in relation to an exclusion order, has the same meaning as in section 40A below.
- (8) In the case of a community rehabilitation order or a community punishment and rehabilitation order, the relevant areas are each of the following—
- (a) where it is proposed to include in the order a requirement for securing compliance with a requirement such as is mentioned in sub-paragraph (1) of paragraph 7 of Schedule 2 to this Act, the area mentioned in sub-paragraph (5) of that paragraph;
  - (b) where it is proposed to include in the order a requirement for securing compliance with a requirement such as is mentioned in sub-paragraph (1) of paragraph 8 of that Schedule, the area mentioned in sub-paragraph (5) of that paragraph;
  - (c) where it is proposed to include in the order a requirement for securing compliance with any other requirement, the area proposed to be specified under section 41(3) below.
- (9) In the case of a community punishment order, a drug treatment and testing order, a drug abstinence order, a supervision order or an action plan order, the relevant area is the petty sessions area proposed to be specified in the order.
- (10) In the case of an attendance centre order, the relevant area is the petty sessions area in which the attendance centre proposed to be specified in the order is situated.”

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#### Commencement Information

**I6** S. 52 partly in force; s. 52 not in force at Royal Assent see s. 80; s. 52 in force for specified purposes at 20.6.2001 and 2.7.2001 by [S.I. 2001/2232](#), [art. 2\(e\)](#)

**I7** S. 52 in force at 2.9.2004 for specified purposes by [S.I. 2004/2171](#), [art. 2](#)

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#### Marginal Citations

**M3** [2000 c. 6.](#)

PROSPECTIVE

**F253 Breach of community orders: warning and punishment.**

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**Textual Amendments**

**F2** Ss. 53-55 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)(t)** (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))

**F2 54 Breach of community orders: failure to answer summons.**

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**Textual Amendments**

**F2** Ss. 53-55 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)(t)** (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))

**F2 55 Regulation of community orders.**

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**Textual Amendments**

**F2** Ss. 53-55 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)(t)** (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))

**CHAPTER II**

MISCELLANEOUS

*Young offenders: reprimands and warnings*

**56 Reprimands and warnings.**

- (1) In section 65 of the <sup>M4</sup>Crime and Disorder Act 1998 (reprimands and warnings)—
  - (a) for subsection (5)(a) there is substituted—
    - “(a) where the offender is under the age of 17, give any reprimand or warning in the presence of an appropriate adult; and”
  - (b) in subsection (6), after paragraph (a) there is inserted—
    - “(aa) the places where reprimands and warnings may be given”.

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(2) In section 34 of the <sup>M5</sup>Police and Criminal Evidence Act 1984 (limitations on police detention), for subsection (5)(b) there is substituted—

“(b) that, in respect of any such matter, proceedings may be taken against him or he may be reprimanded or warned under section 65 of the <sup>M6</sup>Crime and Disorder Act 1998”.

#### Marginal Citations

**M4** 1998 c. 37.

**M5** 1984 c. 60.

**M6** 1998 c. 37.

### *Police powers: drugs*

#### **57 Testing persons in police detention.**

(1) The <sup>M7</sup>Police and Criminal Evidence Act 1984 is amended in accordance with subsections (2) to (4).

(2) After section 63A there is inserted—

#### **“63B Testing for presence of Class A drugs.**

(1) A sample of urine or a non-intimate sample may be taken from a person in police detention for the purpose of ascertaining whether he has any specified Class A drug in his body if the following conditions are met.

(2) The first condition is—

- (a) that the person concerned has been charged with a trigger offence; or
- (b) that the person concerned has been charged with an offence and a police officer of at least the rank of inspector, who has reasonable grounds for suspecting that the misuse by that person of any specified Class A drug caused or contributed to the offence, has authorised the sample to be taken.

(3) The second condition is that the person concerned has attained the age of 18.

(4) The third condition is that a police officer has requested the person concerned to give the sample.

(5) Before requesting the person concerned to give a sample, an officer must—

- (a) warn him that if, when so requested, he fails without good cause to do so he may be liable to prosecution, and
- (b) in a case within subsection (2)(b) above, inform him of the giving of the authorisation and of the grounds in question.

(6) A sample may be taken under this section only by a person prescribed by regulations made by the Secretary of State by statutory instrument.

No regulations shall be made under this subsection unless a draft has been laid before, and approved by resolution of, each House of Parliament.

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- (7) Information obtained from a sample taken under this section may be disclosed—
- (a) for the purpose of informing any decision about granting bail in criminal proceedings (within the meaning of the <sup>M8</sup>Bail Act 1976) to the person concerned;
  - (b) where the person concerned is in police detention or is remanded in or committed to custody by an order of a court or has been granted such bail, for the purpose of informing any decision about his supervision;
  - (c) where the person concerned is convicted of an offence, for the purpose of informing any decision about the appropriate sentence to be passed by a court and any decision about his supervision or release;
  - (d) for the purpose of ensuring that appropriate advice and treatment is made available to the person concerned.
- (8) A person who fails without good cause to give any sample which may be taken from him under this section shall be guilty of an offence.

### **63C Testing for presence of Class A drugs: supplementary.**

- (1) A person guilty of an offence under section 63B above shall be liable on summary conviction to imprisonment for a term not exceeding three months, or to a fine not exceeding level 4 on the standard scale, or to both.
- (2) A police officer may give an authorisation under section 63B above orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.
- (3) If a sample is taken under section 63B above by virtue of an authorisation, the authorisation and the grounds for the suspicion shall be recorded as soon as is practicable after the sample is taken.
- (4) If the sample is taken from a person detained at a police station, the matters required to be recorded by subsection (3) above shall be recorded in his custody record.
- (5) Subsections (11) and (12) of section 62 above apply for the purposes of section 63B above as they do for the purposes of that section; and section 63B above does not prejudice the generality of sections 62 and 63 above.
- (6) In section 63B above—
 

“Class A drug” and “misuse” have the same meanings as in the <sup>M9</sup>Misuse of Drugs Act 1971;

“specified” (in relation to a Class A drug) and “trigger offence” have the same meanings as in Part III of the Criminal Justice and Court Services Act 2000.”
- (3) In section 38 (duties of custody officer after charge)—
  - (a) in subsection (1)(a), after sub-paragraph (iii) there is inserted—
 

“(iiiia) in the case of a person who has attained the age of 18, the custody officer has reasonable grounds for believing that the detention of the person is necessary to enable a sample to be taken from him under section 63B below”;

*Status: Point in time view as at 31/10/2009. This version of this part contains provisions that are prospective.*  
**Changes to legislation:** Criminal Justice and Court Services Act 2000, Part III is up to date with all changes known to be in force on or before 09 July 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) at the end of subsection (2) there is inserted “ but may not authorise a person to be kept in police detention by virtue of subsection (1)(a)(iia) after the end of the period of six hours beginning when he was charged with the offence ”.

(4) At the end of section 66 (codes of practice) there is inserted—

“(2) Codes shall (in particular) include provision in connection with the exercise by police officers of powers under section 63B above.”

<sup>F3</sup>(5) .....

#### Textual Amendments

**F3** S. 57(5) repealed (1.12.2005) by [Drugs Act 2005 \(c. 17\)](#), s. 24(3), Sch. 1 para. 5, [Sch. 2](#); S.I. 2005/3053, art. 2(1)(f)

#### Commencement Information

**I8** S. 57 partly in force; s. 57 not in force at Royal Assent, see s. 80; s. 57 in force for specified purposes at 20.6.2001, 2.7.2001, 20.5.2002, 2.9.2002 and 1.4.2003 by [S.I. 2001/2232](#), [art. 2\(f\)](#), [S.I. 2001/1149](#), art. 2, [S.I. 2002/1862](#), [art. 2](#) and [S.I. 2003/709](#), [art. 2](#)

**I9** S. 57 in force at 1.4.2004 for specified purposes by [S.I. 2004/780](#), [art. 2](#)

**I10** S. 57 in force at 1.4.2005 for specified purposes by [S.I. 2005/596](#), [art. 2](#)

**I11** S. 57 in force at 1.12.2005 in so far as not already in force by [S.I. 2005/3054](#), [art. 2](#)

#### Marginal Citations

**M7** 1984 c. 60.  
**M8** 1976 c. 63.  
**M9** 1971 c. 38.

### Bail

#### 58 Right to bail: relevance of drug misuse.

In section 4 of the <sup>M10</sup>Bail Act 1976 (general right to bail), after subsection (8) there is inserted—

“(9) In taking any decisions required by Part I or II of Schedule 1 to this Act, the considerations to which the court is to have regard include, so far as relevant, any misuse of controlled drugs by the defendant (“controlled drugs” and “misuse” having the same meanings as in the <sup>M11</sup>Misuse of Drugs Act 1971).”

#### Commencement Information

**I12** S. 58 wholly in force at 2.7.2001; s. 58 not in force at Royal Assent see s. 80; s. 58 in force for specified purposes at 20.6.2001 and 2.7.2001 insofar as not already in force by [S.I. 2001/2232](#), [art. 2\(g\)](#)

#### Marginal Citations

**M10** 1976 c. 63.  
**M11** 1971 c. 38.

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*Status: Point in time view as at 31/10/2009. This version of this part contains provisions that are prospective.*  
**Changes to legislation:** Criminal Justice and Court Services Act 2000, Part III is up to date with all changes known to be in force on or before 09 July 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)

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## *Detention*

PROSPECTIVE

### **59 Remand centres.**

In section 43(1) of the <sup>M12</sup>Prison Act 1952 (places of detention provided by Secretary of State), paragraph (a) (remand centres) is to cease to have effect.

#### **Marginal Citations**

**M12** 1952 c. 52.

### **60 Life sentences: tariffs.**

- (1) After section 82 of the <sup>M13</sup>Powers of Criminal Courts (Sentencing) Act 2000 there is inserted—

#### *“ Life sentences*

##### **82A Determination of tariffs.**

- (1) This section applies if a court passes a life sentence in circumstances where—
  - (a) the sentence is not fixed by law; or
  - (b) the offender was aged under 18 when he committed the offence.
- (2) The court shall, unless it makes an order under subsection (4) below, order that the provisions of section 28(5) to (8) of the <sup>M14</sup>Crime (Sentences) Act 1997 (referred to in this section as the “early release provisions”) shall apply to the offender as soon as he has served the part of his sentence which is specified in the order.
- (3) The part of his sentence shall be such as the court considers appropriate taking into account—
  - (a) the seriousness of the offence, or of the combination of the offence and one or more offences associated with it;
  - (b) the effect of any direction which it would have given under section 87 below (crediting periods of remand in custody) if it had sentenced him to a term of imprisonment; and
  - (c) the early release provisions as compared with sections 33(2) and 35(1) of the <sup>M15</sup>Criminal Justice Act 1991.
- (4) If the court is of the opinion that, because of the seriousness of the offence or of the combination of the offence and one or more offences associated with it, no order should be made under subsection (2) above, the court shall order that, subject to subsection (5) below, the early release provisions shall not apply to the offender.
- (5) If, in a case where an order under subsection (4) above is in force, the offender was aged under 18 when he committed the offence, the Secretary of State shall

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at the appropriate stage direct that the early release provisions shall apply to the offender as soon as he has served the part of his sentence which is specified in the direction.

(6) The appropriate stage, for the purposes of subsection (5) above, is when the Secretary of State has formed the opinion, having regard to any factors determined by him to be relevant for the purpose, that it is appropriate for him to give the direction.

(7) In this section—

“court” includes a court-martial;

“life sentence” has the same meaning as in Chapter II of Part II of the <sup>M16</sup>Crime (Sentences) Act 1997.

(8) So far as this section relates to sentences passed by a court-martial, section 167(1) below does not apply.”

(2) In section 90 of the <sup>M17</sup>Powers of Criminal Courts (Sentencing) Act 2000 (offenders who commit murder when under 18: duty to detain at Her Majesty’s pleasure), after “murder” there is inserted “ or any other offence the sentence for which is fixed by law as life imprisonment ”; and, in the sidenote, after “murder” there is inserted “ etc. ”.

(3) This section has effect in relation to sentences passed after the coming into force of this section.

(4) In relation to any time before the coming into force of section 87 of the <sup>M18</sup>Powers of Criminal Courts (Sentencing) Act 2000, section 82A of that Act shall have effect as if, in paragraph (b) of subsection (3), for “of any direction which it would have given under section 87 below (crediting periods of remand in custody)” there were substituted “ which section 67 of the <sup>M19</sup>Criminal <sup>M20</sup>Justice Act 1967 would have had ”.

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#### **Extent Information**

**E1** S. 60 extends to U.K., see s. 81(1)(2)(b)

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#### **Marginal Citations**

**M13** 2000 c. 6.

**M14** 1997 c. 43.

**M15** 1991 c. 53.

**M16** 1997 c. 43.

**M17** 2000 c. 6.

**M18** 2000 c. 6.

**M19** 2000 c. 6.

**M20** 1967 c. 80.

*Status: Point in time view as at 31/10/2009. This version of this part contains provisions that are prospective.*

*Changes to legislation: Criminal Justice and Court Services Act 2000, Part III is up to date with all changes known to be in force on or before 09 July 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)*

PROSPECTIVE

## **61 Abolition of sentences of detention in a young offender institution, custody for life, etc.**

- (1) No court is to pass a sentence of detention in a young offender institution or a sentence of custody for life, and no court is to make a custodial order except in relation to a person who is aged at least 17 but under 18.
- (2) No court is to commit a person to be detained under section 108 of the Powers of Criminal Courts (Sentencing) Act 2000 (detention of persons aged at least 18 but under 21 for default or contempt) or make an order fixing a term of detention under that section.
- (3) A person who—
  - (a) has been sentenced (before the coming into force of this section) to a term of detention in a young offender institution, to custody for life or to a custodial order, and
  - (b) is aged at least 18 but under 21,
 may be detained in a young offender institution, or in a prison, determined by the Secretary of State.
- (4) A person—
  - (a) who has been committed (before the coming into force of this section) to be detained under section 108 of the Powers of Criminal Courts (Sentencing) Act 2000 or in respect of whom an order fixing a term of detention under that section has been made (before the coming into force of this section), and
  - (b) who is aged under 21,
 may be detained in a young offender institution, or in a prison, determined by the Secretary of State.
- (5) A person who has been sentenced to imprisonment and is aged under 21 may be detained—
  - (a) in a prison, or
  - (b) in a young offender institution in which one or more persons mentioned in subsection (3) or (4) are detained,
 determined by the Secretary of State.
- (6) A determination of the Secretary of State under this section may be made in respect of an individual or any description of individuals.
- <sup>F4</sup>(7) .....
- (8) In this section—
 

“court” includes a court-martial and a Standing Civilian Court,

“custodial order” means an order under—

  - (a) section 71AA of, or paragraph 10 of Schedule 5A to, the <sup>M21</sup>Army Act 1955,
  - (b) section 71AA of, or paragraph 10 of Schedule 5A to, the <sup>M22</sup>Air Force Act 1955,

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(c) section 43AA of, or paragraph 10 of Schedule 4A to, the <sup>M23</sup>Naval Discipline Act 1957.

(9) On the coming into force of this section—

- (a) paragraph (b) of the definition of “qualifying sentence” in section 30(1), and
  - (b) paragraph (b) of the definition of “relevant sentence” in section 69(7),
- are omitted.

#### Extent Information

**E2** S. 61 extends to U.K., see s. 81(1)(2)(c)

#### Textual Amendments

**F4** S. 61(7) repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

#### Marginal Citations

**M21** 1955 c. 18.

**M22** 1955 c. 19.

**M23** 1957 c. 53.

*Release of prisoners on licence etc.*

## 62 Release on licence etc: conditions as to monitoring.

(1) This section applies where a sentence of imprisonment has been imposed on a person and, by virtue of any enactment—

- (a) the Secretary of State is required to, or may, release the person from prison, and
- (b) the release is required to be, or may be, subject to conditions (whether conditions of a licence or any other conditions, however expressed).

(2) The conditions may include—

- (a) conditions for securing the electronic monitoring of his compliance with any other conditions of his release,
- (b) conditions for securing the electronic monitoring of his whereabouts (otherwise than for the purpose of securing his compliance with other conditions of his release).

[<sup>F5</sup>(3) In relation to a prisoner released under section 246 of the Criminal Justice Act 2003 (power to release prisoners on licence before required to do so), the monitoring referred to in subsection (2)(a) does not include the monitoring of his compliance with conditions imposed under section 253 of that Act (curfew condition).]

(4) The Secretary of State may make rules about the conditions that may be imposed by virtue of this section.

(5) In this section, “sentence of imprisonment” includes—

- (a) a detention and training order,
- (b) a sentence of detention in a young offender institution,



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- (c) a sentence of detention under section 90 of the <sup>M24</sup>Powers of Criminal Courts (Sentencing) Act 2000 (detention at Her Majesty’s pleasure),
  - (d) a sentence of detention under section 91 of that Act (detention of offenders under 18 convicted of certain serious offences),
  - (e) a sentence of custody for life under section 93 or 94 of that Act, <sup>F6</sup>, <sup>F7</sup> ...
  - (f) a sentence of detention under section 226 or 228 of the Criminal Justice Act 2003 <sup>F8</sup>(including one passed as a result of section 221 or 222 of the Armed Forces Act 2006)]
  - <sup>F9</sup>(g) a sentence of detention under section 209 or 218 of the Armed Forces Act 2006, and
  - (h) an order under section 211 of that Act,]
- and “prison” shall be construed accordingly.

#### Textual Amendments

- F5** S. 62(3) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 136\(2\)](#); [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(36\)](#) (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\(l\)](#))
- F6** S. 62(5)(f) and word inserted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 136\(3\)](#); [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(36\)](#) (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\(l\)](#))
- F7** Word in s. 62(5) 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](#)
- F8** Words in s. 62(5)(f) 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. 184\(a\)](#); [S.I. 2009/812, art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167, art. 4](#)
- F9** S. 62(5)(g)(h) 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. 184\(b\)](#); [S.I. 2009/812, art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167, art. 4](#)

#### Marginal Citations

**M24** [2000 c. 6](#).

#### <sup>F10</sup>63 Supervision of young offenders after release.

#### Textual Amendments

- F10** S. 63 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\(4\)\(t\)](#) (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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#### 64 Release on licence etc: drug testing requirements.

- (1) This section applies where—
- (a) the Secretary of State releases from prison a person aged 18 or over on whom a sentence of imprisonment has been imposed for a trigger offence, and
  - (b) the release is subject to conditions (whether conditions of a licence or any other conditions, however expressed).
- (2) For the purpose of determining whether the person is complying with any of the conditions, they may include the following requirement.
- (3) The requirement is that the person must provide, when instructed to do so by an officer of a local probation board <sup>[<sup>F11</sup>]</sup>, an officer of a provider of probation services] or a person authorised by the Secretary of State, any sample mentioned in the instruction for the purpose of ascertaining whether he has any specified Class A drug in his body.
- (4) The function of giving such an instruction is to be exercised in accordance with guidance given from time to time by the Secretary of State; and regulations made by the Secretary of State may regulate the provision of samples in pursuance of such an instruction.
- (5) In this section, “sentence of imprisonment” includes—
- (a) a detention and training order,
  - (b) a sentence of detention in a young offender institution,
  - (c) a sentence of detention under section 90 of the Powers of Criminal Courts (Sentencing) Act 2000 (detention at Her Majesty’s pleasure),
  - (d) a sentence of detention under section 91 of that Act (detention of offenders under 18 convicted of certain serious offences),
  - (e) a sentence of custody for life under section 93 or 94 of that Act,
  - <sup>[<sup>F12</sup>]</sup>(g) a sentence of detention under section 209 or 218 of the Armed Forces Act 2006, and
  - (h) an order under section 211 of that Act,]
- and “prison” shall be construed accordingly.

##### Textual Amendments

- F11** Words in s. 64(3) inserted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\), art. 1, Sch. 1 para. 18\(2\)](#)
- F12** S. 64(5)(g)(h) 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. 185\(b\)](#); [S.I. 2009/812, art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167, art. 4](#)

##### Commencement Information

- I13** S. 64 wholly in force at 2.7.2001; s. 64 not in force at Royal Assent see s. 80; s. 64 in force for specified purposes at 20.6.2001 and 2.7.2001 insofar as not already in force by [S.I. 2001/2232, art. 2\(i\)](#)

#### 65 Short-term prisoners: release subject to curfew conditions.

In section 34A of the <sup>M25</sup>Criminal Justice Act 1991 (power to release short-term prisoners on licence), after subsection (2)(d) there is inserted—

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*Status: Point in time view as at 31/10/2009. This version of this part contains provisions that are prospective.*  
*Changes to legislation: Criminal Justice and Court Services Act 2000, Part III is up to date with all changes known to be in force on or before 09 July 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)*

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“(da) the prisoner is subject to the notification requirements of Part I of the <sup>M26</sup>Sex Offenders Act 1997;”.

**Marginal Citations**

**M25** 1991 c. 53.

**M26** 1997 c. 51.

*Sexual or violent offenders*

**<sup>F13</sup>66 Amendments of the Sex Offenders Act 1997.**

.....

**Textual Amendments**

**F13** S. 66 repealed (1.5.2004) by [Sexual Offences Act 2003 \(c. 42\)](#), s. 141, Sch. 6 para. 44(2), **Sch. 7**; S.I. 2004/874, art. 2

**<sup>F14</sup>67 Arrangements for assessing etc. risks posed by certain offenders.**

.....

**Textual Amendments**

**F14** S. 67 repealed (5.4.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), **Sch. 37 Pt. 12**; S.I. 2004/829, art. 2(1)(2)(1)(v) (with art. 2(5))

**<sup>F15</sup>68 Section 67: interpretation.**

.....

**Textual Amendments**

**F15** S. 68 repealed (5.4.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), **Sch. 37 Pt. 12**; S.I. 2004/829, art. 2(1)(2)(1)(v)

**<sup>F16</sup>69 Duties of local probation boards in connection with victims of certain offences.**

.....

**Textual Amendments**

**F16** S. 69 repealed (1.7.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), s. 60, Sch. 10 para. 55, **Sch. 11**; S.I. 2005/1705, art. 2(d)(f)

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## CHAPTER III

### SUPPLEMENTARY

#### 70 Interpretation, etc.

(1) In this Part—

“Class A drug” has the same meaning as in the <sup>M27</sup>Misuse of Drugs Act 1971,

“specified”, in relation to a Class A drug, means specified by an order made by the Secretary of State,

“trigger offence” has the meaning given by Schedule 6.

(2) The Secretary of State may by order amend Schedule 6 so as to add, modify or omit any description of offence.

(3) In this Part (except in section 69), references to release include temporary release.

(4) In section 163 of the <sup>M28</sup>Powers of Criminal Courts (Sentencing) Act 2000 (general definitions), at the appropriate places there are inserted—

““specified Class A drug” has the same meaning as in Part III of the Criminal Justice and Court Services Act 2000”,

““trigger offence” has the same meaning as in Part III of the Criminal Justice and Court Services Act 2000”.

(5) Section 53 does not apply in relation to [<sup>F17</sup>a curfew order, an exclusion order, a community rehabilitation order, a community punishment order, a community punishment and rehabilitation order, a drug treatment and testing order, a drug abstinence order, an attendance centre order, a supervision order or an action plan order] made before that section comes into force.

#### Textual Amendments

**F17** Words in s. 70(5) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 138](#); [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(36\)](#) (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\(l\)](#))

#### Commencement Information

**I14** S. 70 wholly in force at 2.7.2001; s. 70 not in force at Royal Assent see s. 80; s. 70 in force for specified purposes at 20.6.2001 and 2.7.2001 insofar as not already in force by [S.I. 2001/2232, art. 2\(j\)](#)

#### Marginal Citations

**M27** 1971 c. 38.

**M28** 2000 c. 6.

**Status:**

Point in time view as at 31/10/2009. This version of this part contains provisions that are prospective.

**Changes to legislation:**

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